

# CSO Recommendation on the Draft Law on Access to Information

## CHAPTER 1 GENERAL PROVISION

### Article 1 –

The purpose of this law is to ensure the public's right to and freedom of access to information.

This law provides for duties of public institutions to provide and disseminate information publicly, in conformity with the Constitution of the Kingdom of Cambodia and article 19 of the Universal Declaration of Human Rights.

**Note:** Civil society has raised concerns about state-funded private institutions, which are intended to be included in the bill, thus they shall also be obliged to provide relevant information of those projects to the public. The Ministry of Information has confirmed that the applicants may request that information from relevant public institutions. Thus Article 1 is not subject to change.

### Article 2 –

This law has the following objectives:

- a) To promote and ensure the fulfillment of public institutions' obligations of broadly providing and disseminating information to the public;
- b) To ensure public participations in political, economic, social, and cultural affairs of the nation, as described in article 35 of the Constitution of the Kingdom of Cambodia;
- c) To provide information to the public as part of an awareness of responsibilities, activities, actions and decisions taken by the Royal Government of the Kingdom of Cambodia in order to strengthen accountability and truth before the public;
- d) To assist the public in following up the public institutions' working activities to ensure that public funds shall be used as planned;
- e) To promote the good management of various documents and databases of public institutions so as to make policies of providing services to the public;
- f) To encourage public institutions to fulfill their duties with good quality, effectiveness, transparency, and accountability;
- g) To reduce the confidential information as much as possible.

**Note:** Civil society has asked to submit "developmental information of development partners and private sector". However, the Ministry of Information claims that the law obliges only public institutions to provide information. According to the Ministry, the work of development partners and private sector are private, so the freedom of disclosing information is a private sector concern. But if the partners or the private institutions are funded by the state, the public can request related information from the relevant public institutions. Thus, the subparagraph c is not subject to change.

### Article 3 –

This law is applicable to all pieces of information, which shall be provided by public institutions both at national administration and subnational administration across the Kingdom of Cambodia, with the exception of a certain number of confidential information laid down by this law.

#### Article 4 –

Technical terms used in this law include the followings:

- **Information:** refers to all pieces of official documents under the possession of public institutions;

**Note:** Civil society has raised concerns that the public information available refers to the official documents with the signature of the ministry only, not the forms of information.

**Recommendation which has been mentioned:** Information refers to interviews and all kinds of documents, such as laws, legal documents, minutes of meetings, minutes of interviews, minutes of conversation and reports which can be electronic, pictures, video and audio.

**Result:** Not modified.

- **Public Information:** refers to the information that public institutions must widely disseminate to the public ;

**Note:** The definitions of confidential private information, confidential professional information and confidential personnel information are excluded from this article, as referenced in the latter article.

- **Confidential Information:** refers to the information that public institutions cannot disclose to the public ;

**Note:** This section has seen a lot of discussion about how much to be included in the Definition Chapter as it is clarified and detailed in Article 20.

**Recommendation raised:** Confidential information refers to the information the state needs to protect from leaks and cannot disclose to the public until the public body who has the authority to suspend it, suspends it; or confidentiality expires. Detailed definitions of confidential information will be provided in the Confidential Information chapter.

**Decision:** Just change the word "Applicant" to " The Public".

- **Officer:** refers to a person who fulfills his/her functions in public institutions, ;
- **Officer in Charge of Information:** refers to a person appointed by public institutions having function of managing and providing information to the public;
- **Information Office:** refers to a place, established by public institutions, where information is managed and provided to the public;

**Note:** There are replacement word from "information center" to "management and information center" and changing the word " the applicant" to the word " the public".

- **Public Institutions:** refer to ministries/institutions, or other entities performing public functions including national and subnational administration, created by law or/and other regulations. ;

**Note:** Abandoning words and changing words:

- Replace the phrase "Ministry of State Secretariat" by the phrase "ministries / public institutions",
- Replace phrase, "including the line local administration and the administration of the Capital, Provinces, Municipalities, Districts and Communes" with the phrase "implementing public functions, including national and sub-national administrations".
- Replace the phrase "Law, Royal Decree, Declaration of Procedure or other Standards", which reads: "Legislation and / or other regulatory provisions".

