

RIGHT TO INFORMATION AND AMBIGUITIES GENERATED BY CLASSIFICATION OF DOCUMENTS

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Abstract

The right to information is one of the pillars of support for democracy, centered on individuals as citizens and their opportunity to be actively involved in the political life of a modern state. The right to information involves aspects such as transparency in governance and the possibility of the governed to access relevant information about how the decision-making process is carried out. In this article, we will approach the legislative perspective on the right to information both in Romania and in Europe, ruling on practices in the field and current challenges. Approaching the right to information from a legislative, doctrinal and jurisprudential point of view, confers to the academic space possible solutions in building a pertinent point of view on how some information of public interest can end up being sealed. The present article focuses on how document classification is carried out in contrast to citizens' rights to information, access to justice, and fairness in the process. Promoting transparency in the democratic system and protecting classified information in a non-compliant manner can lead to a series of ambiguities. In the light of the provisions of the Constitution of Romania, of the legislation of the European Union and of a broad doctrinal perspective, related to various jurisprudential aspects, we emphasize that the classification of information of public interest presents several implications, starting potential impacts on the right to information, culminating in the destabilization of the trust relationship between the state and its citizens.

Keywords: democratic, transparency, right to information, classified information.

I. Introduction

The democratic system has always been based on the role and importance of the citizen in the state. The democratic system of governance is known as a flawed one,

but it is the best system of governance that society has known ever since. Ideally, the Constitution guarantees citizens both transparency and a series of fundamental rights such as the right to information, the right to life, the right to education, the right to a fair trial, the right to establish a family, and so on. Among these constitutional rights and those enshrined in European normative acts, we will particularly focus on the right to information, with direct reference to free access to justice and the guarantee of a fair trial.

We consider that addressing the right to information within the framework of conducting a fair trial, without limiting free access to justice, is necessary in light of the global perspective on democratic values. Given that current doctrinal approaches have covered in detail potential threats to the constitutional right to information, we want to give this subject an extended interpretation by referring to the possible classification of information of public interest against art. 31 of the Constitution of Romania.

In order to develop a pertinent point of view regarding the topic of the present study, we chose to structure the information in three main subsections. In a first stage, we ruled on the relationship of trust between state and citizen as the foundation of the ideal democracy.

Thus, the transparency provided by the constitution is the key to performance in governance. Subsequently, we developed an exhaustive approach by combining the directions given by the legislator and the most relevant doctrinal interpretations. In the light of the two mentioned directions, we emphasized the judicial practice in constitutional matters, as well as the European directives, precisely to create a firm foundation for the case study. Consequently, the practical part of this article focused on highlighting the ambiguities generated by the classification of information necessary for defense in litigation, as well as undermining democratic transparency, and the alleged violation of the right to information, the right to a fair trial, and free access to justice.

Following the development of such an approach, in order to strengthen the rule of law and ensure compliance with art. 31 of the Constitution, we propose the reformation of the way in which the list of classified information is filled in. The review of the criteria used in the secrecy of information has to be done meticulously in order to ensure an appropriate protection of the interests of the state, without violating the right to information of the citizens. Furthermore, the power to declare certain information as classified or unclassified should be the prerogative of a competent body that evaluates to what extent the disclosure of certain information is eligible to endanger the interests of the state and not of a singular representative of an institution.

II. The importance of political transparency in strengthening the democratic state

After the fall of the communist regime in December 1989, Romania experienced for the first time in its history the freedom of a democracy so popular in Europe. Once the citizen rights and freedoms have been included in its Constitution, Romania began a new era characterized by the strengthening of the relationship between state and citizen. For the first time, the individual was allowed to be free in thought, expression and information, essential rights to a democratic life of European quality being guaranteed by the state.

