Appendix:

The Decree No. 2011-41 of 26 May 2011 concerning access to the administrative documents of public authorities
(unofficial translation)

The Interim President of the Republic,

At the proposal of the Prime Minister,

In view of Organisation Law No. 2004-63 dated 27 July 2004 concerning the protection of personal data,

In view of Law No. 1988-95 dated 2 August 1988 concerning archives,

In view of Law No. 1999-32 dated 13 April 1999 concerning the national statistics system,

In view of Decree Law No. 2011-14 dated 23 March 2011 concerning the provisional organisation of public authorities,

In view of Decree Law No. 1993-1880 dated 13 September 1993 concerning the system of administrative communication and orientation,

In view of the opinion of the National Authority for Information and Communication Reform,

In view of the debate of the Council of Ministers,

Adopts the decree law the content of which follows:

Article 1
This decree law fixes the principles and rules governing access to the administrative documents of public authorities.

Article 2
The following expressions have the following meanings:
- Public authorities: the central and regional departments of State administration, the local communities, businesses, and public establishments
- Administrative documents: the documents produced or held by the public authorities, within the context of their activities as a public authority, regardless of their date, form and support.

Article 3
Any individual person or legal entity shall have right of access to the administrative documents defined in Article 2 above, by means of voluntary and direct circulation or at the request of the person interested, unless in exceptional cases provided for by the present decree law.

Article 4
Subject to the provisions of the present decree law, all public authorities are required to publish regularly:
- All information relating to its organisational flowchart, prerogatives and policies
- Decisions and policies of interest to the public
- Procedures applied in the decision-making and control process
- A list of names of its employees and agents and their respective capacities
- A list of names of its agents responsible for information, containing all information relevant to them
- The procedural manuals applied by the organisation and by its agents in the fulfilment of their tasks
- Services and programmes intended for the public and their results
- Information on government programmes, including indicators relating to output and the results of public invitations to tender for large contracts
- A list of the public authority’s electronic documents
- A guide for users in the authority relating to the procedures to be followed when accessing administrative documents

Article 5
The public authority is required to publish regularly:
- Statistical, economic and social data, including national accounts and detailed statistical surveys
- All information relating to public finances, the quantitative economy, debts and interest on debts, medium-term debt forecasts, valuation and management of public finance, and all detailed data relating to the budget at national, regional and local level\(^ {17} \)
- Data relating to social programmes and services

Article 6
The administrative documents mentioned in Articles 4 and 5 of the present decree law must be easily accessible and updated at least once a year where necessary.

Article 7
Requests for access to administrative documents shall be made in writing. The public authority shall make available to its users a simplified form containing the necessary information provided for by Article 8 of the present decree law. The request may be submitted directly to the public authority, which is required to issue a receipt therefore, or by post or electronically.

Article 8
The request for access to an administrative document must contain: the full name of the applicant, the address for individuals and the corporate name for legal entities, and the necessary information concerning the subject of the request.

Article 9
The agents responsible for information within a public authority are required to assist applicants for services in cases of difficulty.

Article 10
All public authorities are required to answer a request for services within fifteen (15) days, with respect for the legal deadlines provided for in current legislation. The public authority is not required to respond more than once to the same request relating to the same subject. In this case, the refusal must be justified.

Article 11
If the request for access to administrative documents has a direct influence on the private life or freedom of the applicant, the public authority must respond immediately and within a period not exceeding two (2) working days.

Article 12
The fifteen-day period specified in Article 10 may be extended by an equal period if the response to the request requires the gathering of numerous documents or the consultation of other parties to obtain them.

Article 13

\(^ {17} \) May also translate “to the budget and to national, regional and local plans”.

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Absence of response from the public authority within the periods specified in Articles 10, 11 and 12 of the present decree law is considered as an implicit refusal, which confers the right to an appeal before the competent administrative and judicial authorities.

**Article 14**

If the documents requested by the applicant are not available from the public authority in question, that authority must, within five (5) days, transfer the request to the competent authority or inform the applicant of its non-competence. If the request is transferred to another organisation, the applicant must be informed accordingly.

**Article 15**

All persons have the right to access administrative documents free of charge. If access to certain documents incurs costs, the applicant must be informed beforehand that the costs shall be paid by him. The effective total of costs must not exceed the total borne by the administrative organisation in question. Documents shall not be supplied to the applicant until after payment of costs.

**Article 16**

The public authority may refuse to issue administrative documents protected by current legislation, and especially by the law concerning protection of personal data and intellectual and artistic property rights, or on the basis of a legal decision if the documents concerned are secrets obtained in this regard by the public authority in question.

**Article 17**

The public authority may refuse to issue a document likely to undermine:
- Relations between Tunisia and foreign countries or international organisations
- A political strategy of the government
- Public security or national defence
- The fight against or the prevention of criminal activity
- The arrest or sentencing of persons charged
- The proper function of the judicial services and the principles of justice, fairness and transparency in the process of granting procurement contracts
- Processes involving dialogue, exchanges of views, control and expertise and relating to the commercial and financial interests of the public authority in question

**Article 18**

The exceptional cases mentioned in Article 17 of the present decree law do not apply to:
- Documents classified as public domain, subject to current legislation concerning archives in particular
- Documents required to be published and relating to serious violations of human rights and to war crimes
- Documents relating to cases requiring the protection of the general interest to the detriment of individual interests, whenever there is an issue of protection of public health, public security and the environment, or to the prevention of criminal acts, corruption or embezzlement in the public sector.

**Article 19**

In the case of a refusal to issue an administrative document, or a violation of the provisions of this decree law, the applicant may launch an appeal with the head of the public authority concerned within a period not exceeding fifteen (15) days following the date of notification of refusal, and demand a response within ten (10) days of the date of submission of his request. The applicant may challenge the decision of the head of the public authority in question before the administrative court within a period not exceeding thirty (30) days. The administrative court shall sit on an interim basis to examine the requests mentioned in Article 11 of this decree law.

**Article 20**
Any civil service official who does not respect the provisions of this decree law shall be subjected to administrative action in accordance with current legislation.

Article 21
All public authorities are required to send to the Prime Minister’s competent authorities an annual report on activities connected with access to administrative documents during the first quarter of the following year.

Article 22
The public authorities are required to comply with the provisions of this decree law within a period of two years from the date of its entry into force. During the period specified in the first paragraph of this article, the public authorities are required to send to the Prime Minister’s competent departments, within ten (10) days of the beginning of each quarter, a report on the progress of the measures adopted to ensure proper application of this decree law.

Article 23
Until complete compliance with the provisions of this decree law is reached, the legislative and regulatory texts relating to access to administrative documents shall remain in force.

Article 24
This decree law shall be published in the Official Journal of the Republic of Tunisia.

Tunis, 26 May 2011
Foued Mebazaa
Interim President of the Republic

(Official translation)