



Presidency of the Republic
Office of the President's Chief of Staff
Office of the Deputy Manager for Legal Affairs

DECREE No 7,724, OF MAY 16, 2012

Regulates Law No. 12,527, of November 18, 2011, which provides for access to information pursuant to the **caption** of Article 5, item XXXIII; Article 37, Paragraph 3, item II; and Article 216, Paragraph 2 of the Federal Constitution.

THE PRESIDENT OF THE REPUBLIC, in exercise of the authority vested upon her under the **caption** of article 84, items IV and VI, sub-item "a", of the Federal Constitution, and in view of the provisions set forth in Law No. 12,527, of November 18, 2011,

DECREES:

CHAPTER I

GENERAL PROVISIONS

Article 1. This Decree regulates, within Executive Branch at the Federal level, the proceedings to ensure the access to information and to the classification of information with restricted access, observed the level of confidentiality and the related time frames, as provided for in Law No. 12,527, of November 18, 2011, which rules the access to information as established in the caption of Article 5, item XXXIII; in item Article 37, Paragraph 3, item II; and in Article 216, Paragraph 2 of the Federal Constitution.

Article 2. The public bodies and entities that form the federal Executive Branch shall ensure to both individuals and legal entities the right of access to information, which shall be granted upon the observance of objective and quick proceedings, performed in a transparent manner, and stipulated in an easily understandable language, in compliance with the principles of the public administration and the guidelines set forth in Law No. 12,527, of 2011.

Article 3. For the purposes of this Decree, one shall consider:

I – information - processed or unprocessed data that can be used in the production and transmission of knowledge, within any media, support or format;

II – processed data – data submitted to any operation or treatment performed by either electronic processing or automated means, with the support of information technology;

III – document - unit of recorded information regardless of its support or format;

IV – classified information - that piece of information which is temporarily unavailable to public access due to its relevance to social and State security, and other information protected under legal secrecy clauses;

V – personal information - that piece of information which is related to an identified or identifiable individual, with respect to his/her intimacy, private life, honor and image;

VI – handling of information - set of actions related to information production, reception, rating, use, access, reproduction, transportation, transmission, distribution, filing, storage, exclusion, evaluation, destination or control;

VII – availability - quality of the information that can be accessed and used by authorized individuals, equipment or systems;

VIII – authenticity - quality of the information produced, sent, received or modified by a determined individual, equipment or system;

IX – integrity - quality of the non-modified information, encompassing its origin, traffic and destination;

X – primary - quality of first-hand unfiltered information, retrieved from original sources, comprising as many details as possible on a given subject, without any changes or amendments;

XI – updated information – information that comprises updated data on a given subject, in conformity with its nature, whose related time frames were set forth either in specific rules or according to the periodicity established in the computerized systems that organize such type of information;

XII – preparatory document – official document elaborated to subsidize a decision making or an administrative act, i.e. opinions and technical notes.

Article 4. Information search and provision services are free of charge, unless the public body or entity is otherwise demanded to deliver document copies, digital media and postage, situation in which only the costs of such services and materials will be charged.

Sole Paragraph. Applicants who cannot afford to pay the costs of requested services and materials without compromising their own or their family's needs shall be exempt of such payment, as determined by Law No. 7,115, of August 29, 1983.

CHAPTER II

ON THE SCOPE OF THIS DECREE

Article 5. The provisions of this Decree shall be applicable to the public bodies that form the direct administration as well as to autonomous government agencies, public foundations, state-owned companies, government-controlled companies and other entities directly or indirectly controlled by the Federal Government.

Paragraph 1. The disclosure of information on state-owned companies, government-controlled companies and other entities controlled by the Federal Government that comply with competition practices and which are subject to the provisions set forth in article 173 of the Federal Constitution, shall conform with the rules of the Securities Commission in order to ensure their competitiveness, corporate governance and, whenever applicable, the interests of the minority shareholders.

Paragraph 2. Information related to the entrepreneurial activities performed by individuals or legal entities governed by private law, which have been retrieved by the Central Bank of Brazil, by regulatory agencies or by other public bodies or entities in the exercise of their activities related to control, regulation and monitoring of economic activity, and whose disclosure might add to competitive advantage to other economic agents, shall not be subject to the provisions set forth in this Decree.

Article 6. The access to information disciplined in this Decree is not applicable to:

I – confidentiality cases provided for in the legislation, encompassing, inter alia, the following areas: tax, banking, stock market operations and services, business, professional, industrial and justice secrecy; and

II – information related to scientific or technological research and development projects whose secrecy is deemed of critical relevance to social and State security, as provided for in Paragraph 1 of Article 7 of Law No. 12,527, of 2011.

CHAPTER III

ON THE ACTIVE TRANSPARENCY

Article 7. Regardless of external requests, public bodies and entities shall promote the disclosure of the information they either produce or keep, be it of collective or general interest, in their respective websites, in compliance with the provisions established in article 7 and article 8 of Law No. 12,527, of 2011.

Paragraph 1. The said bodies and entities shall implement a specific section in their respective websites in order to disclose the information referred to in the **caption** of this article.

Paragraph 2. The data disclosed by the said bodies and entities in their respective websites shall comply with the pattern established by the Secretariat for Social Communication of the Presidency of the Republic:

I – a banner placed in the first page, linking to the specific section referred to in Paragraph 1; and

II – identity bar of the Federal Government, comprising a redirecting tool to the *Portal Brasil* and to the official website of Law No. 12,527, of 2011.

