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# The Construction of Public Information Dispute Resolution as an Effort to Fulfill the Right to Information

# (Comparative study of Indonesia and South Korea)

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**Abstract:** Access to public information is one of the human rights and guaranteed by the constitution. The state is obliged to provide access to public information, as long as it is not excluded. In practice, many public information disputes arise between information applicants and public bodies. Indonesia and South Korea are two countries that have implemented regulations regarding public information disclosure. The research will explain the comparison of public information dispute resolution in Indonesia and South Korea. The research results show that both countries have facilitated the resolution of public information disputes, both through litigation and non-litigation processes. This is to guarantee legal certainty and fulfill citizens' rights to public information.

**Keywords: Public Information; Human Right; Right to Information; Dispute Resolution**.

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## 1. Introduction

Basically, the state is an organizational form consisting of a group of people who live together in a certain territory and are sovereign.(Hidayah, 2019) One of the main goals of being a state is to realize social welfare. Indonesia as a country also has state objectives, as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, paragraph IV: to protect all of Indonesia's bloodshed, promote public welfare, educate the nation's life, and participate in realizing world peace. To realize the goals of the state as outlined in the Preamble of the 1945 Constitution of the Republic of Indonesia, paragraph IV, the government is required to carry out various functions and tasks. They generally consist of the task of regulating and administering.(Thamrin, 2013)

Empirically, the state in its manifestation as a government basically realizes the goals of the country by providing public services. Kadek Wibawa stated that:

The state must serve every citizen and population to fulfill the basic rights and needs of the community within the framework of public services, as mandated by the 1945 Constitution of the Republic of Indonesia. The government (state) is obliged to build public trust in public services and the state needs to make efforts to improve quality and ensure the provision of public services following the general principles of good governance and corporations.(Wibawa, 2019)

The enactment of Law Number 25 of 2009 Concerning Public Services, which was stipulated on July 18, 2009, became the legal basis for the government to create optimal and excellent public services. The implementation of good and excellent public services will accelerate the realization of the country's goals.

The success of implementing public services is not easy to achieve, even though the construction of arrangements for implementing public services has been regulated in Law Number 25 of 2009 concerning Public Services. One of the supporting indicators for the successful implementation of public services by the government is by applying the maximum principle of information disclosure. Article 4 of Law Number 25 of 2009 Concerning Public Services, states that :

The implementation of public services is based on: public interest; legal certainty; equal rights; balance of rights and obligations; professionalism; participation; equal treatment (non-discriminatory); openness; accountability; special facilities and treatment for vulnerable groups; punctuality; speed, convenience, and affordability.

In addition, in the Elucidation of Article 4 letter h of Law Number 25 of 2009 Concerning Public Services, it is written, "*Every service recipient can easily access and obtain information regarding the desired service*". Hence, public services are closely correlated with the ease of accessing and obtaining information or correlated with public information disclosure.

Open access is an effective and necessary way to keep public services away from corruption, collusion, and nepotism (KKN). Indonesia has enacted Law Number 14 of 2008 Concerning Public Information Disclosure (UU KIP) on April 30, 2008, which in principle is expected to: See Article 3 of Law Number 14 of 2008 Concerning Information Disclosure. (1) Guarantee the rights of citizens to know the plans for making public policies, public policy programs, and the process of making public decisions, and the reasons for making a public decision; (2) Encouraging public participation in the public policy-making process; (3) Increasing the active role of the community in making public policies and good management of Public Agencies; (4) Realizing good state administration, such as transparent, effective and efficient, accountable, and accountable; (5) Knowing the reason for public policies that affect the lives of many people; (6) Developing science and educating life of the nation; (7) Improving the management and service of information IN the Public Agency to produce quality information services.

The right to information disclosure is part of human rights. They are derogable in nature. Recognition of the right to information disclosure as part of human rights is expressly regulated in the Universal Declaration of Human Rights. It was declared by the United Nations on December 10, 1948. The legalization of Law Number 14 of 2008 concerning Disclosure Public Information (UU KIP) is a further embodiment of the recognition of the right to information disclosure as part of human rights.(Susila Wibawa, 2019)

Based on Public Information Disclosure Act, the public has the right to obtain public information from the government. Public information can be requested by the public as an applicant for public information from the Information and Documentation Management Officer (PPID) as long as it fulfills the formulation of Article 2 of the Concerning Public Information Disclosure Act. The information requested is not confidential and is excluded as public information in the Public Information Disclosure Actor is information that is classified as public information. if it is opened it can damage the larger interests.(Utama & Sukmadewi, 2019)

This application can be submitted by the public (applicant) to the relevant public agency as stipulated in Regulation of the Public Information Commission (PerKIP) Number 1 of 2021. In the case of filing such an application, disputes can occur which will lead to public information disputes.