- **Requester:** refers to a natural or legal person who makes a request for information;
- **National Administrations:** refer to ministries, institutions or equivalent public entities, and subordinate specialized departments;
- **Subnational Administrations:** refer to capitals/provinces, municipalities/ districts/khans, and communes/sang Kats under the authority of each council.
- **Obstruction against the Implementation of Public Works** refers the act of obstructing by violence against the implementation of public works or the works for the interests of the public.

**Note:** it is a new supplementary subparagraph after a complaint to disperse the offense of disruption of the information Officers.

- **Exception refers** to the exceptions to any part or section of a confidential document as stipulated in the prohibition provisions.

**Note:** The term " information threatening to national security information" has been removed as the phrase are detailed in Article 20.

- **Succession** refers to
  1. Transferring the rights and obligations of the deceased to one or more successors by will or by law
  2. Transferring the heritage of the deceased to one or more successors by will or by law.

**Note:** New additional term. However, this word is stated by the Civil Code.

## CHAPTER 2 RIGHTS AND OBLIGATIONS OF PROVIDING INFORMATION

**Note:** There are comments on the words in this chapter titled "Provision and publication of information".

**Decision:** There is no change and many civil society organisations understand that it is not important for the title of this chapter. The important thing is the content of article 1 in this chapter.

**Article 5 –**

All persons have the right to and freedom of access to information held by public institutions under the provisions of this law.

**Article 6 –**

All public institutions shall abide by the principle of maximum disclosure. Forward this end, they shall regularly update and broadly disseminate information about action plans, budgeting, fulfillment of tasks, responsibilities, and other decisions in connection with national and public interests such as:

**Note:** There is a request of adding phrase after the word "broad" with the following "in every form and means without asking." Please also state the word "regular place", as specific as a month or once every three months.

**Decision:** There is no change, and we agree that even if there are changes it will not affect the contents.

- a) Organization and functioning of all public institutions, including working activities and other achievements;
- b) Public institutions' development plan of infrastructures and all sectors;
- c) Detailed information about services mechanism, together with list of fees of the public services to be provided by public institutions to the public;
- d) Laws, regulations, policies, decisions, and duties of public institutions relating to rights, freedoms, obligations, and public interests;
- e) All aspects of functioning and procedures at courts, including administrative affairs, which are of the interest of and have direct connection with the public, except for a certain number of prohibited provisions;
- f) Annual budget plan attached with detailed information on spending budget in current fiscal year and audited financial statement of the previous year;

**Note:** There are comments to include the words "shall have an evaluation report and an audit".

**Decision:** Not included, and we also agree on the evaluation report and the audit are not the confidential information.

- g) Official requests or complaints mechanism establishing for the public in connection with action or omission of public institutions, together with summary of the requested complaint or other direct actions of members or response of public institutions.

**Note:** There are comments:

- To proactively provide and publicize public information
- To update regularly and disseminate information widely;
- Disclosure should be considered for sign language,
- Dissemination should be in the form that the public can check and shares, and
- Establish the Information Office in the countryside.

**Decision:** No modification or insert of these contents in any of the subparagraphs, as specified in Articles 7 and 8.

#### **Article 7 –**

All public institutions shall facilitate access and shall be open in providing all kinds of information to the public upon request without any discrimination, with understandable formalities and within established timeframes, and reasonable fees, excepting the confidential information under prohibited provisions.

**Note:** There are comments on the words " braille language and sign language" and specify that the entrance to the office must have a "slope" for people with disabilities.

**Decision:** Not included, knowing that these are just procedures, not required to be included in the law.

In the case of public interest greater than the preservation of confidential information as stipulated in the prohibition provisions, the confidential information must be provided to the public on request.

**Note:** It is a new subparagraph that strictly debates for dissolving confidentiality of information if information is important for informing people.

#### **Article 8 –**

Public institutions shall perform the following obligations:

- a) To create an information office within each institution, both at national and sub-national level, by providing financial supports, materials and proper means to officers officers in charge of information, in order to facilitate the provision of information to the public with effectiveness.