Paragraph 3. The specific section referred to in Paragraph 1 shall disclose information on:

I – organizational structure, competences, applicable legislation, most relevant positions of authority and the respective incumbents in office, unit addresses and telephones, working hours;

II – programs, projects, actions, works and activities under implementation, indicating the respective unit in charge, the most relevant goals and achievements and, whenever possible, result and impact indicators;

III – transfer of funds or transfer of financial resources;

IV – detailed budgetary and financial statements;

V – ongoing and finished tenders, with the respective invitations for bids, appendices and results, along with the awarded contracts and the issued spending authorizations;

VI – compensation and salary received by incumbents holding public office, post, grade, function or job, including allowances, reimbursements, director's fees and other financial benefits as well as retirement pensions and survivor's pensions for those who are still working, listed individually, pursuant to directive issued by the Ministry of Planning, Budget and Management;

VII – answers provided to society's most frequently asked questions; and

VIII – contact of the monitoring authority, appointed in compliance with the provisions established in article 40 of Law No. 12,527, and the telephone number and email of the Citizen Information Service – SIC.

Paragraph 4. The above information may be disclosed through a webpage redirecting tool, in case the said information is available at other government websites.

Paragraph 5. The provisions set forth in Paragraph 1 of Article 5 shall apply to state-owned companies, government-controlled companies and other entities controlled by the Federal Government that comply with competition practices and which are subject to the provisions set forth in article 173 of the Federal Constitution.

Paragraph 6. The Central Bank of Brazil shall regularly disclose information on credit transactions practiced by financial institutions, including minimal, maximum and average interest rates and the respective bank charges.

Paragraph 7. The disclosure of the information set forth in Paragraph 3 shall not exclude other situations set forth in existing legislation that add to the publishing and disclosure of information.

Article 8. In compliance with the directives established by the Ministry of Planning, Budget and Management, the public bodies and entities shall make sure that their respective websites meet, *inter alia*, the following requirements:

I – to include an access to information request form;

II – to include a content search tool that allows objective, transparent and clear access to information in an easily understandable language;

III – to enable the recording of reports in various electronic formats, including open and non-proprietary, such as spreadsheets and text, aiming at ensuring easier information analysis;

IV – to enable automated access by external systems in open, structured and machine-readable formats;

V – to provide detailed disclosure of the formats used to structure information;

VI – to ensure the authenticity and integrity of accessible information;

VII – to indicate instructions that enable the applicant to use telephone or electronic communication means to contact the public body or entity; and

VIII – to ensure content accessibility to persons with disabilities.

CHAPTER IV

ON THE PASSIVE TRANSPARENCY

Section I

On the Citizen Information Service

Article 9. The public bodies and entities shall implement a Citizen Information Service – SIC, with the aim of:

I – serve and guide the public on matters related to information access;

II – provide information on the processing of documents within their respective units; and

III – receive and file access to information requests.

Sole Paragraph. The SIC is responsible for:

I – receiving access to information requests and, whenever possible, immediately providing the requested information;

II – filing the access to information request in a specific electronic system and providing the applicant with a file number, which should include the filing date of the said request; and

III – forwarding the received and filed request, whenever applicable, to the unit with the authority to provide the requested information.

Article 10. The SIC shall be set up in an identified physical structure, of easy access and open to the public.

Paragraph 1. The decentralized units which do count on a SIC, shall offer the public services related to the receipt and filing of information access requests.

Paragraph 2. In case the decentralized unit does not hold the requested information, the request shall be forwarded to the SIC of its respective central public body or entity, which shall then provide the applicant with a file number and its filing date, from which the time frame for response shall be counted.

Section II

On the Access to Information Request

Article 11. Any individual or legal entity is entitled to formulate an access to information request.

Paragraph 1. The request shall be presented in a standard form, available both physically and electronically, in the websites of the public bodies and entities as well as their respective SICs.

Paragraph 2. The time frame for response shall be counted from the filing date of the request at the SIC.

Paragraph 3. Public bodies and entities are entitled to receive access to information requests by any other legitimate means, such as telephone calls, electronic or postal mail, as long as the requirements set forth in article 12 are met.

Paragraph 4. In the situation provided for in Paragraph 3, the applicant shall be informed about the file number of his request as well as its filing date at the SIC, term from which the time frame for response shall be counted.

Article 12. The access to information request shall include:

I – name of the applicant;

II – valid ID number;

III – clear and objective specification of the requested information; and

IV – applicant’s postal or electronic address, to which further notices or the requested information should be sent.

Article 13. The following access to information requests shall be refused:

I – of general scope;

II – disproportionate or unreasonable; or

III – demanding additional assessment and interpretation work or the consolidation of data and information, or work related to data production or processing that are not under the jurisdiction of the respective body or entity.

Sole Paragraph. In the situation described in the **caption** of item III, the said body or entity shall, if possible, indicate the location of the requested information, enabling the applicant to proceed to related data interpretation, consolidation or processing.

Article 14. Any requirements related to the reasons of the access to information request are forbidden.

Section III

On the Access to Information Proceedings

Article 15. After the request is received, and should the requested information be available, the access to information shall be granted immediately.

Paragraph 1. In case it is not possible to grant immediate access, the related body or entity shall, within twenty days:

I – send the requested information to the applicant’s postal or email address informed;

II – inform the applicant of the date, location and means to retrieve the requested information, extract the said information or obtain a certificate related to the requested information;

III – inform the applicant that it neither holds the requested information nor is aware of its existence;

IV – indicate, should that be possible, the body or entity responsible for the requested information or in possession of same; or

V – indicate the grounds for either fully or partially denying access to the requested information.