Public information applicants who file objections or parties who receive power of attorney are dissatisfied with the decision of the Documentation Management Officer's superior. They have the right to submit a request for a resolution of the Public Information dispute to the Information Commission no later than 14 (fourteen) working days after receiving the decision of the Documentation Management Officer superior.

At this stage, the point of contact for problems will arise if these provisions are linked to Law Number 30 of 2014 concerning Government Administration (UU AP). If the Documentation Management Officer supervisor does not provide an answer to the objection raised by the public information applicant, two

scenarios will be possible, as follows:

1. The information requester can submit a public information dispute resolution to the public information commission if Documentation Management Officer superiors do not respond to the objection.

2. Based on Article 53 of the Government Administration Act which adheres to a positive fictitious principle, requests (community) that are not followed up by government agencies and/or officials with decisions and/or actions, are considered legally granted (positive fictitious). Regarding this second scenario, the state administrative court has the authority to resolve the dispute.

This condition results in legally giving rise to dualism in resolving public information disputes in Indonesia. Empirically, this dualism will result in confusion for the public in seeking justice in the field of public information disputes in Indonesia.

In comparison, South Korea as a transitional country towards democracy, has also strictly regulated the right to information as in Indonesia. Regarding more detailed matters, such as procedures for obtaining information, timeframes, exempted information, dispute resolution, and other technical matters, it is further regulated in the South Korea Information Disclosure Act No. 14839, 2017; as amended by South Korea Information Disclosure Act No. 17690, 2022. It was passed on December 22, 2022. The purpose of this Act is to ensure people's rights to know and to secure people's participation in state affairs and the transparency of the operation of state affairs by prescribing matters necessary for people's requests for the disclosure of information kept and controlled by public institutions and the obligations of public institutions to disclose such information.

South Korea first had an Official Information Disclosure Act in 1998, namely: South Korea Information Disclosure Act No. 5242, 1998; which was ratified on January 1, 1998. South Korea is also one of the countries that established Administrative Courts, therefore regarding the resolution of public information disputes is regulated through administrative appeal based on Administrative Appeal Act No. 15025, 2017, or administrative litigation under Administrative Litigation Act No. 14839, 2017.

## 2. Methodology

This research is normative (doctrinal) legal research. Normative legal research methods or doctrinal research used secondary data in the form of laws and regulations, court decisions, decisions of state commissions, and opinions of leading legal scholars.(Soemitro, 1985) In general, the problem approach used in writing normative legal research consists of 5 (five) approaches, namely the statutory approach, the conceptual approach, the historical approach, the case approach and comparative approach. This research uses a statutory approach and a conceptual approach.

The statutory approach is research that prioritizes legal materials in the form of statutory regulations as basic reference material in conducting research. The statutory approach (statute approach) is usually used to examine statutory regulations whose norms still contain deficiencies or even foster irregular practices either at the technical level or in their implementation in the field. The conceptual approach is a type of approach in legal research that provides an analytical perspective on problem solving in legal research seen from the aspect of the legal concepts behind it, or can even be seen from the values contained in the norming of a regulation in relation to the concepts. concept used.

As a consequence of this normative legal research, this research collects secondary data and legal materials. However, this study also collected primary data as a support or support in discussing research results. Primary data, namely data obtained directly from observations in the field (Rony Hanitijo Soemitro, 1985) and data collection techniques and materials in this research consist of interviews, literature study (document study), and brief observations. The analytical techniques used in the discussion of this research were description, interpretation, systematization, argumentation, and evaluation techniques.(Curzon, 1979)

## 3. The Urgency of Resolving Public Information Disputes

The development of the history of Human Rights (HR) indicates that the emergence of the concept of human rights is inseparable from reactions to absolute/authoritarian power that provoke arbitrariness, subsequently motivating those whose basic rights are oppressed to strive for the assertion of their existence as dignified beings. The milestone in the history of human rights began when John Locke formulated the existence of natural rights inherent in every human being, namely the right to life, freedom, and property. The history of the development of human rights is also marked by three significant events in the Western world, namely the Magna Carta, the American Revolution, and the French Revolution.

Based on the above description, considering how the conception of human rights emerged is undoubtedly closely related to the openness of information or the right to information. The fulfillment of the right to information by the state will promote transparency and the participation of the community in the governance of the state itself because community participation or engagement is not meaningful without the guarantee of information openness. Through the implementation of the principle of openness, a superior public service and transparent community involvement, as well as high accountability, will be created as prerequisites for realizing genuine democracy and upholding human rights. The Universal Declaration of Human Rights in Article 19 regulates the most basic human rights, stating that: "*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"*.