**Note:** Civil society wants to facilitate access to this information service to the people and bind all public buildings to the information office, not just in the district or in the provincial levels.

- b) Each information office shall be leaded by a vice-president of institution, who has expertise and experiences in the field of information under responsibility of the institution, and by subordinate officer in charge of information as deemed necessary.
- c) The appointment of officers in charge of information shall be determined by the decision of public institutions.
- d) To train officers in charge of information to gain more expertise and capacity in relation to the right to access to information, so that this law shall be implemented effectively.
- e) To encourage specialized units under the institution itself to cooperate and take responsibility for the search of information for providing to the public, upon request of the chief of information office.

#### **Article 9 –**

Officers in charge of information shall have the following duties:

- a) To be a spokesman of the institution, for which she/he is currently working, in response to the public;

**Note:** According to the content, the head of the Information Office acts as its spokesperson. But there is the opinion that information officials are not spokespersons because many spokesmen say in the way to protect the government, rather than as the information providers. There is also a suggestion for the removal of the position as a spokesperson from the Information Office, but most of them understand that if the spokesperson has a really focus on the fact of information, this role is not the same, it should be kept in mind. There will be no problem if the government has a political spokesman.

- b) To be responsible before the head of institution for the proper provision of all piece of information to the public;

- c) To be a focal coordinator in his/her institution and in communication with the public for receiving request for information from the public;
- d) To closely cooperate with all specialized units of his/her institution in searching for, collecting and compiling documents, and assisting in searches of records upon request of requester;

**Note:** There is an additional suggestion in this point (d) by asking the information department about the institutions to have and to be responsible for organizing the website for each of their organizations.

**Recommendation:**

“...Collect, archive, organize, organize an institutional website and retrieve recordings...”

- e) To assist all persons who seek for information, including provide support for preparing application forms for requesting for information and other procedures set out by this law;
- f) To cooperate with other relevant specialized units of his/her institution in classifying information which falls within the scope of the confidential information or records which fall or not within the scope of exemption;
- g) To be responsible for preparing communication plans of information and public dissemination of the implementation, responsibilities, duties, and achievements of public institutions.

### CHAPTER 3 PROCEDURES OF REQUESTING AND PROVIDING INFORMATION

**Article 10 –**

All persons whether natural persons or legal persons shall be entitled to request all kinds of information from public institutions without any discrimination.

**Article 11 –**

A request for information shall be made in writing with its detailed descriptions about the requested information and its format to be submitted to public institutions.

Procedures and formalities for requesting information shall be determined as follows:

1. Formalities for requesting for information:
  - Name, sex, age, nationality, occupation;
  - Current address and electronic address (if any);
  - List of detailed information to be requested.

**Comments:**

- It is suggested that sex, age, nationality and occupation shall not be defined as it can be used as a reason for rejection that can lead to discrimination by sex, age, nationality, or occupation. But after the discussion, this issue is not a problem for Khmer people.
- Address inquiries can be a concern for the applicant's security, so it is not necessary to know the living address of the applicant, should know only the contact address that can be a place of employment, or just know the phone number to contact the applicant for the information.

**Recommendation:** Please delete by changing or adding "Contact address".

2. Requester who has no ability to fill out application forms by him/herself due to illiteracy or disability may make a request for information orally. Officers in charge of information

who received such a request shall gratuitously assist in writing information upon request accordingly and note his/her name in a certified copy and requester's receipt.

**Note:**

- There is an opinion that if every institution has its own website, it is easier to facilitate the access to information.
- There is a suggestion that the Information Office may receive a telephone request and electronic payment service (*Wing or E-Money*). To facilitate the destitute and to those who live far away.

3. Requester may submit a written request for information directly or via its authorized representative to officers of public institution or officers in charge of information, or may send it by post or by email to public institutions possessing that information.
4. Officers of public institutions or officers in charge of information who received a request for information shall duly register and issue receipts to the requester;
5. Requester shall take receipts from the officers of public institution or officers in charge of information right after filing application forms. For those making requests for information by post or by email, receipts shall be issued based on the type of means of the request.
6. Officers of public institution who received a request for information shall forward such a request to officers in charge of information within 24 (twenty four) hours of working days.
7. In the event that a request for information is wrongly addressed to competent institutions possessing information, officers in charge of information shall return such a request to the requester as soon as possible and shall give more information as much as possible about the public institutions holding the requested information.