Paragraph 2. In situations where the access to information request requires the handling of a large volume of documents or in case the moving of the document may compromise its regular processing, the measure set forth in item II of Paragraph 1 shall be adopted.

Paragraph 3. Should the integrity of the requested information or document be subject to any harm because of their handling, the related body or entity shall indicate the date, location and means of consultation to be performed by the applicant, or offer him a certified copy.

Paragraph 4. Should it not be possible to obtain the copy referred to in Paragraph 3, the applicant may request, at his/her expenses and under the supervision of a public servant, a document reproduction that does not put the integrity of the original material at risk.

Article 16. The time frame for response to the request may be extended for ten days upon justification to be sent to the applicant prior to the expiration of the initial term of twenty days.

Article 17. In case the information is available to the public in a printed, electronic or any other means of universal access, the body or entity shall guide the applicant on the location and ways to access, retrieve or copy such information.

Sole Paragraph. The procedure detailed in the **caption** of this article exempts the public body or entity from the obligation to directly provide the information, unless the applicant otherwise declares not having the means to access, retrieve or copy such information on his/her own.

Article 18. In case the provision of information requires the delivery of document copies, the related body or entity shall, in compliance with the time frame for response to the request, supply the applicant with a Federal Government Bill – GRU or equivalent document, for him/her to afford the costs associated to the rendered services and delivered materials.

Sole Paragraph. Document copies shall be delivered within ten days, counted from the date the applicant paid the bill or submitted an *in forma pauperis* affidavit, in compliance with the provisions set forth in Law No. 7,115,

of 1983, unless the volume or condition of the documents require an extended deadline to be duly copied.

Article 19. In case the access to information request is denied, the applicant shall be sent, within the time frame for response, a written notice comprising the following:

I – reasons for the denial of information access and their respective legal grounds;

II – admissibility and time frame for appeals, indicating the authority entitled to examine such appeal; and

III – admissibility of information declassification request, whenever applicable, indicating the authority responsible for the classification which is entitled to examine such request.

Paragraph 1. The reasons for the denial of access to classified information shall indicate the legal grounds of its classification, the authority that categorized such information and the indexing code of the classified document.

Paragraph 2. Public bodies and entities shall offer a standard form for the filing of appeals and declassification requests.

Article 20. The access to a preparatory document or its contents, which are to be used as grounds for a decision making or an administrative act, shall be granted as of the enactment of the said act or the issuance of the said decision.

Sole Paragraph. The Ministry of Finance and the Central Bank of Brazil shall classify the documents that subsidize decisions related to economic policies, such as documents of fiscal, tax, monetary and regulatory nature.

Section IV

On the Appeals

Article 21. After being denied the right to access either the requested information or the reasons that justified the denial of access, the petitioner may file an appeal within ten days from the date he/she was notified of such decision, submitting it to the authority hierarchically superior to the one which issued the contested decision, which should examine the aforementioned appeal within five days to be counted from the date it was filed.

Sole Paragraph. Should the appeal referred to in the **caption** of this article be denied, the petitioner may file an appeal within ten days to be counted from the date he/she was notified of such decision, submitting it to the highest

authority of the related body or entity, which should issue a decision within five days to be counted from the date of the filing of the appeal.

Article 22. In case no response is provided to the access to information request, the petitioner may file a complaint within ten days to the monitoring authority referred to in article 40 of Law No. 12,527, of 2011, which should issue a decision within five days to be counted from the receipt of the complaint.

Paragraph 1. The time frame to file a complaint shall begin within thirty days after the filing of the request.

Paragraph 2. The highest authority of a body or entity may appoint other directly-subordinated authority to be in charge of receiving and examining the said complaint.

Article 23. In case the appeal referred to in the sole paragraph of article 21 is denied or in case the complaint referred to in article 22 is dismissed, the petitioner is entitled to file an appeal within ten days to be counted from the date he/she was notified of such decision to the Office of the Comptroller General, which should issue a decision within five days to be counted from the receipt of the appeal.

Paragraph 1. The Office of the Comptroller General may require the related body or entity to provide clarification on the matter in controversy.

Paragraph 2. In case the appeal is granted, the Office of the Comptroller General shall set a time frame for the related body or entity to implement the issued decision.

Article 24. In case of denial of access to information or to the reasons that justified the denial of access referred to in the **caption** of article 21, and in case the Office of the Comptroller General denies the appeal, the petitioner may file an appeal to the Mixed Committee for the Reassessment of Information within ten days to be counted from the date he/she was notified of the said decision, in compliance with the proceedings set forth in Chapter VI.

CHAPTER V

ON INFORMATION CLASSIFIED AT CONFIDENTIALITY LEVEL

Section I

On the Classification of Information Concerning the Level and Time Frames of Secrecy

Article 25. Information considered crucial to the security of society or of the State and, therefore, classifiable, are those whose disclosure or non-restricted access may:

I – put at risk the national defense and sovereignty or the integrity of the national territory;

II – harm or put at risk the country's conduction of negotiations or international relations,

III – harm or put at risk information provided by other states and international organizations by means of secrecy.