As democratic values penetrated Romanians' public consciousness, the importance of the citizen was raised to the rank of a desirable principle. That means the political power derives from the will manifested by citizens, this way strengthening the people's sovereignty as a fundamental principle of a democratic society. For these reasons, the ideal democratic system works perfectly, based on a stable and well-defined relationship between state and citizens, characterized by the possibility of the citizen to involve actively in the political life, the transparency of the decision-making process and free access to information of public interest. The entire democratic system is based on the citizens' trust in the institutions of the state and its preservation guarantees the operation of an ideal democracy. Once the relationship of trust regarding the exercise of political power has deteriorated, the democratic character loses its value conferred by the legislator through the Constitution.

The success of democratic governance is based on the degree of transparency that the state displays in the actions, decisions and processes it chooses to carry out. Concretely, democratic transparency requires accurate reporting and communication with citizens by providing clear and accessible information to the public. It is also imperative that citizens shall have the possibility to participate actively in the development process of public policies, especially in the way in which decisions are administered. To make use of this right, the citizens need to have access to various information regarding state institutions, the management of public money, the way in which resources are allocated and the activities carried out by officials. The transparency guaranteed by the state will have the benefit, in addition to making the processes behind the bureaucracy accessible, in assuring citizens that their interests are treated with responsibility and real concern.

"The principle of transparency in the law of the EU continues in need of being carefully woven through adequate legal norms and suitable institutional practices, positing normative change. In its current constitutional framework, the direction of such change is unequivocal: transparency is ancillary to democracy and EU law should be shaped progressively to enable it."¹ Moreover, we note that the principle of

transparency requires both openness on the part of public institutions and also a fundamental right to access information of interest. Although these perspectives seem to encompass one and the same point of view, we understand that a clear distinction is needed as to how both institutional openness and access to information have implications for the development of transparency both internally and externally. Concretely, transparency implies openness to the public precisely by exposing information in a simple and efficient manner, and the possibility to access information by interested individuals requires a transposition of the principle from theory to practice. However, we must not lose sight of the fact that "(...) when lawyers speak about access to information, they mean public access to information, whereas transparency is also concerned with individual's access to information."¹

Developing such a democratic perspective, the European states well-known by the respect they show to their citizens have adopted a series of measures to allow them access to public information of interest, promoting a close collaboration between institutions and citizens. For example, in 2002, Estonia implemented the e-Government² system through which the process of accessing information of public interest was simplified. This way, Estonian citizens have access to official documents and decision-making processes, using the above-mentioned online platform, which encourages civil society to participate at the political life. "In 2002, Estonia launched a high-tech national ID system. Physical ID cards are paired with digital signatures that Estonians use to pay taxes, vote, do online banking and access their health care records."³ Such a simplification of the bureaucracy contributed significantly to strengthen the relationship of trust between the state and the citizen, respectively to guarantee the observance of political transparency.

Another example is Sweden which is among the most effective countries in developing successful public policies. They implemented the "public access to official records"⁴ policy in order to strengthen the state-citizen relationship of trust, a principle found in Chapter 2, art. 1 of the Law on Freedom of the Press. With few exceptions, Swedes have access to a series of documents and information designed to demonstrate that the state is constantly concerned with the just solution of their problems. According to official sources, "The Government Offices seek transparency in dealings with the country's citizens. Accessing official documents kept at the Government Offices should be a simple and straightforward process. Via the Government Offices

¹ Anoeska Buijze, *The Principle of Transparency in EU Law*, Uitgeverij BOXPress, 's-Hertogenbosch, Netherlands, 2013, p. 29.

² <https://e-estonia.com/solutions/e-governance/e-services-registries/>.

³ Elizabeth Schulze, *How a tiny country bordering Russia became one of the most tech-savvy societies in the world*, published feb 8th 2019, <https://www.cnn.com/2019/02/08/how-estonia-became-a-digital-society.html>.