**Article 12 –**

Public institutions shall provide precise information with its nature and format as requested by requester, including but not limited to:

1. A true copy of documented information from original documents;

**Comments:**

A copy of the information received should be certified that it is a right copy from the original one.

**Recommendation:** to add "with certificating from the institution provided information"

2. A copy of documented information can be in writing, audio, picture, video, disk, or other forms;
3. Records in form of code numbers, acronyms, braille or other symbols;
4. In case a request for information is made in multi-languages, public institutions may provide information in Khmer or in language as its original format to requester.
5. In case the form in which the available information is too fragile, some conditions of access must apply.

**Article 13 –**

Officers in charge of information shall promptly examine a requests for information and give a written response to its requester by notifying if there is or no such requested information or if it's the confidential information, which is prohibited by law from revealing publicly. The response shall be given no later than 5 (five) working days, commencing from the date of receiving the request.

**Comments:**

The response of information should be included an electronic form. But such problems have been confirmed by electronic communications.

A positive response shall be indicated there in the public service fees applicable for receiving the information.

**Comments:**

- Journalists have requested not to pay for information delivery service but this comment has not been answered.
- According to the content of this law and the evolution of technology, if sufficient means to access to information are available, the information office will be able to control the available information within its institution. Therefore, there will be no any matter that the information cannot be responded immediately. This depends on the willingness of information offices.

**Article 14 –**

Public institutions shall provide information to requester as follows:

1. To provide information to the requester within 15 (fifteen) working days, starting from the date of receiving an official response from the requester, mentioning his/her agreement on service fees, as specified in Article 13 of this Law;
2. In the event that the provision of information cannot be done within the duration as described in the above item 1, public institutions may continue such delay for a period of no longer than 40 (forty) working days from the date of the reception of the request , by giving the reasons in writing of such delay back to the requester.

**Comments:**

- Journalists have requested not to charge the cost of provided information but this comment has not been answered.
- This law only states that the request shall be done in a written, not mention about the request information through or extract information form website.

**Recommendation:**

- It should include a form of request information from the website or through electronic request because the time for receiving a request is related to the right to complain in case of rejection.

**Article 14 (Add of subparagraphs related to Digital documents)**

Public institutions shall provide the following information to the applicant:

1. If digital files are available in the website, they must promptly notify the address to the requester of the information. If the applicant requests a paper copy it needs to be done through a normal process.
2. If a digital file is available and the applicant request for photocopying it, the responsible officer will be photographed immediately, at cost or without paying the institutionalized service fee. Requests must be filled in writing.
3. In case that the applicant requests available information in a written form, the officers may copy immediately after requesters accept the cost of information as specified in article 13 of this law.
4. If the disclosure is not immediately available, the public institution may extend the delay not later than five (5) working days from the date of receipt of the request, indicating the cause of the delay in writing to the applicant.

**Article 15 –**

Public institutions may deny providing information to requester based on the following conditions:

1. Requested information is under prohibited as specified in Article 20 of this law ;
2. Requester failing to fully fill in the application forms as stated in article 11 of this law;



3. Requester obstructs the operation of the public institutions and/or officer of public institutions or officer in charge of information.
4. Requested information has recently been provided by public institutions to requester within a period of 40 days;

**Comments:**

- Journalists have suggested that there should be no denying the requests made by journalists. However, this law does not classify journalists as more important than the others.  
- For point 3 of the first draft, use the word "disruptive", but after the discussion and protest for the withdrawal, the ministry agreed to remove the word "disruptive".

**Article 16 –**

A requester who has been refused information by a public institution with clear grounds as provided in Articles 11 and 15 of this Law may submit a revised application.

If the public institution fails to provide information within the time limit as set out in Article 14 of this Law without clear reasons, the requester may appeal to competent institutions, as stated in Article 26 of this Law.