IV – put at risk the life, security or health of the population;

V – offer major risk to the monetary, economic and financial stability of the country;

VI – harm or put at risk strategic plans or operations of the Armed Forces;

VII – harm or put at risk scientific or technological research and development projects, as well as systems, properties, facilities or areas of strategic national interest, as established in item II of the **caption** of article 6;

VIII – put at risk the security of institutions or high national or foreign authorities and their family members; or

IX – compromise intelligence activities, as well as ongoing investigation or inspection, related to the prevention or repression of infractions.

Article 26. The information in custody of public bodies and entities, observing its wording and due to its importance to the security of society and of the State, may be classified as top secret, secret and restricted.

Article 27. For classifying the information on a given secrecy level, the public interest on the information shall be assessed and the less restrictive criteria shall be applied, considering:

I – the severity of the risk or harm to the security of society and of the State; and

II – the maximum time frame of classification under secrecy level or the event that defines its final term.

Article 28. The maximum classification time frames are as follows:

I – top-secret: twenty-five years;

II – secret: fifteen years; and

III – reserved: five years

Sole Paragraph. The expiration of the final term to access restriction may be determined by the occurrence of a specific event, in observance of the maximum time frames of the classification.

Article 29. Information that may put at risk the security of the President or Vice-President and their respective spouses and children will be classified as reserved and shall be kept under secrecy until the end of the term of office or last term, in case of re-election.

Article 30. The classification of information is under the responsibility of:

I – on the top-secret level, the following authorities:

- a)** The President of the Republic;
- b)** The Vice-President of the Republic;
- c)** State Ministers and authorities with the same prerogatives;
- d)** Commanders of the Navy, the Army and the Air Force; and
- e)** Chiefs of permanent Diplomatic and Consular Missions abroad;

II – on the secret level, the authorities referred to in item I of the **caption** of this article, the heads of autonomous government agencies, public foundations, state-owned companies and government-controlled companies; and

III – on the reserved level, the authorities referred to in items I and II of the **caption** of this article and the ones who exercise functions of directorship, command or leadership whose hierarchy is equivalent or superior to the level DAS 101.5 from the Superior Group of Directorship and Advice.

Paragraph 1. The authority to classify information as of top-secret or secret levels is not subject to delegation.

Paragraph 2. The highest authority of the public body or entity is entitled to delegate the authority to classify information as of reserved level to a public agent who exercises functions of directorship, command or leadership.

Paragraph 3. The subdelegation of the authority referred to in Paragraph 2 is forbidden.

Paragraph 4. The public agents referred to in Paragraph 2 shall report any classification act to the delegating authority within ninety days.

Paragraph 5. The classification of information on the top-secret level by the authorities mentioned in subitems 'd' and 'e' of item I of the **caption** of this article shall be ratified by the respective State Minister within thirty days.

Paragraph 6. While the ratification is pending, the classification referred to in Paragraph 5 is deemed valid for all legal purposes.

Section II

On the Proceedings Concerning the Classification of Information

Article 31. The decision that classifies the information in any secrecy level shall be formalized into a Certificate of Classification of Information – TCI, according to a template provided for in the Appendix to this Decree, and shall comprise the following information:

I – the indexing code of the document;

II – the secrecy level;

III – the category of the information;

IV - the type of document;

V – the date the document was formulated;

VI – the indication of the legal provision that supports the classification;

VII – the grounds of classification, according to the criteria set forth in article 27;

VIII – the indication of the time frame of the secrecy, to be counted in years, months or days, or the event that defines its final term, in observance of the limits set forth in article 28;

IX – the classification date; and

X – the identification of the authority who classified the information.

Paragraph 1. The TCI shall be attached to the information.

Paragraph 2. The information provided for in item VII of the **caption** of this article shall be kept under the same secrecy level of the classified information.

Paragraph 3. The ratification of the classification mentioned in Paragraph 5 of article 30 shall be registered in the TCI.

Article 32. The authority or other public agent who classifies the information under the top-secret or secret level shall submit a copy of the TCI to the Mixed Committee for the Reassessment of Information within thirty days, to be counted from the issuance of the decision related to the classification or the ratification.

Article 33. In case a document comprises information classified in different secrecy levels, such document will be handled under the highest secrecy level, being granted the access to the non-confidential portions by means of certificate, extract or copy, with the concealment of the portion under secrecy.

Article 34. Public bodies and entities are entitled to institute a Standing Committee for the Assessment of Confidential Documents – CPADS, with the following attributions:

I – to give opinions on the information produced within the scope of its activities in order to classify the said information under any secrecy level;

II – to assist the authority responsible for the classification or an hierarchically superior authority with regard to the declassification, reclassification or reassessment of information classified under any secrecy level;

III – to suggest the final destination for the declassified information, indicating the documents which should be permanently stored, as set forth in Law No. 8,159, of January 8, 1991; and

IV – to subsidize the formulation of an annual list of declassified information and documents classified under each secrecy level, to be further published in the internet.

Section III

On the Declassification and Reassessment of Confidential Information

Article 35. The classification of information shall be reviewed by the authority responsible for the classification or by an hierarchically superior authority, *ex officio* or upon initiative, in order to declassify the information or reduce the period in which it must be kept under secrecy.

Sole Paragraph. In order to enforce the provisions set forth in the **caption** of this article as well as the provisions established in article 27, the following items require compliance:

I – the maximum time frame of restriction on the access to information, as provided for in article 28;

II – the maximum four-year time frame of *ex officio* review on information classified as either top-secret or secret, as provided for in item I of the **caption** of article 47;

III – the permanence of the reasons of the adopted classification;

IV – the possibility of harm or risks resulting from the disclosure or non-restricted access to information; and

V – the peculiarities of the information produced by authorities or public agents abroad.