⁴ Public access to information and secrecy, *The legislation on brief*, Government Offices of Sweden, Ministry of Justice, 2020, <https://www.government.se/contentassets>.

archives, anyone can gain an insight into the work done by the Government Offices, and the Center acts as a model for other public administrations with regard to the right of everyone to access official documents."⁵

In accordance with the above-mentioned aspects, we note that the European perspective on the involvement of citizens in political life is unitary. All democratic states guarantee the right to information to their citizens, increasing their confidence and ensuring decision-making transparency. Over the years, the political system has experienced various changes, but democratic sustainability has always been due to the possibility for citizens to be actively involved in political life and to have access to information of interest regarding the way the state governs.

III. Legislative, doctrinal and jurisprudential perspective on the right to information in Romania

In Romania, the right to information is guaranteed by the fundamental law of the state, the special law and the relevant jurisprudence in the matter. However, there are certain controversies justified by the high degree of corruption that ranked Romania, in 2023, in third place in the European ranking, after Bulgaria and Hungary. According to the Report provided by the Corruption Perception Index 2023, "Weak accountability and political corruption are undermining the rule of law in a region where people are losing trust in their institutions. In the most alarming cases, narrow interest groups have too much control over political decision making. In others, governments are targeting journalists, whistleblowers and other watchdogs."⁶ Also, despite a well-defined legislative and doctrinal perspective, the degree of trust of citizens in the Romanian democratic system is low, as indicated by a specialized study⁷ from 2020. To analyze, entirely, the mentioned issue, it is imperative for us to refer rigorously to the legislative text, the doctrinal vision and the national and international jurisprudence.

According to art. 31, paragraph (1)-(3) of the Constitution of Romania, "The right of the person to have access to any information of public interest cannot be limited. Public authorities, according to their competences, must provide accurate information for citizens on public affairs and personal interest issues. The right to information must not prejudice the protective measures for young people or national security."⁸ According to the legislator, citizens have the power to request information on any

⁵ <https://www.government.se/how-sweden-is-governed/the-principle-of-public-access-to-official-documents/>.

⁶ Transparency International, Corruption Perception Index 2023, p. 19, <https://images.transparencycdn.org/images/CPI-2023-Report.pdf>.

⁷ Ionel Preda, Corruption: A Problem in Romanian Public Procurement in Journal Business Excellence and Management, no. 2/2020, pp. 63-83.

⁸ The Constitution of Romania.

matter that is of real public interest. We can deduce that, although no person can be restricted in the exercise of this right, still it is not absolute, knowing limitations that derive from the nature of the information one can request, namely "of public interest". So, not all information can be requested, if it is not of a real public interest. We agree with the doctrinal opinion according to which "(...) this right does not involve access to secret information, nor the obligation of public authorities to provide such information. Certain information must not and cannot be given, such as for example information of a judicial nature or regarding parliamentary investigations, information regarding national defense or national security etc."⁹

Given these, we can notice that the legislator did not give to citizens an absolute power, but one with a control role manifested by the possibility to make a justified verification of the aspects that interest society and that could affect the purpose of the democratic state, that of serving the citizen. Without risking any detailing on a subject with no interest for this article, we reflect upon how this constitutional principle is transposed in Law no. 544/2001¹⁰ regarding free access to information of public interest. "The late consecration of the right to information did not prevent this right from materializing and shaping from other categories of fundamental rights and freedoms.

The right to information is associated internally with free access to information, especially to information of public interest."¹¹ The application of the mentioned legislation represented a major step in positioning the interests of the citizen above any other bureaucratic actions or corrupt interests, ensuring political accountability and transparency in governance¹². As it was pointed out in the specialized articles "Law no. 544/2001 is a law of paramount importance in achieving the fundamental right of persons to public information, provided by art. 31 of the Constitution and art. 10 of the European Convention on Human Rights."¹³ Specifically, this guarantees the development of a favorable framework for the applicability of the constitutional right to access information of public interest. Pursuant to the special law, art. 2 lit. b) stipulates that information of public interest means "any information that concerns the activities or is a result of the activities of a public authority or public institution, regardless of the support, form or the way the information is expressed."

