Draft Resolution of the President
On the Bill Regulating Public Access to Information

In the name of the people,
The President of the Republic,
Taking into account:
The Constitution;
The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;
Law no. 189/1958 on the obligation of public institutions, companies and societies to submit data on employees;
Law no. 35/1960 concerning statistics and census;
Law no. 87/1960 concerning public mobilization and amended Laws;
Law no. 137/1963 concerning enumeration of competencies, educational qualifications and inventions;
Law no. 121/1975 concerning maintenance of State official documents and regulation of the means of their publication;
Decree of the President of the Republic No. 2915/1964 concerning the establishment and organization of the Central Agency for Public Mobilization and Statistics;
Decree of the President of the Republic No. 627/1981 concerning the establishment of information and documentation centers in the State administrative authorities and public authorities and their competences;
Following the approval of the Cabinet,
According to what has been deemed appropriate by the State Council,

Has Decided

The following bill shall be put before the People’s Assembly and the Shura Council

Article (1)
The provisions of the attached Law concerning access to information shall be binding on the bodies falling within its ambit. Any provision in any other law which runs contrary to or conflicts with the provisions of this Law shall, to the extent of the conflict, hereby be repealed.

Article (2)
The Competent Minister shall be responsible for the application of this Law. The Competent Minister shall issue executive implementing regulations within 90 days of the date of its coming into force.

Article (3)
This Law shall be published in the Official Gazette and shall come into effect 30 days after such publication, provided that 120 days shall be accorded for the implementation of articles 7, 8, 29 and 31, and that 270 days shall be accorded for the implementation of article 26. The Law shall be stamped with the official seal of the State and implemented as one of its Laws.

Article (4)

Article (10) of Decree of the President of the Republic No. 2915/1964 concerning the establishment and organization of the Central Agency for Public Mobilization and Statistics is hereby repealed.
Article (1)
For purposes of application of the provisions of this Law, the terms below shall be defined as follows:

a) Information: Material which communicates something and which is held in any recorded form, including in print, electronically, samples, models, audio or visual tapes, or any other form.

b) Information of a Personal Nature: Information relating to a human being where that individual can be identified from the information.

c) Disclosure: A procedure whereby access is given to information through any means of communication, including direct access to the record containing the information, a copy of the record containing the information, or through the press or broadcasting or any other means.

d) Record: Any collection of recorded information regardless of its form, source, date of creation, official status, and whether or not it was created by the body which holds it, or is classified as confidential.

e) Information Officer: An individual given special responsibilities by a public or private body to promote the disclosure of information and the implementation of this Law.

f) Public Body: Any body where the government is represented; which is established by the Constitution or a law; which is a government department or which forms part of any level or branch of government; which is owned, controlled or financed by a fund controlled by the government or the State; or which carries out a statutory or public function, to the extent of that function.

g) Private Body: Any body other than a public body which carries on a trade, business or profession, whose assets are privately owned, and which has legal personality.

h) Competent Minister: The minister responsible for implementation of this Law.

Article (2)
The objectives of this Law are as follows:

1- To recognize the right to access information in accordance with international standards and the principle that information should be made public absent an overriding reason for confidentiality.
2- To establish mechanisms and procedures to promote the disclosure of information with a view to contributing to the fulfillment of the needs of society to solve economic and social problems; to meet the requirements of planning and development; to promote open, accountable and effective government; and to encourage participation in governance.

3- To achieve the objectives of sub-articles (1) and (2), while maintaining security, safety and overriding public and private interests and rights, including personal privacy.

Chapter Two: The Right of Access

Article (3)
1) Everyone has a right to access information and records held by public bodies and those bodies have a corresponding obligation to disclose information and records, subject to the provisions of this Law.

2) The right provided for in sub-article (1) shall apply to information which, at the time of the request, is contained in one or more existing records, or which may be extracted from such records using automated means.

Article (4)
Everyone has a right to access information and records held by private bodies where such access would facilitate the exercise or protection of any right, and those bodies have a corresponding obligation to disclose information and records, subject to the provisions of this Law.

Article (5)
1) The rights provided for in articles (3) and (4) shall apply notwithstanding any provision in any other law prohibiting or restricting disclosure of information, or any system of administrative classification of records, but they shall not be read as restricting the disclosure of information pursuant to any other legislation, policy or practice.

2) In particular, the rights provided for in articles (3) and (4) shall apply notwithstanding the following provisions:
   a - [ADD LIST OF PROVISIONS ON SECRECY]

Article (6)
1) Public and private bodies have the right to promulgate, through any means, including through the mass media, information obtained pursuant to this Law.

2) Public and private bodies have the right to engage in field research and other activities to collect data, and they may publish the results of their work, provided that such publication, to the extent that it
involves information of a personal nature, do not breach the legal rights of the subjects of that information.