Article 36. The request for declassification or reassessment of the classification may be filed to public bodies and entities regardless the existence of a previous access to information request.

Sole Paragraph. The request provided for in the **caption** of this article shall be submitted to the authority responsible for the classification, which shall issue a decision within thirty days.

Article 37. In case the request for declassification or reassessment of the classification is denied, the petitioner may file an appeal within ten days, to be counted from the date he/she was notified of the negative decision, to the respective State Minister or an authority with equal prerogatives, which shall issue a decision within thirty days.

Paragraph 1. If the authority responsible for the classification is linked to an autonomous government agency, public foundation, state-owned company or government-controlled company, the appeal shall be submitted to the highest authority of the said entity.

Paragraph 2. With regard to the Armed Forces, the appeal shall be firstly submitted to the respective Commander and, should it be denied, to the Defense Minister.

Paragraph 3. With regard to information produced by authorities or public agents abroad, the request for declassification and reassessment shall be examined by an hierarchically superior authority who is based in the Brazilian territory.

Paragraph 4. In case the appeal provided for in the **caption** of this article and in the paragraphs 1 to 3 is denied, the petitioner is entitled to file an appeal to the Mixed Committee for the Reassessment of Information within ten days to be counted from the date he/she was notified of the said decision.

Article 38. The decision on the declassification, reclassification or reduction of the time frame of the restricted access to confidential information shall be mentioned, whenever possible, in the cover of the related action and in the appropriate field within the TCI.

Section IV

General Provisions

Article 39. Information classified as either top-secret or secret shall be permanently preserved, as established in Law No. 8,159, of 1991, and the related access restriction proceedings shall be complied with until the time frame of the classification expires.

Article 40. In case the information classified as documents to be permanently stored are declassified, they will be forwarded to the National Archive, to the permanent archives of the related public body, entity or organization in order to be properly stored, organized, preserved and, thus, become accessible.

Article 41. Information on conducts that may result in violation of human rights perpetrated by public agents or under the orders of public authorities shall not be subject to classification in any secrecy level nor shall they have their access denied.

Article 42. The access to information necessary to the judicial or administrative relief of fundamental rights shall not be denied.

Sole Paragraph. The petitioner shall present the reasons that prove the link between the requested information and the right he/she aims to protect.

Article 43. The access, disclosure and handling of information classified in any secrecy level shall be restricted to people who are in need of knowing its contents, accredited under the rules established by the Security and Accreditation Group, instituted within the Institutional Security Office of the Presidency of the Republic, without prejudice of the attributions of public agents authorized by law.

Article 44. The authorities of the Executive Branch at the federal level shall adopt the necessary measures to ensure that their personnel get to know the rules and comply with the measures and security proceedings related to the handling of information classified in any secrecy level.

Sole Paragraph. The individual or private entity which, because of a connection with the Government, perform activities related to the handling of classified information, shall adopt the necessary measures to ensure that their employees, agents or representatives comply with the measures and proceedings related to information safety.

Article 45. The highest authority of each body or entity shall annually publish, until June 1st, in a website available on the internet, the following:

I – a list of the information which has been declassified in the last twelve months;

II – a list of information classified in each level of secrecy, which shall comprise:

- a)** the indexing code of the document;
- b)** the category of the information;
- c)** the indication of the legal provision that supports the classification; and
- d)** the date the document was produced, the classification date and the time frame of the classification;

III – a statistic report containing the number of information requests that were received, accepted and denied; and

IV – statistic aggregated information on the applicants.

Sole Paragraph. Public bodies and entities shall keep copies of the information provided for in the **caption** of this article for public consultation in their respective headquarters.

CHAPTER VI

ON THE MIXED COMMITTEE FOR THE REASSESSMENT OF INFORMATION

Article 46. The Mixed Committee for the Reassessment of Information, instituted pursuant to Paragraph 1 of Article 35 of Law No. 12,527, of 2011, shall be formed by the heads of the following bodies:

I – Office of the President’s Chief of Staff, which shall chair the Committee;

II – Ministry of Justice;

III – Ministry of External Affairs;

IV – Ministry of Defense;

V – Ministry of Finance;

VI – Ministry of Planning, Budget and Management;

VII – Secretariat for Human Rights under the Presidency of the Republic;

VIII – Institutional Security Office under the Presidency of the Republic;

IX – Office of the General Counsel to the Federal Government;

X – Office of the Comptroller General.

Sole Paragraph. Each member shall appoint a substitute, which shall be designated by an act issued by the Chair of the Committee.

Article 47. The Committee is entitled to:

I – review the classification of information in either the top-secret or secret levels or its reassessment, *ex officio* or upon initiative, at every four years, at the most;

II – require the authority who classified the information as top secret or secret to present clarification or the partial or full content of the information, when the information held by TCI is not sufficient for the review of the classification;

III – judge the appeals filed against decisions issued by:

a) the Office of the Comptroller General, at the appellate level, on access to information requests or the reasons for denying the access to information; or

b) the State Minister or an authority with equal prerogatives, at the appellate level, on request for declassification or reassessment of classified information;

IV – extend, for one time only and for a period of up to twenty-five years, the duration of secrecy for information classified as top secret, for as long as its access or disclosure may cause external threat to the national sovereignty, to the integrity of the national territory or serious risk to the international relations of the country, being the total time frame of the classification limited to a maximum of fifty years; and

V – establish general regulatory guidelines in order to fill in occasional gaps in the enforcement of Law No. 12,527, of 2011.