⁹ Ioan Muraru, Elena Simina Tănăsescu, Ștefan Deaconu et. alli, *The Constitution of Romania. Comment on articles*, 3rd Edition, Ed. C.H. Beck, București, 2022, p. 266.

¹⁰ Law no. 544/2001 regarding the free access to information of public interest, pub. in M. Of. no. 663 of October 23, 2001.

¹¹ Andreea-Claudia Agapie (Păun), *The Right to Information in Romania – Constitutional, Infra-Constitutional and Jurisprudential Requirements*, in *Pandectele Romane*, 2021, p. 64.

¹² Valerică Dabu, *Discussions regarding Law no. 544/2001 regarding the free access to information of public interest*, „Dreptul” Magazine, no. 15/2004, p. 154.

¹³ Daniliul Silvia Mihaela, *Theoretical and Practical aspects regarding the application of Law no. 544/2001 regarding the free access to information of public interest with subsequent amendments*, “Pro Lege” Magazine, no. 4/2011, p. 162.

In spite of being a first step in the process of developing a democratic vision on the citizens' power regarding access to information and transparency, Law no. 544/2001 generated also special laws to regulate the way in which political transparency and the exercise of the right to information were to apply in various areas. Without insisting excessively on these aspects, we want to give as example Law no. 161/2003¹⁴ and Law no. 52/2003¹⁵ which deals with the parameters of transparency in political life. Despite a robust legislation, we sustain that its application has also some inconveniences either because of public institutions that do not respect the legal deadline in providing the information requested, or because of their pretext of confidentiality. *Per a contrario*, the Constitution itself emphasizes that there is a series of information that cannot go public due to potential damages caused to interests of the Romanian state, the real problem being represented by the criteria used to classify certain information either public or secret. Regarding the non-compliance with deadlines in providing information of public interest by institutions, we can all agree that, in most of the cases, we deal with a delay in giving access to information concerning public life due to various reasons. The classification of the information, though, raise serious questions. In the absence of a relevant explanation, classifying certain information and setting limitations for citizens who want to know how the government activities are carried out, lower the degree of confidence of citizens in the ethical management of political power. However, according to art. 3 of Law no. 182/2002¹⁶ regarding the protection of classified information, no provision stipulated in the mentioned normative act "(...) can be interpreted in the sense of limiting access to information of public interest or ignoring the Constitution, the Universal Declaration of Human Rights, the pacts and other treaties to which Romania is a party, regarding the right to disseminate information."

We think that only through a concise and direct reporting on the jurisprudence of the Constitutional Court and the European Court of Human Rights can we outline a relevant opinion on the issue of the classification of information of public interest. Consequently, by Decision no. 183/2022, the Constitutional Court ruled on the protection of classified information, noting that the right to information stipulated by art. 31 of the Constitution is not an absolute right, but has limitations justified by the negative consequences that could endanger the interests of the state. "There are situations in which making public certain information can produce negative consequences on the interests of the state, its institutions or authorities or even private legal entities, so it is necessary to keep them in a classified regime, access to the content of such

¹⁴ Law nr. 161/2003 regarding some measures for ensuring the transparency in exercising the public offices, public functions and those in business environment, prevention and sanctioning corruption, as well as other regulations in the field, pub. in M. Of. no. 279 of April 21, 2003.

¹⁵ Law no. 52/2003 regarding decision-making transparency in public administration, republished in M. Of. no. 749 of December 3, 2013.