This is also in line with Article 28 F of the 1945 Constitution of the Republic of Indonesia, which states that: "*Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels*".

In connection with these matters, since 2008, Indonesia has embarked on a new momentum in the era of openness, with the enactment of Law Number 14 of 2008 concerning Public Information Openness. Disputes can occur anywhere and involve anyone. Disputes can arise between individuals, between individuals and groups, between groups, between companies, between companies and the state, between one state and another, and so on. In other words, disputes can be public or private and can occur at the local, national, or international level. A dispute is a situation where one party feels aggrieved by another party, and this dissatisfaction is communicated to the second party. If the situation shows a difference of opinion, a dispute occurs.

According to the Great Indonesian Dictionary (KBBI), the meaning of a dispute is something that causes a difference of opinion; a quarrel; a dispute. In the legal context, especially contract law, a dispute refers to a disagreement that arises between parties due to a violation of agreements stipulated in a contract, either in part or in whole. In other words, a breach of contract has occurred by one or more parties.(Amriani, 2012)

Article 1 number 5 of the Law on Public Information Openness states that: "*public information disputes are disputes that occur between public bodies and users of public information related to the right to obtain and use information based on legislation*". Furthermore, Article 37 paragraph (1) of the Law on Public Information Openness (UU KIP) states:

Efforts to resolve public information disputes are submitted to the Central Information Commission and/or the provincial Information Commission and/or the district/city Information Commission according to their authority if the response from the superior of the Information and Documentation Management Officer in the objection process does not satisfy the applicant of public information.

The resolution of public information disputes, whether related to public information that must be disclosed or public information excluded from disclosure, is one of the efforts to fulfill justice for citizens in the field of public information. Essentially, every dispute must be resolved to meet the sense of justice for the parties seeking justice in the field of public information.

The Central Information Commission and the Regional Information Commission, as part of the National Information Commission, play a crucial role in realizing this justice. In particular, the Regional Information Commission plays a significant role, especially in resolving various information disputes at the local level.

The resolution of disputes over excluded public information fundamentally requires resolution efforts, both at the stage before the occurrence of disputes and during the occurrence of disputes. In the stage before the occurrence of excluded public information disputes, the Information Commission, especially the Regional Information Commission, can play a role through the public consequences test conducted by the Public Information and Documentation Officer (PPID). At this stage, efforts should also be made to resolve excluded public information disputes to achieve justice in public information, ensuring that the citizens' right to public information is fulfilled.

## 4. The Construction of Public Information Dispute Resolution Arrangements in Indonesia

The regulation of the resolution of public information disputes in Indonesia refers to the provisions established in Law Number 14 of 2008 concerning Public Information Openness. In general, the resolution of public information disputes in Indonesia can be pursued through three channels, including: (1) Submission of objections to the Information and Documentation Management Officer (PPID) of the Public Body; (2) Resolution through the Information Commission, either throught mediation or non-litigation adjudication; (3) Resolution through the Litigation Path or the Courts, eeither through the District Court or the State Administrative Court.

Article 35 of the Law on Public Information Openness states that: Every Applicant of Public Information may submit written objections to the superior of the Information and Documentation Management Officer based on the following reasons: (a) Rejection of information requests based on exemption reasons as stipulated in Article 17; (b) Non-provision of periodic information as stipulated in Article 9; (c) Non-response to information requests; (d) Provision of information different from the requested information; (e) Non-fulfillment of information requests; (f) Unreasonable imposition of fees; (g) Provision of information exceeding the time limits specified in the Law.

Furthermore, as stipulated in Article 35 paragraph (1) subparagraphs b to g of the Law on Public Information Openness (UU KIP), disputes may be resolved through mutual consultation between the two parties.

Article 36 of UU KIP also regulates that objections filed by Applicants of Public Information must be submitted within a maximum period of 30 (thirty) working days after the discovery of reasons as referred to in Article 35 paragraph (1) of UU KIP. Moreover, Article 36 paragraph (2) of UU KIP specifies that: The superior of the officer as mentioned in Article 35 paragraph (1) of UU KIP provides a response to the objections raised by the Applicant of Public Information within a maximum period of 30 (thirty) working days from the receipt of written objections. Written reasons are included with the response if the superior, as mentioned in Article 35 paragraph (1) of UU KIP, affirms the decision made by their subordinate.