Sole Paragraph. The lack of decision-making with regard to *ex officio* reviews within the time frame set forth in item I of the **caption** of this article shall implicate in the automatic declassification of the information.

Article 48. The Mixed Committee for the Reassessment of Information shall hold ordinary meetings once a month and extraordinary meetings whenever convened by its Chairperson.

Sole Paragraph. The meetings shall be held with the presence of at least six members.

Article 49. The requirements to extend the time frame of classification of information at the top-secret level, referred to in item IV of the **caption** of article 47, shall be forwarded to the Mixed Committee for the Reassessment of

Information within one year prior to the expiration of the final term of access restriction.

Sole Paragraph. The requirement to extend the time frame of secrecy of information classified as top secret shall be imperatively examined within up to three sessions subsequent to the notification date, being all other decisions to be issued by the Committee put on hold until the said voting is completed.

Article 50. The Mixed Committee for the Reassessment of Information shall imperatively examine the appeals provided for in item III of the **caption** of article 47 until the third general meeting subsequent to their notification date.

Article 51. The *ex officio* review of the information classified as either top secret or secret shall be completed within up to three sessions prior to its automatic declassification date.

Article 52. The decisions issued by the Mixed Committee for the Reassessment of Information shall be made:

I – by the majority of its members, when encompassing the attributions provided for in items I and IV of the **caption** of article 47; and

II – by the simple majority of votes in all other cases.

Sole Paragraph. The Office of the President's Chief of Staff shall issue simple votes as well as casting votes whenever applicable.

Article 53. The Office of the President's Chief of Staff shall work as the Executive Secretariat of the Mixed Committee for the Reassessment of Information, and its attributions are to be defined in internal regulations.

Article 54. The Mixed Committee for the Reassessment of Information shall pass, by the majority of the votes of its members, the internal regulations that will provide for its structure and the scope of its activities.

Sole Paragraph. The internal regulations shall be published in the Federal Gazette within ninety days from the institution of the Committee.

CHAPTER VII

ON PERSONAL INFORMATION

Article 55. With regard to personal information related to intimacy, private life, honor and image and which is held by public bodies and entities:

I – its access shall be restricted to legally authorized public agents and to the person to which such information refers, regardless of the classification of secrecy, and for the maximum period of a hundred years, to be counted from the date of its production; and

II – it may have its disclosure or access by third parties authorized upon legal provision or express consent of the person to which such information refers.

Sole Paragraph. In case the holder of personal information is deceased or absent, the rights provided for in this article are to be passed onto his/her spouse or partner, descendants or ascendants, as set forth in the sole paragraph of article 20 of Law No. 10,406, of January 10, 2002, and in Law No. 9,278, of May 10, 1996.

Article 56. Personal information shall be handled in a transparent way and respecting the intimacy, private life, honor and image of people, as well as individual liberties and guarantees.

Article 57. The consent referred to in item II of the **caption** of article 55 shall not be required when the access to personal information is necessary for:

I – the medical prevention and diagnosis, when the person is either physically or legally incapable, and exclusively to enable medical treatment;

II – the conduction of statistics and scientific research of public or general interest, as provided by law, but the identification of the person to which the information refers is forbidden;

III – the compliance of a court order;

IV – the defense of human rights of third parties; or

V – the protection of the preponderant general public interest.

Article 58. The restriction on access to personal information, as provided for in article 55, shall not be invoked:

I – with the aim of jeopardizing the governmental process of investigation of irregularities, involving the holder of that information; or

II – when unclassified personal information is comprised in sets of documents necessary for the recovery of historical facts of greater relevance.

Article 59. The highest authority of a body or entity may, *ex officio* or upon initiative, acknowledge the incidence of the situation provided for in item II of the **caption** of article 58, based on substantive grounds, on documents either produced by or stored at its units or which are being kept under the custody of the said organization.

Paragraph 1. To subsidize the acknowledgement decision referred to in the **caption** of this article, the said body or entity may request an opinion on the matter to universities, research organizations or other entities with extensive experience in historiographical research.

Paragraph 2. The acknowledgement decision referred to in the **caption** of this article shall be preceded by an information summary, to be published within at least thirty days prior to the issuance of the said decision, comprising a summarized description of the subject, the source and period of time covered by the set of documents to be further subject to non-restricted access.

Paragraph 3. After the issuance of the decision referred to in Paragraph 2, the documents will be fully disclosed to the public.

Paragraph 4. With regard to documents of substantive historical value which are to be permanently stored, the highest authority of the National Archive or the authority responsible for the archives of the public body or entity which received the said documents shall decide, after the collection of these documents, on their acknowledgement in compliance with the proceedings set forth in this article.

Article 60. The access to personal information request shall comply with the proceedings set forth in Chapter IV and shall be conditioned to proof of the identity of the applicant.

Sole Paragraph. The access to personal information request, when filed by third parties, shall be accompanied by:

I – proof of the express consent referred to in item II of the **caption** of article 55, by means of a power of attorney;

II – proof of the situations provided for in article 58;

III – demonstration of the interest on the recovery of historical facts of greater relevance, in compliance with the proceedings set forth in article 59; or

IV – demonstration of the need to access the requested information in order to defend human rights or to protect preponderant general and public interest.