¹⁶ Law no. 182/2002 regarding the protection of classified information, pub. in M. Of. no. 248 of April 12, 2002.

information being allowed, according to the law, only to a restricted category of people and only to the extent of the need to know, and according to Law no. 182/2002, access to classified information is allowed only in the cases, under the conditions and in compliance with the procedures provided by law."¹⁷

The clarifications of the Constitutional Court regarding the situations in which certain information falls under the protection of the classification for the ultimate good of the state are reinforced by a previous Decision¹⁸ in which it referred to the jurisprudence¹⁹ of the European Court of Human Rights regarding the strengthening of the criteria that could justify the classification of some information. In the case of *Vereniging Weekblad Bluf v. the Netherlands*, the Court held that the right to information can be limited with the purpose of protecting the interests of a state, but only justified and proportionate. Summarizing, the Court held that the Dutch state violated the provisions of art. 10 of the Convention failing to demonstrate the real danger and damage brought to national security by the editorial's publications. Consequently, the media's rights to information and freedom of expression were violated. The impact of this ECHR Decision was overwhelming, drawing much more clearly the limitations and the vision that the legislator had in limiting the access to information. Concretely, the Court considered that limiting the access to public information can only be allowed if this aspect is stipulated by law, has a legitimate purpose, that of reflecting the necessity of the measure in a democratic world.

Another emblematic case regarding the right to information correlated with freedom of expression is represented by *Gîrleanu v. Romania*²⁰ when the European Court of Human Rights held that the attitude of the Romanian state to arrest and fine a journalist for exposing classified information that was later declassified represented a violation of the right to freedom of expression. Specifically, the journalist Gîrleanu obtained a series of documents that exposed information regarding Romania's military operation in Afghanistan. In order to obtain more information, the journalist contacted the officials of the Armed Forces, but, not receiving the necessary confirmations regarding the veracity of the information he had, he decided to share it with a small group of people. Before the journalist was arrested and fined for exposing classified information, this information had been declassified. For these reasons, the European Court of Human Rights decided that the information journalist Gîrleanu exposed is of public interest in the sense given by the Convention and jurisprudence, and the action of the

¹⁷ Decision no. 183/2022 regarding the rejection of the exception of unconstitutionality of the provisions of art. 1-3, art. 7 and art. 31-33 of Law nr. 182/2002 regarding the protection of classified information – The Constitutional Court – CCR.

¹⁸ Decision no. 1440/2010 regarding the exception of unconstitutionality of the provisions of art. 2 par. (2) art. 7, art. 25 par. (1) and art. 34 lit. j) of Law no. 182/2002 regarding the protection of classified information, pub. in M. Of., no. 58 of January 24, 2011.

¹⁹ ECtHR judgment of February 9, 1995 in Case *Vereniging Weekblad Bluf v. Holland*.

²⁰ ECtHR judgment of June 26, 2018, in Case *Gîrleanu v. Romania*.

Romanian state to arrest and fine the journalist was not justified, especially since this information has been declassified. Consequently, there was no proportionality between the ostensible danger to national interests and the journalist's actions, there being a flagrant violation of art. 10 of the Convention.

After a brief analysis, we note that the right to information is regulated both nationally and internationally, being supported by relevant jurisprudence in the matter and doctrinal opinions based on a well-defined democratic perspective. However, Romania encounters a series of difficulties in the proportional application of the document classification measure in relation to the real interests of the state. We think that by aligning the national practices to the standards promoted by international jurisprudence would enhance a much clearer perspective regarding a correct appraisal of the information that may or may not be public.

Case study on the ambiguities generated by the criteria for determining the classification of information: Decision no. 561 of October 31, 2023²¹

4.1. Introduction

The Constitutional Court is addressing the resolution of the exception of unconstitutionality of art. 2 para. (2), art. 6 para. (1), and art. 31 of Law no. 182/2002 on the protection of classified information. Specifically, the exception of unconstitutionality was raised in the context of a case concerning the resolution of an appeal formulated within a litigation based on the provisions of Law no. 182/2002. The author of the exception argues that the mentioned provisions contradict the state's fundamental law due to the limitation of access to a series of classified documents necessary for making a pertinent defense.

