

INTRODUCTION TO FREEDOM OF INFORMATION IN HUNGARY

What does *freedom of information* mean?

In short, this refers to the set of rights you have when it comes to accessing public information that is processed by anyone carrying out public duties (in most cases this will be the state or local government). Hungary's laws ensure that people have the opportunity to access data of public interest (or data declared to be of public interest by law) if the processor is performing a public function, the information is related to their activities and the data is under their control. Access rights are regulated in detail by Act CXII of 2011 on the Right of informational Self-determination and on Freedom of information.

In general, what kinds of things are considered of *public interest*?

In the broadest sense, you can consider data to be of public interest if it is controlled by anyone carrying out public duties. This includes laws, acts, decisions, orders, proposals, statistics, public tenders, contracts, photos, videos, and personal or business information that has been made public by law.

Can personal or business data be considered of *public interest*?

In most cases, personal data cannot be considered to be of public information. However, there are some narrow circumstances, precisely defined in the law, when personal data may be considered of public interest. For example, details regarding certain employees acting on behalf of a public body performing a public function may be accessible. As for business data, it may be possible to access information even though it is under the control of a private company, so long as it pertains to the use of public money or involves state budgetary issues, or if the company has a contract with the state or local government.

How can I access public information?

Anyone may make a request to access public information to the state organ or organization in question. The petition may be made verbally, submitted in writing or electronically. Upon request the name and contact details (e.g. email address) shall be provided. If the data request is incomplete or unclear, you will be asked to give more specific information. There might be a small fee charged to cover the actual and direct cost of the data storage device, of the delivery or of the extra workforce needed.

If the data that you have requested has already been published in an electronic format, you may be directed to a public source containing the data. Your request will then be considered satisfied.

The data controller is not obliged to comply with the request whereby it is identical to that of submitted by the same requesting party within one year.

How long will it take to access the requested information?

The public body or person responsible for processing the information has to fulfill the request within the shortest possible time, but no more than 15 days from the time of submission. A time extension of an additional 15 days is allowed if your request concerns a large volume of data or requires disproportionate workforce. In the latter case, you will be notified within the first 15 days following the receipt of the request.

If your application has been rejected, you will be notified no later than 15 days from the date of submission of the reason for the rejection and what your legal options are.

Under what circumstances might my request be denied or restricted?

Freedom of information law has to strike a balance between someone's right-to-know and the smooth functioning of government and businesses, all the while defending personal rights to privacy. As such, there are limitations regarding the type of data you can access. Examples of information which is restricted by law includes information that

- qualifies as personal data (unless the personal data has been made public by law)
- qualifies as classified information
- qualifies as business secret (as defined in the civil code)
- qualifies as intellectual property
- has been generated during the course of decision-making (such as meeting minutes and notes).

The right to access may also be restricted

- in the interest of national security or defence
- to prosecute or prevent offences
- in the interest of environmental protection or nature preservation
- in the interest of central financial and exchange-rate policy
- in regard to foreign relations and relations with international organisations
- in regard to legal or administrative proceedings.

If the requested document contains a mix of data that can be disclosed as well as data that cannot be disclosed, then the latter will be made unrecognizable in the copy.

The deadline has passed and I don't have an answer. What should I do?

You are entitled to turn to either the National Authority for Data Protection and Freedom of Information (NAIH) or to the courts if the deadline for rejection or fulfillment has passed (including any legal extensions of the deadline).

My request has been rejected. Where can I turn?

If you feel your application has been unjustly rejected, you are entitled to turn either to NAIH or to the courts. Keep in mind that you must apply to the courts for redress within 30 days of

- the announcement of rejection of the request
- the expiration of the deadline
- the expiration of the deadline set for paying the fee.

The NAIH may intervene in court proceeding in favour of the applicant.

What types of redress can the court give?

If the court agrees with your petition, it will make the data controller share the requested data of public interest with you. The court is entitled to modify the sum of the fee charged for making a copy, or order the launch of a new procedure to determine an appropriate fee.

I can't speak Hungarian. May I submit my request in another language?

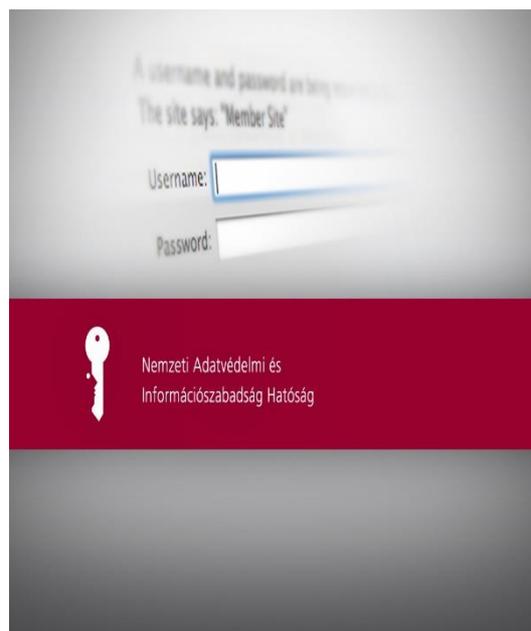
Yes. Requests for access to data of public interest may not be rejected solely because your application was in a language other than Hungarian.

What kind of other obligations do public institutions have regarding data of public interest?

Public organs and institutions, especially those involved with budgetary, financial, or contractual matters, must not only allow access to data of public interest upon request, but they must also ensure that accurate and expedient information is readily available.

The body with public service functions is obliged to make up-to-date data of public interest plainly available on either their own websites or on a centralized website. They may not make access dependent upon on the disclosure of personal identification information. Detailed information about how to submit a request for public data must be clearly provided on the website and the website must also include information about options for legal redress.

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Courtesy of the Hungarian National Authority for Data Protection and Freedom of Information