

DEFENSORÍA DEL PUEBLO DE LA NACIÓN
ARGENTINE
NATIONAL HUMAN RIGHTS INSTITUTION

Freedom of opinion and expresión

Res. A/HRC/RES/44/12

In particular, contributions will be generated regarding the mandate provided for in point 12 of the aforementioned resolution, in order to serve as input to the Office of the United Nations High Commissioner for Human Rights when presenting its report to the Rights Council. Humans at its 47th session; on good practices with a view to establishing national regulatory frameworks that promote access to information held by public entities.

As is well known, access to public information represents a fundamental right for all people who wish to seek and receive information and data in the hands of the State. It is important because it allows participation in political affairs and monitoring the actions of the State, making public management transparent.

Indeed, the exercise of the right of access to public information strengthens citizen participation, public policies, public management, and therefore democratic governance. At the same time, it makes it possible to reinforce the legitimacy of the democratic system, incorporating the citizen in the processes of deliberation, management and evaluation of public policies.

In Argentina, the promulgation in 2017 of Law No. 27,275 on access to public information stands out as a good practice, which contemplates international standards on the matter that regulates the right of access to information. Its objective is to guarantee the effective exercise of the right of access to public information, promote citizen participation and transparency of public management based on the principles of presumption of publicity, transparency and maximum disclosure, informality, maximum access and openness, control, among others.

Likewise, it establishes the scope of the right of access to public information in its ARTICLE 2, insofar as "it includes the possibility of searching, accessing, requesting, receiving, copying, analyzing, reprocessing, reusing and freely redistributing the information in the custody of the subjects. forced ... "

In such a way that, through this rule, all types of information can be requested, in any format (text, image, open format, etc.) in the power of the State, of any of its three powers (legislative, judicial or executive) or generated, obtained or financed with public funds. All natural or legal persons can request, free of charge, public information

without having to explain the reason for their request and the information must be provided within 15 business days of having been requested.

Faced with the breach or partial fulfillment of the sending of the requested information, the norm establishes two ways for its fulfillment, on the one hand, it provides the option of filing a judicial protection before the Courts of First Instance in federal administrative contentious matters or you can choose for appealing in the administrative field before the Agency for Access to Public Information. This Agency was created by the rule in question, and is in charge of guaranteeing the exercise of the right to public information and promoting active transparency measures.

The rule in question regulates “active transparency”, in its art. 33, establishing that the obliged subjects (State) must facilitate the search and access to public information through its official website of the computer network, in a clear, structured and understandable way for the interested parties and trying to remove any barrier that hinders or hinder its reuse by third parties, having to publish in a complete, updated way, by digital means and in open formats:

a) An index of the public information that was in their possession in order to guide people in exercising the right of access to public information, also indicating where and how the request should be made; b) Its organic structure and functions; c) The list of authorities and personnel of the permanent and temporary plant or other contracting modality, including consultants, interns and personnel hired in the framework of projects financed by multilateral organizations, detailing their respective functions and position in the ladder; d) The salary scales, including all the components and subcomponents of the total salary, corresponding to all categories of employees, officials, consultants, interns and contractors; e) The budget assigned to each area, program or function, the modifications during each year and the status of execution updated quarterly until the last level of disaggregation in which it is processed; f) Transfers of funds from or directed to human or legal persons, public or private and their beneficiaries; g) The list of public contracts, tenders, tenders, public works and acquisitions of goods and services, specifying objectives, characteristics, amounts and suppliers, as well as the partners and main shareholders, of the supplier companies or companies; h) Any act or resolution, of a general or particular nature, especially the rules that establish benefits for the public in general or for a sector, the minutes in which the deliberation of a collegiate body, the stenographic version and the legal opinions and technicians produced before the decision and that would have served as support or antecedent; i) The reports of audits or evaluations, internal or external, carried out previously, during or subsequently, referring to the body itself, its programs, projects and activities; j) The permits, concessions and authorizations granted and their holders; k) The services that the organization provides directly to the public, including customer service standards, letters and protocols; l) Any mechanism or procedure through which the public can present petitions, access information or in any way participate or influence the formulation of the policy or the exercise of the powers of the obligated subject; m) Information on the competent authority to receive requests for public

information and the procedures provided by this law to file claims before the denial; n) An index of procedures and procedures that are carried out before the organization, as well as the requirements and allocation criteria to access benefits; o) Mechanisms for direct submission of requests or complaints available to the public in relation to actions or omissions of the obligated subject; p) A guide containing information on its document maintenance systems, the types and forms of information in its possession and the categories of information it publishes; q) The agreed, resolutions and sentences that are obliged to publish in accordance with the provisions of law 26,856; r) Information that responds to public information requirements made more frequently; s) The sworn statements of those subjects obliged to present them in their areas of action; t) Any other information that is useful or is considered relevant for the exercise of the right of access to public information. Access to all sections of the Official Gazette will be free and free over the Internet.

Another good practice to highlight is the work of the Agency for Access to Public Information, who carry out a survey of the State Bodies obliged to carry out Active Transparency actions and the progress that each Agency has made in the matter, being all that information public for consultation of citizens. This initiative arose within the framework of the Fourth National Open Government Action Plan 2019-2022, the Agency, together with a group of civil society organizations, worked on the design and publication of a new index to measure the level of compliance of active transparency, which was implemented as of January 2021. The new measurement will be carried out on the universe of 26 centralized agencies and 92 decentralized agencies of the National Public Administration, 55 public companies and 66 universities, in addition to including other subjects obliged to demand.

Finally, the Office of the Ombudsman of the Argentine Nation has created in 2018 its website an active transparency portal with relevant information about the organization under the premises of the law analyzed.