Article 61. The access to personal information by third parties shall be conditioned to the signature of a liability agreement which shall provide for the purpose and destination that supported such authorization and the obligations to be performed by the applicant.

Paragraph 1. The use of personal information by third parties is associated to the purpose and destination that supported the authorization for access, and any other use that exceeds such limitations is forbidden.

Paragraph 2. The person who is granted access to personal information of third parties shall be held responsible for the undue use of such information, as provided by law.

Article 62. Law No. 9,507, of November 12, 1997, shall be applicable, whenever possible, regarding information on individuals or legal entities which is stored in records or databases kept by government bodies or entities or any other entity of public nature.

CHAPTER VIII

ON THE NOT-FOR-PROFIT PRIVATE ENTITIES

Article 63. Not-for-profit private entities that receive public transfers of funds in order to implement actions of public interest shall publicize the following information:

I – copy of the entity’s updated bylaws;

II – updated nominal list of entity’s managers; and

III – full copies of the agreements, contracts, partnership contracts, settlements or similar instruments signed with the Executive Branch at the federal level, and the respective amendments, and final accounting reports, in form prescribed by the applicable law.

Paragraph 1. The information referred to in the **caption** of this article shall be disclosed in the entity’s website available on the internet and in notice boards of public access located at entity’s headquarters.

Paragraph 2. The disclosure in an internet-based website, referred to in Paragraph 1, may be deemed unnecessary pursuant to decision issued by the public body or entity and upon express justification of the entity in case of not-for-profit private entities which do not have the means to implement such disclosure.

Paragraph 3. The information referred to in the **caption** of this article shall be published upon the execution of the agreement, contract, partnership contract, settlement or similar instrument and shall be regularly updated, being available for public access for up to one hundred and eighty days after the delivery of the final accounting report.

Article 64. The information requests related to the agreements, contracts, partnership contracts, settlements or similar instruments provided for in article 63 shall be directly filed at the bodies and entities responsible for the transfer of funds.

CHAPTER IX

ON THE LIABILITIES

Article 65. The following actions constitute illicit conduct for which a public agent or military shall be held liable:

I – denying to provide information required under the terms of this Decree; deliberately slowing down the provision of information or intentionally providing incorrect, incomplete or inaccurate information;

II – unduly using, as well as subtracting, destroying, invalidating, deforming, altering or totally or partially concealing information under the official's custody, or to which he or she has access to or knowledge of due to the exercise of the attributions of his or her position, job or public function;

III – acting with deceit or bad faith in the assessment of access to information requests;

IV – disclosing or allowing the disclosure or access, or allowing the undue access to classified information or personal information;

V – imposing secrecy on information with the purpose of obtaining personal benefit or benefit for third parties, or with the purpose of concealing an illegal act committed by himself or herself or someone else;

VI – concealing classified information from the review of the competent superior authority for self-benefit or the benefit of others, or with the intention of harming third parties; and

VII – destroying or subtracting, by any means, documents related to possible violations of human rights by State agents.

Paragraph 1. In observance of the adversary proceeding, the opportunity for the parties to be heard and the due process of law, the actions described in the **caption** of this article shall be considered:

I – average or serious military transgressions, under the disciplinary regulations of the Armed Forces, according to the criteria established by them, as long as the law does not consider such action a crime or a criminal misdemeanor; or

II – administrative infractions, which shall be punished with at least a suspension, pursuant to Law No. 8,112, of December 11, 1990, and its amendments, according to the criteria established in the aforementioned law.

Paragraph 2. For the actions described in the **caption** of this article, the military or public agent may also be held liable for administrative improbity, according to the terms laid out in Law No. 1,079, of April 10, 1950, and Law No. 8,429, of June 2, 1992.

Article 66. The individual or private entity which holds information because of any relation occasionally established with the Government and which practices an action set forth in article 65, shall be subject to the following sanctions:

I – warning;

II – fine;

III – termination of relations with the government;

IV – temporary suspension from participating in public biddings and forbiddance to contract with the government for a period not longer than two years; and

V – declaration of lack of good standing to bid or contract with the public administration, until the same authority who applied the penalty promotes its rehabilitation.

Paragraph 1. The sanction of fine may be jointly applied with the sanctions set forth in items I, III and IV of the **caption** of this article.

Paragraph 2. The fine referred to in item II of the **caption** of this article shall be applied without prejudice of the compensation for the damage caused and shall not be:

I – less than BRL 1,000.00 (one thousand *reais*) nor more than BRL 200,000.00 (two-hundred thousand *reais*), when involving an individual; or

II – less than BRL 5,000.00 (five thousand *reais*) nor more than BRL 600,000.00 (six-hundred thousand *reais*), when involving a private entity.

Paragraph 3. The rehabilitation referred to in item V of the **caption** of this article shall be authorized only after the individual or private entity refunds the body or entity for the damages he/she caused and after the sanction period applied on the basis of item IV of the **caption** of this article.

Paragraph 4. The application of the sanction referred to in item V of the **caption** of this article is an exclusive attribution of the highest authority of the public body or entity.

Paragraph 5. The situations described in this article shall be contested within ten days after the process was served.

CHAPTER X

ON THE MONITORING OF LAW ENFORCEMENT

Section 1

On the Monitoring Authority

Article 67. The highest authority of each body or entity shall appoint an authority directly subordinated to him/her to perform the following attributions:

I – to efficiently ensure the compliance of the regulations related to the access to information, according to the purposes of Law No. 12,527, of 2011.