**Article 17 –**

The officer in charge of information shall examine the application to determine if the information requested falls under exceptions and shall classify the categories of information, which is not falling under the prohibitive provisions so as to provide for the requester as follows:

1. Any parts of a confidential document which is not falling under the prohibitive provisions for disclosure by pointing out the provisions of a specific law on the basis of which any part of a confidential information has been cut out and notifying the requester of the rights to appeal/challenge as provided in article 26 of this law;
2. Any parts of the document, which is still valid pursuant to laws, before its legally determined date for disclosure, where the concerned an individual or ministry/ institution agree to disclose it for public interest.

**Comments:** According to the first subparagraph in a document, there may be a portion of confidentiality and part of it can be made public and the decision whether or not any part of it can be disclosed is given to the Information Officer. Such a provision will not be applicable because the person, who determine whether a file is confidential or non-confidential, is the head of the organization. Therefore, if the head of the institution does not specify that any part of it is non-confidential, the head of the institution will not be able to determine for itself, and it will only make the implementation worse.

**Recommendation:**

- delete subparagraph 1
- Please specify the condition that the secrecy of information is expired by itself.

**Article 18 –**

Officers in charge of information of all public institutions shall be responsible for fulfilling their obligations as set forth in this provision and shall not create any obstructions in providing information to the public by reason of exceptions as provide in articles 15, 17 and 20 of this law.

**Article 19 –**

Public institutions shall provide information to the requester as follows:

1. The provision of information and services on preparing information application forms shall be free of charge.
2. The service fees charged for providing a copy of document in writing, sound, picture, or other forms shall be fixed by joint-Prakas between the Ministry of Economy and Finance and relevant ministries/institutions.

Comments: Please add a braille language.

## CHAPTER 4 CONFIDENTIAL INFORMATION

### Article 20 –

**Background:** Initially, Article 20 does not say in detail, but after asking for details of confidential information, the article has huge been amended and detailed in more detail of significant definitions.

Public institutions may refuse to provide information to the public if disclosure of the information would cause damage to national defense and security matters, relations with foreign countries, national economy and finance, and internal meetings of public institutions, appointment and examination processes, would constitute a violation of privacy of an individual or obstruct law enforcement officers in the course of their duty, namely as follows:

1. Information harmful to the national security and defense matters:
  - a. National strategic plans pertaining to the national security and defense matters, plans to safeguard the territory against foreign threats, the importation, production, storage and use all kinds of weapons systems;
  - b. Information concerning strategy, intelligence, operation, tactic and technique related to the operation of national defense.
  - c. Figures, deployment of strength and national defense capacity, implementation of national defense systems, weapons development plans and military equipment for national defense;
  - d. Images data and maps relating to military base and/or military installation situation and condition, weapons production or storage locations, and military science research buildings;
  - e. Secret military data or information on national defense capacity of foreign countries that can endanger the sovereignty of the Kingdom of Cambodia;
  - f. Data related to military cooperation with other countries that has been agreed as state secret;
  - g. State encoding system and/or state intelligence system.
2. Information causing damage to foreign or international relations:
  - a. Secret position, bargaining power, and strategy that will be and has been taken by the state in relation with foreign countries or the international community;
  - b. Secret diplomatic communication or correspondence with foreign countries or the international community;

- c. All communication and encoding systems used for connecting with foreign countries or the international community;
  - d. Protection and security of Cambodian military base and strategic infrastructure overseas.
3. Information causing harm to the national economy and finance:
- a. Preliminary plans of sale or purchase of national or foreign currency, shares and vital assets of the state;
  - b. Preliminary plans of exchange rate adjustments of foreign currency, government loans, tax reform, tariff, or state revenues;
  - c. Preliminary plans of sales or purchases of state property or foreign investment ;

**Recommendation:** This section requires the exemption of purchasing, selling, renting land owned by the state. But there is also a request to delete the point A,B,C of subparagraph 3.

- d. Secret statements, facts, letters, figures, or contents of accounting or administrative documents as set forth in the law on Banking and Financial Institutions.
4. Any disclosed information prejudicing the criminal investigation process, law enforcement and the court confidentiality limited to, when applicable:
- a. Obstructing law enforcement officers in investigating a criminal offense ;

**Recommendation:** In point A of subparagraph 4, there is a request to add exemptions for minor's relatives and guardians. But this point, the lawyers of the victims may have the entire case.