4.2. The facts of the case

The author of the exception of unconstitutionality was involved in a case where a series of documents necessary for resolving the matter were classified. He notified the Constitutional Court, arguing that the secret documents contained essential information for conducting a fair trial and building an adequate defense. The limitation of access to documents due to the sensitive nature of the information contained therein contradicts the right to information, free access to justice, and the conduct of a fair trial. Without access to the information, the author of the invoked exception found himself unable to formulate his defense, not knowing what evidence had been brought against him. He argued that the classification of the documents was done

²¹ Decision no. 561 of October 31, 2023, regarding the exception of unconstitutionality of the provisions of art. 2 para. (2), art. 6 para. (1), art. 7 para. (1), and art. 31 of Law no. 182/2002 on the protection of classified information, published in the Official Gazette no. 381 of April 24, 2024.

abusively, as he had no opportunity to build his defense, not knowing information that could have been favorable to him. He claimed that his right to information was being violated and that the transparency and fairness of the process were jeopardized. Additionally, the author of the exception of unconstitutionality argued that the aforementioned provisions of Law no. 182/2002 violated fundamental rights guaranteed both by the Constitution and the European Convention on Human Rights.

4.3. Relevant provisions

According to art. 2 para. (2) of Law no. 182/2002, "Access to classified information is permitted only in cases, under conditions, and by respecting the procedures provided by law." Consequently, national standards are established by the Romanian Intelligence Service (SRI) following an agreement from the National Security Authority.

In order to gain access to classified documents, according to art. 7 para. (1) of Law no. 182/2002, the degree of honesty demonstrated by the interested parties regarding the requested information, as well as their understanding of how to use the documents, will be verified.

From the perspective of art. 21 of the Constitution, any person benefits from free access to justice and has the right to a fair trial, based on art. 6 of the state's fundamental law. Additionally, in light of art. 31 of the Constitution, we remind that free access to information is guaranteed. However, the purpose for which the Legislator established the provisions of art. 1 of Law no. 182/2002 was to protect information by using a national information protection system. The classified nature of information is determined precisely by art. 15 letter b) of the mentioned normative act, according to which classified information is important documents for national security. Their disclosure could have serious consequences for the state. For these reasons, the Court emphasized that the mentioned provisions are in harmony with the provisions of art. 31 of the Constitution, precisely because the right to information is not absolute and can be exercised as long as it does not conflict with the state's interests.

Furthermore, of overwhelming importance are the provisions of art. 3 of Law no. 182/2002, which state that the provisions of this normative act are not intended to limit the right to information guaranteed by the Constitution, but to protect the state and its interests, without prejudicing the fundamental rights and freedoms enshrined in the Universal Declaration of Human Rights, a fact also established by the jurisprudence²² of

²² Decision no. 183 of March 31, 2022, regarding the exception of unconstitutionality of the provisions of art. 1-3, art. 7, and art. 31-33 of Law no. 182/2002 on the protection of classified information, published in the Official Gazette no. 868 of September 2, 2022.

Decision no. 205 of April 29, 2024, regarding the exception of unconstitutionality of the provisions of art. 2 para. (2), art. 3, and art. 42 letter e) of Law no. 182/2002 on the protection of classified information, published in the Official Gazette no. 468 of May 25, 2004.

the Constitutional Court. Another aspect we wish to submit for this jurisprudential analysis concerns the possibility for judges to access classified information in compliance with procedural rigor. Despite the fact that magistrates exercise their function within a rigorously regulated legislative framework, certification in accessing and managing classified information is granted based on honesty and professionalism, not just the position held, as emphasized by the jurisprudence²³ of the Court.