Chapter Three: Routine or *Suo Moto* Publication

Article (7)

1) Every public body subject to this Law shall publish, on a routine basis:
   a - Particulars regarding its organizational structure, functions and duties, as well as its policies and other key organizational documents.
   b - All relevant facts concerning important decisions and policies which affect the public, not later than the time at which such decisions are made public.
   c - The procedure followed in decision making processes, including channels of supervision and accountability.
   d - A directory of its senior officers and employees, their powers and duties and the remuneration they receive.
   e - The rules, regulations, instructions and manuals held by it or used by its employees for discharging their functions.
   f - A description of the services it provides to the public and any public subsidy programs, as well as a list of the beneficiaries of such services and programs.
   g - Any public consultation opportunities or mechanisms and any complaints mechanisms available to the public.
   h - Information about government programs and works including performance and quality indicators, procurement, funds allocated and actual disbursements, and the results of public tenders.
   i - A statement of the categories of information that are held by it, indicating which records are available electronically.
   j - A simple guide on how to lodge a request for information.
   k - The names, designations, contact details and other relevant particulars of Information Officers.
   l - Such other information as may be prescribed.

2) The information required to be published under sub-article (1) shall be disseminated widely and in a form which is easily accessible to the public, and shall, as relevant, be updated at least annually.

3) Every public body shall provide reasons for any administrative or quasi-judicial decisions to those affected by that decision.

4) Public bodies shall endeavor to provide as much information as possible on a *suo motu* basis including through the Internet, subject to cost and
capacity constraints, with a view to minimizing the need for individuals to have recourse to the requesting procedure to obtain information.

Chapter Four: Procedures for Requesting Information

Article (8)

1) Every public body shall put in place an efficient system for receiving and processing requests for information, including by developing a simple form for information requests.

Article (9)

1) Anyone may submit a request in orally or in writing, including in electronic form, to any public or private body, requesting access to information or to a record held by that body.

2) The Information Officer of a public body, appointed under article 31 of this Law, shall provide assistance to a requester where the request is insufficiently clear to identify the information requested, or where the requester requires assistance in submitting a request, due to illiteracy, disability or some other reason.

3) Where a requester submits a request to a public body orally, the Information Officer shall translate that request into written form and provide the requester with a copy.

4) No reasons, or personal details other than contact details, need to be given when submitting a request, provided that requests to private bodies should indicate how access to the requested information or record would facilitate the exercise or protection of a right.

5) A requester shall be given a receipt upon making a request.

Article (10)

1) A public or private body shall provide a response to a request under article (9) as soon as possible and in any case within 15 working days.

2) Where the request relates to information which appears to be necessary to protect the life or liberty of a person, a response must be provided within 48 hours.

3) The period for responding to a request may be extended for an additional 15 working days, by notice to the requester, where the request is for a large number of documents or requires a search through a large number of documents, or where consultation is required with third parties or other public bodies, and, as a result, a response cannot reasonably be provided within the initial 15 days.

4) Failure to respond to a request within the specified time limits shall be deemed to be a decision to refuse to grant the request.

5) Where access is refused, a notice shall be provided to the requester giving reasons for the refusal, including the exception in this Law upon
which the refusal is based, the name of the person making the decision, and information about the right of the individual to appeal the refusal.

6) Where access is granted, a notice shall be provided to the requester setting out the form in which the information is to be disclosed and any fee, and the information and/or records shall be provided forthwith, upon payment of that fee.

7) Where access is granted in part, a notice shall be provided to the requester setting out the details in sub-article (6) in respect of that part of the request which is to be granted, and indicating that access to part of the request is being refused, along with the details in sub-article (5) in respect of that part of the request.

Article (11)

Where a requester has specified a particular form for the disclosure of information, access shall be provided in that form, unless this would be detrimental to the preservation of the record. In particular, requesters should have the following options in terms of the form of disclosure:

1. An opportunity to inspect the record and/or to copy the record using his or her own equipment.
2. A true copy of the record in documentary or other form.
3. A written transcript of the words in a record which is held in audio, audio-visual or any other non-written form.

Article (12)

1) Fees may be charged for the disclosure of information pursuant to a request under article (9), provided that such fees shall not exceed the actual cost of duplicating the information and providing it to the requester.

2) No fees may be charged for requests for personal information, for requests in the public interest, where the requester is below the poverty line, or where the public body fails to meet the time limits set out in article 10.

3) The Competent Minister shall make regulations providing for the manner in which fees are to be calculated and such regulations may provide that no fee is to be charged in prescribed cases and/or set a maximum limit on fees.

Article (13)

Where a public body does not hold a record containing requested information, the Information Officer shall, within five working days, either transfer the request to another public body which does hold the information or inform the requester that it does not hold the information. Where a request is transferred, the requester shall be notified.