- b. Revealing the identity of protected informants, witnesses, and/or victims having knowledge of a criminal act;
  - c. Damaging equipment, facilities, and/or infrastructures of law enforcement agencies;
  - d. Endangering the security and/or lives of law enforcement officers or their families;
  - e. Prejudicing criminal investigations related to the prevention of transnational crimes.
5. Information constituting a violation of privacy of a private person:
- a. Medical history and psycho-physical therapy of a private person;
  - b. Information patterning to evaluation in relation to capacity, intelligence, educational or psychological records of a private person
  - c. Statutory and testamentary successions;
  - d. Information revealing the identity or name of either party in a civil case in relation to fatherhood, motherhood, marriage, divorce or parental authority;
  - e. Information revealing the identity of minor in a civil case or accident, and other criminal cases.
  - f. Information revealing the identity of victim in rape case.
  - g. Information about financial situation, property, income, and bank accounts of a private person unless otherwise stipulated by laws;
  - h. Information concerning secrecy in intellectual property and trade secret.
  - i. Personal correspondence.

6. Information classified as confidential related to internal meetings of public institutions, process of appointments and examinations which organized by the public institution.

#### **Article 21 –**

To ensure the protection of national sovereignty, defense of national security, governance process and protection of everyone's right to life in conformity with the Constitution of the Kingdom of Cambodia, public institutions shall provide accessible confidential information to the public after the following time frames:

**Comments:** According to the content of this article, it sets the maximum time for confidential information to be expired, giving the right to the institutional owners to limit and reducing the period of confidentiality of information is given the right to the government to make decision. It should be remembered that involving public institutions, there are many constitutional institutions that the government does not have the right to designate for those institutions to adhere to. Therefore, the essential procedure for setting confidentiality must be clearly stated in this law.

**Recommendation:** Should be stated in this article or an additional article with the following:

1. Confidentiality levels (such as confidential, very confidential, extremely confidential and top secret defense) by confirming the secretive time of each confidential level, and which entities have the right to achieve that level of secrecy. For example, only the Supreme Council of National Defense can decide on the "top secret of national defense".
2. Terms of dissolving confidentiality. Example 1. The time for expiration of confidentiality; 2. The time for those who have the right to define the confidentiality of information is disclosed; 3. Dissolving of confidentiality by the competent authorities; 4. Was dissolved by a judicial decision.

- 1- Up to 90 (ninety) days from the date of creation or issuance of the record of the classified information related to internal meetings of public institutions, process of appointments and examinations which is organized by the public institution as stipulated in Article 20 above.
- 2- Up to 30 (thirty) years from the date of creation or issuance of the record of information related to national security and defense matters, foreign or international relations, national economy and finance, as stipulated in the Article 20 above.
- 3- Up to 60 (sixty) years from the date of creation or of issuance of the record of information related to the functioning of the criminal justice system or information constituting a violation of privacy of an individual as stipulated in the article 20 above.

**Comments:** It's true that some court documents are kept secret to the security of the investigation and the privacy of the parties, and it's better that the law is considered confidential. However, in cases where the courts are generally open to public hearings, then openings in public court hearings will no longer be confidential, and private information will no longer be private when the copyright owner has publicly disclosed it.

#### **Comments:**

- Information concerning the criminal case will be kept confidential until such information is released at public hearing,
- Information relating to private individuals collected or provided to public institutions shall be kept confidential except that the person authorized by the owner permitted or released publicly.

With the exception of cases related to crime of genocide, crime against humanity, or war crimes or serious violations of human rights that shall be disclosed as soon as available, public

institutions shall make the information available to the public when the court of law completely closes the case.

**Article 22 –**

With respect to confidential information, officer in charge of information shall perform the following:

- Register the official confidential information;
- Take out any expired confidential information from the confidential information list;
- Remove any information from the confidential information list with consent of its right holder.