4.4. Court Decision

Following the analysis of the exception of unconstitutionality regarding the limitation of an attorney's access to classified documents used as evidence in a litigation, the Court rules that this exception is unfounded. The legislative provisions invoked by the petitioner do not exclude access to classified information but outline the procedural conditions under which such access may be granted. Furthermore, the provisions cited from Law no. 182/2002 do not infringe upon the right to information provided by art. 31 of the Romanian Constitution, the free access to justice mentioned in art. 21, or the right to defense enshrined in art. 24 of the state's fundamental law.

From a procedural standpoint, accessing classified information is carried out in accordance with the provisions of Law no. 182/2002 and Government Decision no. 585/2002 for the approval of National Standards for the Protection of Classified Information. Therefore, it is necessary to obtain written authorization issued by the head of the unit holding the classified information. This head is obligated to notify the National Office of State Secret Information Registry in advance, as stipulated by art. 31 para. (3) of Law no. 182/2002. Additionally, according to art. 33 of Government Decision no. 585/2002, access to classified information is granted only if it does not infringe upon the principle of necessity. Both Law no. 182/2002 and Government Decision no. 585/2002 regulate the procedural criteria for requesting access to classified information.

On the substance of the case, the Court argues that the existence of these clear normative acts guarantees the respect for free access to justice, the right to information, and a fair trial. Therefore, attorney Alin Valentin Stan was not limited in his right to access classified information or in ensuring his client's free access to justice and the conduct of a fair trial. Instead, all procedural aspects based on which

²³ Decision no. 456 of May 8, 2012, regarding the exception of unconstitutionality of the provisions of art. 2 para. (2), art. 7, and art. 28 para. (1) of Law no. 182/2002 on the protection of classified information, published in the Official Gazette no. 482 of July 13, 2012.

Decision no. 1335 of December 9, 2008, regarding the exception of unconstitutionality of the provisions of art. 91² para. 4 and art. 91³ para. 3 final sentence of the Criminal Procedure Code, art. 33 para. (1) letter c) of Law no. 535/2004 on preventing and combating terrorism, as well as art. 7 para. (1) and (4), art. 9 letter b), art. 15 letter h), art. 17 letter f), art. 22 para. (1), art. 24 para. (1) and (5), and art. 28 of Law no. 182/2002 on the protection of classified information, published in the Official Gazette no. 29 of January 15, 2009.

he could have obtained access to classified information were made available to him under the invoked legislation.

V. Conclusions

Based on the theoretical and jurisprudential aspects presented in this article, we mention that the strict regulation of access to classified information is necessary to guarantee and protect the legitimate interests of the state. The fact that the legislator has provided a way for interested parties to gain access to classified information by respecting the principle of necessity and the entire procedure attests to the respect for the right to information. Procedural rigor is not intended to build barriers between the rights enshrined in the Constitution and the interests of the state, but to create a normative framework in which classified information benefits from protection against exposure to safeguard state interests without infringing on the rights to information, defense, or access to justice.

Such decisions by the Constitutional Court should reinforce citizens' confidence in the fair application of the law. The classification of information is not intended to alter democratic principles but to preserve information whose disclosure could create an unfavorable situation for the state. The common interest of a democratic society should be the consolidation of the rule of law and the defense of its interests in a framework where citizens have access to relevant information. We believe that rigorous regulation regarding the criteria by which information becomes classified or not is necessary to strengthen public transparency. The degree of citizens' trust in the democratic system must be protected, and the existence of the legislative framework regarding the possibility of accessing classified information proves the respect for constitutional rights.

We conclude by emphasizing that in an ideal democratic system, transparency is vital in ensuring a relationship of trust between the state and its citizens. As noted above, there are situations where some information concerning national security is exempted from public access.

For this reason, it is imperative that the criteria for determining the classification of information be conducted in accordance with the principles of legality, proportionality, and necessity. This will limit potential abuses, discourage acts of corruption, and strengthen citizens' trust in state institutions.

Achieving a balance between the classification of information and the right to information will guarantee the elimination of ambiguities and promote transparency, thus consolidating the democratic foundation of a modern society.

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