Chapter Five: Exceptions
**Article (14)**

If a request for information relates to a record containing information covered by an exception set out in this Chapter, that part of the record which does not contain exempt information shall, to the extent that it may reasonably be severed from the rest of the record, be disclosed.

**Article (15)**

1) A public or private body may refuse to disclose information where to do so would involve the unreasonable disclosure of personal information concerning a natural third party.

2) Sub-article (1) does not apply where:
   a - The third party has consented to the disclosure.
   b - The third party has been informed of an intention to disclose pursuant to article 18 and has not objected.
   c - The information was provided to the body by the individual to whom it relates and he or she was informed at that time that the information belonged to a class of information which might be made public.
   d - The information is already publicly available.
   e - The information relates to the well-being of an individual who is under the care of the requester and disclosing the information would be in the best interests of that individual.
   f - The individual who is the subject of the information is or was an official of a public body, and the information relates to his or her activities as a public official.

**Article (16)**

1) A public or private body may refuse to disclose information where to do so would represent a breach of trust legally owed to a third party.

2) A public or private body may refuse to disclose information where the information was provided in confidence from a third party and:
   a - It contains a trade secret.
   b - To disclose it would, or would be likely to harm the financial or commercial interests of the third party.
   c - To disclose it would, or would be likely to prejudice the future supply of similar information from a similar source, and there is a public interest in the continued supply of such information.

3) Sub-articles (1) and (2) do not apply where the third party has consented to the disclosure or has been informed of an intention to disclose pursuant to article 18 and has not objected.

4) A public or private body may refuse to disclose information where the information was provided in confidence by another State or
international organization and to disclose it would, or would be likely to prejudice relations with that State or international organization.

**Article (17)**

A public or private body may refuse to disclose information where the information is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

**Article (18)**

1) Where a public body proposes, pursuant to a request, to disclose information which has been supplied in confidence or has been treated as confidential by a third party, it shall give written notice to that third party of its intention to disclose the information and shall give the third party eight days within which to object to the disclosure and to provide reasons as to why the information should not be disclosed.

2) Where a third party objects to the disclosure of information under sub-article (1), the public body shall take this into account, among other things, when deciding whether or not to disclose the information.

**Article (19)**

A public or private body may refuse to disclose information where to do so would, or would be likely to cause prejudice to national security or defense, and the head of that body has issued a resolution to the effect that the record containing that information is confidential.

**Article (20)**

A public or private body may refuse to disclose information where to do so would, or would be likely to prejudice:

1- The detection, prevention or investigation of crime.

2- The arrest or prosecution of offenders.

3- The administration of justice, the fairness of a trial or the impartiality of an adjudication.

**Article (21)**

A public body may refuse to disclose information where to do so would, or would be likely to:

1- Prejudice the effective formation or development of government policy.

2- Limit the success of a policy, by premature disclosure thereof.

3- Harm the deliberative process inside the public body by inhibiting the free and frank provision of advice or exchange of views.

4- Undermine the effectiveness of an examination or testing procedure.

**Article (22)**

A public body may refuse to disclose information where to do so would, or would be likely to:
1- Prejudice the ability of the government to manage the economy.
2- Harm the legitimate commercial or financial interests of a public body.

Provided that this shall not apply to facts, analyses of facts, technical or statistical data, or the results of a product or environmental test which reveals a serious public safety or environmental risk.

Article (23)
The exceptions set out in articles 19 and 21-22 shall not apply to records or information which are more than 30 years old.

Article (24)
A public body shall disclose requested information which falls within the scope of an exception listed in this Chapter where the public interest in disclosure outweighs the harm to the interest protected by the exception. For purposes of this article, the public interest shall include, among other things, a serious threat to health, safety or the environment, the exposure of a risk of a criminal act or corruption, or mismanagement in the public sector.

Chapter Six: Appeals

Article (25)
1) A requester whose request for information to a public body has been refused may lodge an appeal with the head of that public body within fifteen days from the date of the decision to refuse access.
2) The head of a public body to whom an appeal has been addressed under sub-article (1) shall give a decision within ten days.

Article (26)

VERSION 1:
1) An Information Commission consisting of five persons shall be appointed by the President/Prime Minister from among persons of eminence in public life, provided that, before making appointments, the President shall give the People’s Assembly an opportunity to discuss them.

VERSION 2:
1) An Information Commission consisting of five persons shall be appointed by the President/Prime Minister from among persons of eminence in public life who have been nominated by an appointments committee consisting of the following people: one representative of the Bar Association; one representative of journalists; one representative of university professors; etc. [THIS IS JUST AN INDICATIVE LIST: THE IDEA IS TO HAVE A CROSS-SECTION OF REPRESENTATIVES OF SOCIETY]
2) No-one may be appointed Commissioner if he or she:
a - Holds an official office in or is an employee of a political party, or
holds an elected or appointed position in central or local
government.
b - Has been convicted of a violent crime and/or a crime of
dishonesty or theft.