Mechanisms and procedures for defining, classifying, registering confidential information, and deleting the information from confidential information list as set forth in Article 20, 21 of this Law shall be provided by a sub-decree.

**Comments:** In this article, it seems that the Information Offices are authorized to determine that whether the information is confidential or non-confidential.

**Recommendation:** Should be public institution actors, who implement or create events, is the ones who define the confidentiality of information.

**Article 23-**

To protect and serve the public interests and promote the public’s right to information in accordance with legal principles, a public institution may decide to reduce the timeframe on confidential information either in part or in whole as prescribed in article 21 of this law and make it available to the public.

**Opinion:** This article seems to broadly empower the head of the institution to reduce the time of confidentiality.

**Recommendation:** The article should state the conditions for self-dissolution, and confidential information will dissolve when the copyright owner (including the head of the entity that creates the document and the person who owns the rights) has published or disclosed that information.

## **CHAPTER 5 WHISTLEBLOWER PROTECTION**

**Article 24 –**

No person shall be criminally, civilly and disciplinarily responsible for the denunciation of a felony or a misdemeanor they had known and/or during the performance of their function or duty made before the judicial authority or other competent authorities.

**NOTE:** This article refers to exemption from criminal liability or administrative disciplines for individuals working in an institution that reports inappropriate or illegal acts in its institutions. In fact, this principle is already in the draft of the Law on the Protection of Witnesses and Information Providers.

**Article 25 –**

Officers in charge of information shall not be criminally, civilly and disciplinarily responsible for the decision of providing information to the public made within their cope of work and position as officers in charge of information. This principle is not applicable in case where officers in charge of information fulfill their duties with bad faith, which is contrary to their competence and position granted by laws.

**CHAPTER 6  
APPEAL AND ENFORCEMENT OF DECISIONS**

**Article 26 –**

Requester shall have the right to appeal to the head of the public institution to which the request for information was addressed if the requested information is not provided in accordance with article 14 or was rejected by public institution without any proper reasons as stated in articles 15 and 17 of this law.

At the sub-national level, if the requester is not satisfied with the decision of the officer in charge of information, he/she may file a complaint to the head of institution or the ombudsman located in the area where the information is requested. The appeal must be made within 30 (thirty) working days from the date requester received denial letter from the public institution. Public institutions must respond to complaints within 15 (fifteen) working days from the date of receipt of the complaint.

In the event that the requester is not satisfied with the head of the concerned public institution's decisions, he/she may reject such decisions by appeal within 30 (thirty) working days to the capital or provincial courts of first instance and continue to lodge an appeal against decisions of the capital or provincial courts of first instance in accordance with legal proceedings.

**Comments:** In fact, if the secrecy is determined by the head of the institution, then the complaint is only in case it conflicts with the head of the institution that determines that the information is confidential. Therefore, if it is a complaint to the Head of the Institution unless the head of that institution has the right to dissolve the confidentiality of the document. Some information may involve a higher authority that the head of the information office who hold the information does not have the right to dissolve the secrecy of that information.

**Recommendations:**

1. Public institutions should have the right to point to the person entitled to dissolve the secrets to the applicant.
2. Applicants should have the right to sue the court directly, without first having to pass the head of the institution.
3. It is not yet clear that the court has the right to deny the confidentiality set by the head of the public body or the owner. Therefore, it should be set clearly in the law.

**Article 27 –**

In the event that the lower courts or the higher courts order public institutions to provide information upon request, procedures for providing information shall be implemented in accordance with articles 13 and 14 of this law.

**Comments:** Just say that in cases where the court determines to be provided in accordance with the provisions of this law, it does not state that the court has the right to deny the decision of the institutional director about the confidentiality of the information requested by the applicant. In addition, the article states that the lawsuit against the courts is the use of a simple court mechanism,

no specialty of any court, and that it will take a long time.

**Recommendations:**

1. The court has the right to dissolve the secrecy of the information set by the head of the institution,
2. For confidential information determined by a national body, the complaint must appeal to the Appeal Court and decide on appeals and closed appeals by the Supreme Court. In the case of confidential information determined by a sub-national institution, the complaint must be filed with the provincial court and decided on the complaint and closed appeal by the Court of Appeal.