II – to assess and monitor the implementation of the provisions set forth in this Decree and submit periodic reports on their compliance to the highest authority of each body or entity, forwarding the said reports to the Office of the Comptroller General;

III – to recommend measures for improvement of the regulations and proceedings necessary for the implementation of the provisions set forth in this Decree;

IV – to guide the respective units on the compliance with this Decree; and

V – to decide on complaint filed against omission of the competent authority, pursuant to the provisions established in article 22.

Section II

On the Attributions Related to the Monitoring Activities

Article 68. In observance of the attributions of other bodies and entities and the specific provisions set forth in this Decree, the Office of the Comptroller General is entitled to:

I – define the standard form, to be made available electronically and in print, which shall be accessible on the internet and at the SIC of the respective bodies and entities, as established in Paragraph 1 of article 11;

II – promote a nationwide campaign with the aim of fostering a culture of transparency within the government and raising awareness on the fundamental right to access information;

III – promote training activities for the public agents and, whenever possible, to build capacity of not-for-profit private entities with regard to the development of practices related to the transparency within the government;

IV – monitor the implementation of Law No. 12,527, of 2011, concentrating and consolidating the publication of statistical information referred to in article 45;

V – prepare an annual report with information on the implementation of Law No. 12,527, of 2011, which is to be submitted to the National Congress;

VI – monitor the enforcement of this Decree, especially with regard to the compliance with time frames and proceedings; and

VII – jointly define with the Office of the President’s Chief of Staff the guidelines and supplementary proceedings necessary for the implementation of Law No. 12,527, of 2011.

Article 69. In observance of the attributions of other bodies and entities and the specific provisions set forth in this Decree, the Office of the Comptroller General and the Ministry of Planning, Budget and Management, by means of joint action, are entitled to:

I – establish the proceedings, regulations and patterns of disclosure of information to the public, setting a maximum time frame for the update of the said information; and

II – detail the proceedings necessary for the search, organization and provision of information within the SIC.

Article 70. In observance of the attributions of other bodies and entities and the specific provisions set forth in this Decree, the Institutional Security Office is entitled to:

I – establish indexing regulations related to the classification of information;

II – issue supplementary orders and establish proceedings related to the security accreditation of people, public or private bodies and entities for the handling of classified information; and

III – promote, through the Security and Accreditation Group, the security accreditation of people, public or private bodies and entities for the handling of classified information.

CHAPTER XI

ON THE FINAL AND TRANSITORY PROVISIONS

Article 71. Public bodies and entities shall adapt their respective information management policies, promoting the necessary amendments for the registry, processing, procedural steps and filing of documents and information.

Article 72. Public bodies and entities shall reassess the information classified as top secret and secret within the maximum period of two years, from the initial date Law No. 12,527, of 2011 has been put into effect.

Paragraph 1. The restriction on the access to information due to the reassessment established in the **caption** of this article shall comply with the time frames and conditions set forth in this Decree.

Paragraph 2. Until the time frame for reassessment established in the **caption** of this article has not been reached, the classification of the information shall be kept under the terms and time frames of the previous legislation.

Paragraph 3. The information classified as secret or top secret which is not reassessed within the time frame established in the **caption** of this article shall be automatically considered as being of public access.

Article 73. The annual publication referred to in article 45 shall be first released in June, 2013.

Article 74. The handling of classified information resulting from international treaties, agreements or acts shall abide to the regulations and recommendations of such instruments.

Article 75. The provisions of Law No. 9,784, of January 29, 1999, shall be applied in a subsidiary manner to the proceedings set forth in this Decree.

Article 76. This Decree takes effect on May 16, 2012.

Brasília, May 16th, 2012; 191st year of the Independence and 124th year of the Republic.

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This text does not replace the one published on the Federal Gazette of 5-16-2012 – Special edition and rectified on 5-18-2012.

APPENDIX

SECRECY LEVEL

(similar to the secrecy level of the document)

CERTIFICATE OF CLASSIFICATION OF INFORMATION – TCI	
BODY/ENTITY:	
INDEXING CODE:	
SECRECY LEVEL:	
CATEGORY:	
TYPE OF DOCUMENT:	
PRODUCTION DATE:	
LEGAL GROUNDS FOR THE CLASSIFICATION: (similar to the secrecy level of the document)	
TIME FRAME OF ACCESS RESTRICTION:	
CLASSIFICATION DATE:	
AUTHORITY RESPONSIBLE FOR THE CLASSIFICATION:	Name:
	Position:
RATIFYING AUTHORITY:	Name:
	Position:
DECLASSIFICATION on ___ / ___ / ____ (when applicable)	Name:
	Position:
RECLASSIFICATION on ___ / ___ / ____ (when applicable)	Name:
	Position:
REDUCTION OF TIME FRAME on ___ / ___ / ____ (when applicable)	Name:
	Position:
EXTENSION OF TIME FRAME on ___ / ___ / ____ (when applicable)	Name:
	Position:

SIGNATURE OF THE AUTHORITY RESPONSIBLE FOR THE
CLASSIFICATION

SIGNATURE OF THE RATIFYING AUTHORITY (when applicable)

SIGNATURE OF THE AUTHORITY responsible for DECLASSIFICATION
(when applicable)

SIGNATURE OF THE AUTHORITY responsible for RECLASSIFICATION
(when applicable)

SIGNATURE OF THE responsible for REDUCTION OF TIME FRAME (when
applicable)

SIGNATURE OF THE responsible for EXTENSION OF TIME FRAME (when
applicable)