

USTAVNI SUD
BOSNE I HERCEGOVINE



УСТАВНИ СУД
БОСНЕ И ХЕРЦЕГОВИНЕ

CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA

COUR CONSTITUTIONNELLE
DE BOSNIE-HERZEGOVINE

GUIDE

on Access to Information held by the Constitutional Court of Bosnia and Herzegovina

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Pursuant to Article 77(1) (i) of the Rules of the Constitutional Court of Bosnia and Herzegovina - consolidated text (*Official Gazette of BiH*, 94/14), in accordance with Article 20 of the Law on Freedom of Access to Information in Bosnia and Herzegovina (*Official Gazette of BiH*, 28/00, 45/06, 102/09, 62/11 and 100/13), the Constitutional Court of Bosnia and Herzegovina, at its session held on 7 April 2021, issued

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I – GENERAL PROVISIONS

The Guide on Access to Information held by the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Guide) contains, *inter alia*, the information necessary to address the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Constitutional Court) with a request for access to information in accordance with the Law on Freedom of Access to Information in Bosnia and Herzegovina (*Official Gazette of BiH*, 28/00, 45/06, 102/09, 62/11 and 100/13) (hereinafter: the Law) and identifies the essential elements of the procedure for submission of the request, manner and procedure of access to information. It also refers to the request form for access to information as a formal condition for submitting the request, informs about the circumstances under which access to the requested information may be restricted or denied, and access to legal remedy and important deadlines, etc.

The guide is free of charge and can be downloaded from the official website of the Constitutional Court www.ustavisud.ba.

Before submitting a formal request for access to information, it is useful to first visit the website of the Constitutional Court www.ustavisud.ba, where you can find a number of useful information. All decisions of the Constitutional Court are published on the website.

The seat of the Constitutional Court is in Sarajevo, Reisa Džemaludina Čauševića 6/III, 71 000 Sarajevo, phone no. +387(33)251-226, fax no. +387(33)561-134, e-mail address: info@ustavisud.ba.

2. WHO HAS THE RIGHT TO ACCESS INFORMATION

Every natural and legal person has the right of access to information held by the Constitutional Court, as far as possible in accordance with the public interest, and in accordance with the provisions of the Law, Rules of the Constitutional Court of Bosnia and Herzegovina - Consolidated text (*Official Gazette of Bosnia and Herzegovina*, 94/14) (hereinafter: the Rules of the Constitutional Court) and this Guide.

The right of access to personal information is granted only to the natural person to whom it relates or his/her legal representative or a person authorized by him/her in writing to access the information. The law provides for a special procedure for rights related to personal information.

3. INFORMATION THAT MAY BE OBTAINED

A request for access to information may be submitted in respect of all information held by the Constitutional Court.

Pursuant to the Law, information is any material that conveys facts, opinions, data or any other content, including any copy or part thereof, regardless of the form or features and when it is made and how it is classified;

The information held by the Constitutional Court is contained in an appendix entitled "Index Register of Information held by the Constitutional Court of Bosnia and Herzegovina", which is an integral part of this Guide.

4. MANNER OF ACCESS TO INFORMATION

4.1. Informal access to information

General information and information officially published by the Constitutional Court, which are generally easily accessible, can be accessed directly from the website of the Constitutional Court or by making contact via e-mail using the address: info@ustavnisud.ba or by phone number + 387 33 251 226.

4.2. Formal access to information

If the requested information cannot be obtained informally, a formal written request for access to information can be submitted.

The request form for access to information can be taken down free of charge from the official website of the Constitutional Court.

The request may be submitted:

- by mail, to the address of the Constitutional Court: Reisa Džemaludina Čauševića 6/
- III, 71 000 Sarajevo;
- by fax, number: + 387 33 561 134;
- by e-mail, to the address: info@ustavnisud.ba;
- hand-delivered in the Registry of the Constitutional Court: every working day
- in the period from 10:00 to 12:00hrs.

If a formal written request has been submitted for access to general information or that has been officially published and is easily accessible, the Constitutional Court may decide to respond to such a request in an informal manner.

5. REQUEST FORM FOR ACCESS TO INFORMATION

The request for access to information must meet the following conditions:

1. It is to be submitted in writing, in one of the official languages of Bosnia and Herzegovina;
2. It is to contain the first and last name and the address of the applicant. The Constitutional Court encourages applicants to provide an e-mail address, which will expedite the receipt of responses to requests;
3. It is to contain sufficient information on the nature and/or content of the information as to allow the Constitutional Court to take action in finding the requested information.

The request form together with the elements that need to be filled in for the request to meet the formal requirements is contained in the appendix to the Guide and forms an integral part thereof.

The request for access to personal information, in addition to the above, must meet other requirements in accordance with Article 11, paragraph 3 of the Law.

6. REQUEST CANNOT BE PROCESSED

In the event that the request does not meet the necessary formal requirements, the applicant is notified, if possible, by a conclusion, within eight days from the date of receipt of the request.