**CHAPTER 7  
PENALTIES**

**Article 28 –**

Officers of public institution or officers in charge of information failing to fulfill their obligations as described in the provision of article 9, article 11, article 12, article 13, article 14, article 17, article 18 and article 23 of this law shall be liable for disciplinary sanctions without prejudice to criminal punishments.

**Article 29 –**

In case there is an act of violence committed against officers of public institution or officers in charge of information performing their duties as stipulated in the paragraph 1 of article 26 of this law shall be punishable by the provision of article 506 (Obstruction against the implementation of public works) of the Criminal Code.

**Comments:** Because of the penal code.

**Recommendation:** Abolish this article!

**Article 30 –**

Whoever makes a lying denunciation to any public institutions or judicial authorities about an offense, causing the investigation to become useless, shall be liable to an imprisonment from 1 (one) month to 6 (six) months and/or to a fine from 100,000 (one hundred thousands) Riels to 1,000,000 (one million) Riels.

**Comments:** Because of the penal code (defamation).

**Recommendation:** Abolish this article!

**Article 31 –**

Whoever is obliged to provide or hold information of the public institution agrees to disclose confidential information to any incompetent persons in exchange for donation, gift, promise or any other interests, shall be punishable by the provision of article 32 (Corruption offenses) of the Law on Anti-Corruption.

**Comments:** Due to the anti-corruption law.

**Recommendation:** Abolish this article!

**Article 32 -**

Whoever is obliged to provide or hold confidential information, due to his/her own personal situation, career, occupation or mission, discloses or reveals the confidential information to any incompetent persons to be known about secrets of the public institution shall be liable to an imprisonment from 2 (two) years to 5 (five) years and to a fine from 4,000,000 (four millions) Riels to 10,000,000 (ten millions) Riels and shall be subject to be punishable by additional penalties as described in article 483 (Additional Penalties ) of the criminal code.

In the case that the confidential information is leaked by unintentional mistake or disobedience to internal rules shall be liable to an imprisonment from 6 (six) months to 2 (two) years and to a fine from 1,000,000 (one million) Riels to 4,000,000 (four millions) Riels.

**Article 33–**

Whoever is obliged to provide or hold information provides or facilitates access to confidential information from any foreign States or international agencies, causing damage to the national security and economy shall be liable to an imprisonment from 7 (seven) years to 15 (fifteen) years and to a fine from 10,000,000 (ten millions) to 20,000,000 (twenty millions) Riels and shall be subject to be punishable by additional penalties as described in the article 450 ( Additional penalties ) of the Criminal Code.

**Article 34 –**

Whoever has no competent to hold information or whoever has been performing his/her duties in holding the public institution’s information intentionally keep or possess confidential information for personal purposes shall be liable to an imprisonment from 2 (two) years to 5 (five) years and to a fine from 4,000,000 (four millions) to 10,000,000 (ten millions) Riels.

**Article 35 –**

Whoever is obliged to hold public information causes damage or destroys such information shall be liable to an imprisonment from 2 (two) years to 5 (five) and to a fine from 4,000,000 (four millions) to 10,000,000 (ten millions) Riels, and shall be subject to be punishable by additional penalties as stated in the Article 483 (Additional Penalties) of the Criminal Code.

**CHAPTER 8  
TRANSITIONAL PROVISION**

**Article 36 –**

The Press Law promulgated by Royal Krom No. NS/RKM/0895/07 on September 1<sup>st</sup>, 1995, and the provision of other related laws, as well as other texts supporting the implementation of this law shall remain applicable until the replacement of new provisions.

Officers in charge of information of municipal and provincial administration instituted by Joint Prakas No. 3527 PrK 443 PM.PrK dated 26 July 2012 of the Ministry of Interior and the Ministry of Information shall continuously perform their duties until replacing by a new office in charge of information created under the spirit of this law.

**CHAPTER 9  
FINAL PROVISION**

**Article 37 –**

This law shall prevail in case of the provision of other laws contradict any provision of this law.



**Article 38 –**

Any provisions that contradict this law shall be deemed as null and void.