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Secrecy and the access to the administrative records

The right to access the administrative records

The law n.241/1990 started a process of transparence of Public Administration bodies and of dialogue with citizens, of which the right to access the administrative records represents only the most evident and symbolic juridical tool.

The law recognised the right to view and copy documents filed by the Administration, for anyone who has an interest for the saveguard of a legally relevant situation.

The right to access the administrative records

The law provides a general right to access information from public authorities, subject only to a list of exempt information.

Subject to the exemptions, any person who makes a request to a public authority for information must be informed whether the public authority holds that information and, if so, be given access to the information. The request must be in writing and include name, address and motivation.

The right to access the administrative records

The word “anyone” includes:

INDIVIDUALS:

- ✓ Citizens
- ✓ Foreigners
- ✓ stateless

LEGAL ENTITIES:

- ✓ Institutions
- ✓ Associations
- ✓ Companies

The right to access the administrative records

Access to administrative records, however, is not absolute and shall be consistent with exemptions for personal privacy, restrictions in statutes, restrictions in court rules, and needs to be motivated by personal interest.

The right to access the administrative records

It is not necessary to have all the requisites ensuring the legitimate administrative action

(Cons. di Stato, sez. IV, sent. 11 gennaio 1994, n. 21; Cons. di Stato, sez. IV, sent. 19 luglio 1994, n. 1243; Cons. di Stato, sez. IV, sent. 2 febbraio 1996, n. 98);

The right to access the administrative records

It is not necessary the current interest of the applicant

(Cons. di Stato, sez. IV, sent. 15 gennaio 1998, n. 14; Cons. giust. Amm. Regione Sicilia, sent. 18 marzo 1998, n. 171; Cons. di Stato, sez. V, sent. 14 gennaio 1999, n. 32; Adunanza Plenaria Cons. di Stato, decisione 28 aprile 1999, n.6);

The applicant must have a personal and concrete, as well as direct, interest based on a legally relevant position.

The right to access the administrative records

It has been claimed that, since the access aim is the administrative transparency, the conditions and requisites that legitimate it must be identified in all the useful situations for which the legislation recognises any kind of protection, including the general expectations and interests of people.

(TAR Lazio – Roma, sez. I bis, sent. 21 marzo 1997 n. 471)

Form for the access to administrative records

RICHIESTA DI ACCESSO AI DOCUMENTI AMMINISTRATIVI

Estrazione di copia semplice esente da bollo (vedi il *Regolamento per la determinazione delle tariffe di rilascio copia degli atti, ai sensi delle disposizione in materia di accesso ai documenti amministrativi (Capo V – Legge 241/90)*, disponibile sul sito www.univag.it, accessibile dal link URP).

Al _____

___l___ sottoscritt _____

codice fiscale 1 _____ nato/a a _____

il _____ residente/domiciliato a _____ prov. ___ c.a.p. _____ indirizzo

_____ telefono _____

documento di riconoscimento _____ rilasciato da _____

a) _2 in proprio, oppure b) _ in qualità di legale rappresentante di persona fisica o giuridica:

_____ nato/a a _____ il _____

_ residente _ domiciliato _ con sede:

CHIEDE, ai sensi dell'art. 22 e seguenti, della legge 7 agosto 1990, n. 241 e degli artt. 6 e 7 del DPR 12 aprile 2006, n. 184, di esercitare il diritto di accesso ai sottoelencati documenti:

1. _____

2. _____

3. _____

MOTIVAZIONE DELLA RICHIESTA DI ACCESSO:

Luogo e data

Firma del richiedente 3 _____



Thank you for your attention