This conclusion will contain an explanation, and if the request does not contain sufficient data about the nature and/or content of the information, specific issues that may clarify the request, as well as a referral to this Guide. The applicant may file an appeal against the conclusion with the President of the Constitutional Court of BiH within 15 days from the day of its receipt, and address the Ombudsman for Human Rights of Bosnia and Herzegovina.

Any modified request from the same applicant is considered as a new request.

7. PROCEDURE IN CASE OF LACK OF JURISDICTION

In the event that the Constitutional Court does not disclose or does not hold the requested information, it is obligated to forward the request to the competent public authority no later than eight days from the day of receipt of the request and inform the applicant by letter.

8. DEADLINE FOR PROCESSING THE REQUEST

The Constitutional Court is obliged to inform the applicant within 15 days of receiving the request whether access to information is granted or denied. The deadline may be extended for an additional 15 days in situations determined by law.

9. PROCEDURE ON RECEIPT OF REQUESTS FOR ACCESS TO INFORMATION

Upon receipt of a request for access to information, the Constitutional Court takes all necessary measures to gather the requested information and to consider all facts and circumstances relevant to the processing of the request.

Access to information is provided to the applicant in one of the official languages of Bosnia and Herzegovina, as well as in the original language other than the official languages, if possible and if it is reasonable to do so. The Constitutional Court is not obliged to translate the

required information from one official language to another language in Bosnia and Herzegovina.

9.1. Giving access to information

If the Constitutional Court grants access to the requested information, in full or in part, the applicant is notified thereof by a decision.

The information can be accessed:

- directly - by personal inspection of the information,
- delivering information to the applicant's address,
- by duplicating the information and delivering it to the applicant's address. As a rule, the Constitutional Court submits it electronically to the applicant's e-mail address.

9.2. Declining access to information

In case of refusal of access to information, in part or in full, the Constitutional Court notifies the applicant by a decision stating the reasons for declining access to information and the legal basis for exemption from access to information, including all material issues relevant to such decision and instruction on legal remedy.

An appeal against the first-instance decision is filed with the President of the Constitutional Court within 15 days from the day of receipt of the decision, while the appeal may be submitted to the BiH Ombudsman at any stage of the proceedings.

The Constitutional Court may decline a request for access to information (an exception should be provided for), in part or in full, in the following cases:

- When it is reasonable to expect that the disclosure of information will cause significant damage to the legitimate goals of the following categories in Bosnia and Herzegovina:
a) foreign policy, defence and security interests, as well as the protection of public security; b) the interests of monetary policy; c) the prevention of crime and any detection of crime;
- In order to protect the decision-making process by the Constitutional Court, an employee of the Constitutional Court, or any person who performs activities for or on behalf of the Constitutional Court.

- When it is determined that the request for access to information includes confidential commercial interests of a third party, the Constitutional Court shall immediately notify the third party by letter of the details of the request and inform it that it will publish the information if the third party does not respond within 15 days to consider such information confidential and to state the reasons for the damage that could occur due to the disclosure of the information.
- When it is reasonably determined that the requested information includes personal interests related to the privacy of a third party.

The Constitutional Court discloses the requested information regardless of the exceptions established by law, if it is justified by the public interest, bearing in mind any benefit or harm that may arise from the disclosure of the information.

If a part of the requested information is found as an exception, the Constitutional Court shall not disclose such part and disclose the rest of the information, unless because of this separation the information has become incomprehensible.

10. ACCESS TO INFORMATION ON CASES BEFORE THE CONSTITUTIONAL COURT

Decisions of the Constitutional Court are public and are published on the official website of the Constitutional Court, as a rule, within thirty (30) days from the day of their adoption. The Constitutional Court expresses its legal views through reasoned decisions and does not provide subsequent, additional explanations and interpretations of its decisions.

Participants in the proceedings may be granted access to the file, after clear identification of the person who inspected the file. The file is inspected in the official premises of the Constitutional Court and in the presence of an authorized employee of the Constitutional Court, in accordance with the general act of the Constitutional Court. Drafts and proposals of decisions, rulings and other acts that are in preparation or have been prepared for decision-making, as well as acts that, in terms of the Rules of the Constitutional Court, have been determined as confidential, may not be made available.

Participants in the procedure may request a copy of the acts from the case, with the exception of those acts, which, according to Article 26, paragraph (2) of the Rules, cannot be made available. Copying of an act is done in the official premises of the Constitutional Court, in accordance with the general act of the Constitutional Court.

The public is excluded from proceedings before the Constitutional Court at sessions of the Court, except at public hearings. No one has the right to provide information on the judge-rapporteur and the legal advisor to the judge assigned with the case, nor information relating to the decision-making in the case (Articles 14 and 28 of the Rules).

Zlatko M. Knežević
/signature affixed/
President
Constitutional Court of Bosnia and Herzegovina