3) Commissioners shall hold office for a term of five years and may be re-
appointed to serve a maximum of two terms.
4) Commissioners shall enjoy operational and administrative autonomy
from any other person or entity, including the government and any of
its agencies, except as specifically provided for by this Law.
5) The Commission shall have all powers, direct or incidental, as are
necessary to undertake its functions as provided for in this Law,
including full legal personality, and the power to acquire, hold and
dispose of property.
6) Commissioners shall be paid the same salary as a judge of the High
Court.
7) The Commission shall provide an annual report on its work to [the
President or Prime Minister].
8) The Commission shall submit a budget proposal on an annual basis for
approval by [the President or Prime Minister].

Article (27)

1) A requester whose appeal to the head of a public body under article 25
or whose request for information from a private body has been refused
may lodge an appeal with the Information Commission within fifteen
days from the date of being notified of the decision.
2) The Information Commission, in reviewing an appeal under sub-article
(1) may examine any record of a public or private body and require
anyone to provide evidence in the matter.
3) In reviewing an appeal under sub-article (1), the Information
Commission shall give the requester and the relevant public or private
body an adequate opportunity to make representations.
4) The Information Commission shall give a decision on an appeal under
sub-article (1) within ten days and it shall have the power to reject the
appeal, to order disclosure of the information, to vary any fees charged
and/or to require the body to take such other action as may be
required to bring it into compliance with this Law.
5) Subject to the provisions of this Law, a decision of the Information
Commission under sub-article (4) shall be legally binding.

Article (28)

1) A requester whose appeal to the Information Commission under article
27 has been refused may lodge an appeal through the ordinary
procedures before the administrative courts within 15 days from the
date of being noticed of the decision.
2) The administrative court before whom an appeal has been lodged under sub-article (1) shall issue a timely judgment in the case and shall have the power to support, amend or cancel the decision.

Chapter Seven: Promotional Measures

Article (29)

1) The Competent Minister shall, in addition to any other function under this Law:
   a - Set general policies on information disclosure and circulation.
   b - Set rules relating to the classification of records.
   c - Set minimum standards in the form of a binding Code of Practice relating to the keeping, management and disposal of records.

Article (30)

1) Not later than [ADD APPROPRIATE DATE] of each year, every public body shall submit a report to the minister responsible for it on its activities in implementing the provisions of this Law.

2) The report referred to in sub-article (1) shall include:
   a - Actions taken to implement article 7(4) on routine disclosure.
   b - The number of requests for information received.
   c - The number of requests granted in full.
   d - The number of requests refused in full or in part.
   e - The number of internal appeals to the relevant head of the public body and the number of requests granted as a result of these internal appeals.
   f - The number of appeals to the Information Commission and the outcome of all such appeals that have been decided.
   g - The number of appeals to the courts and the outcome of all such appeals that have been decided.
   h - Such other matters as may be prescribed by law.

3) The minister referred to in sub-article (1) shall table the report before the People’s Assembly and Shura Council and shall also provide a copy to the Information Commission.

Article (31)

1) Every public body shall designate an Information Officer with responsibility for ensuring that it discharges its obligations under this Law.

2) Every official and employee of a public body shall cooperate with the Information Officer in the discharge of his or her duties.
Article (32)
In addition to any other powers and responsibilities provided for in this Law, the Information Commission shall, within the resources available to it:

1. Monitor and report to the People’s Assembly on public bodies’ compliance with their obligations under this Law.

2. Make recommendations for reform both of a general nature and directed at specific public bodies.

3. Co-operate in the delivery of, or undertake, training activities for public officials on the right to information and the effective implementation of this Law.

4. Undertake public awareness raising activities relating to this Law and individuals’ rights under it.

5. Prepare an annual report on the operation of this Law to the People’s Assembly, based in part on the reports referred to in article 30.

6. Compile and make widely available a guide for the public on their rights under and how to use this Law.

7. Perform such other acts as may be required for the implementation of this Law.

Chapter Eight: Crimes and Protections

Article (33)
Anyone who willfully commits any of the following acts shall be imprisoned for a period not exceeding a month and/or asked to pay a fine of not less than two hundred pounds and not more than one thousand pounds:

1. Obstructing the disclosure of information contrary to the provisions of this Law.

2. Obstructing the performance by a public or private body of their obligations under this Law.

3. Interfering with the work of the Information Commission.

4. Damaging or destroying records without lawful authority.

Article (34)
No one shall be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Law.

Article (35)
1) No one shall be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or which would
disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true.

2) For purposes of sub-article (1), wrongdoing means the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, abuse of power or serious misconduct, as well as a serious threat to public health, safety or the environment, whether linked to individual wrongdoing or not.