Article 37 (1) of UU KIP regulates that: efforts to resolve Public Information Disputes are submitted to the Central Information Commission and/or the Provincial Information Commission and/or the District/City Information Commission, according to their respective authorities, if the response from the superior of the Information and Documentation Management Officer in the objection process does not satisfy the Applicant of Public Information.

Furthermore, in paragraph (2), it is stated that: efforts to resolve Public Information Disputes must be submitted within a maximum period of 14 (fourteen) working days after the receipt of a written response from the superior. Article 38 (1) of UU KIP states that the Central Information Commission and the Provincial Information Commission and/or the District/City Information Commission must initiate

efforts to resolve Public Information Disputes through Mediation and/or Non-litigation Adjudication within a maximum period of 14 (fourteen) working days after receiving the request for resolution of Public Information Disputes.

Article 38 (2) of UU KIP explicitly stipulates that: the dispute resolution process as referred to in Article 38 (1) must be completed within a maximum period of 100 (one hundred) working days. Article 39 of UU KIP also regulates that decisions of the Information Commission resulting from agreements through Mediation are final and binding.

Article 40 paragraph (1) of the Law on Public Information Openness (UU KIP) states that dispute resolution through mediation is a choice of the parties and is voluntary. Dispute resolution through mediation can only be carried out for substantive matters specified in Article 35 paragraph (1) subparagraphs b, c, d, e, f, and g of Law Number 14 of 2008.

Furthermore, Article 40 paragraph (3) of UU KIP declares that the agreement of the parties in the mediation process is documented in the form of a mediation decision by the Information Commission. In the mediation process, members of the Information Commission act as mediators, as regulated in Article 41 of UU KIP.

Article 42 of UU KIP states that the resolution of public information disputes through non-litigation adjudication by the Information Commission can only be pursued if mediation efforts are declared unsuccessful in writing by one or more parties in dispute, or if one or more parties in dispute withdraw from the negotiation. This means that the non-litigation adjudication process occurs after going through the mediation process. Therefore, the possibility of resolving information disputes through non-litigation adjudication without prior mediation is not feasible.

Furthermore, Article 43 paragraph (1) of UU KIP states that a Commission Information hearing examining and deciding on a case must consist of at least 3 (three) or more commission members and must be an odd number. Additionally, in paragraph (2) of the same article, it is stated that Commission Information hearings are open to the public. However, in cases involving documents classified as exceptions under Article 17, hearings examining the case are closed. This is emphasized in Article 43 paragraph (3) of UU KIP.

Regarding the code of ethics, Information Commission members are required to maintain the confidentiality of documents classified as public information exemptions. This is regulated in Article 44 paragraph (4) of UU KIP.

Regarding procedural law in the resolution of public information disputes through the Information Commission, whether through mediation or non-litigation adjudication, it can be described as follows:

**1. Examination**

The provisions for examination as part of the procedural law of the Information Commission are regulated in Chapter IX, the third part, Article 44 of the Law on Public Information Openness (UU KIP). This article states that: (a) When the Information Commission receives a request for the resolution of Public Information Disputes, the Information Commission provides a copy of the request to the respondent; (b) The respondent as referred to in paragraph (1) is the head of the Public Body or the designated relevant official who will provide testimony during the examination process; (c) In the event of the respondent as mentioned in paragraph (2), the Information Commission may decide to hear the testimony either orally or in writing; (d) Applicants for Public Information and respondents can appoint representatives specifically authorized for this purpose.

**2. Evidence**

The provisions for examination as part of the procedural law of the Information Commission are regulated in Chapter IX, the third part, Article 45 of the Law on Public Information Openness (UU KIP). In this article, it states that: (a) The Public Body must prove the facts supporting their position if they state

that they cannot provide information for reasons as specified in Article 17 and Article 35 paragraph (1) subparagraph a of Law Number 14 of 2008; (b) The Public Body must provide reasons supporting their stance if Applicants of Public Information submit a request for the resolution of Public Information Disputes as regulated in Article 35 paragraph (1) subparagraphs b to g of Law Number 14 of 2008.

### 3. Decision of the Information Commission

The provisions for examination as part of the procedural law of the Information Commission are regulated in Chapter IX, the fourth part, Article 46 of the Law on Public Information Openness (UU KIP). This article, states that:

(1) The decicion of the Information Commission regarding granting or denying to all or part of the requested information includes on of the following orders: (a) Revoke the decision of the superior of the Public Body and decide to provide part or all of the information requested by the Applicant of Public Information in accordance with the decision of the Information Commission; or; (b) Affirm the decision of the superior of the Information and Documentation Management Officer not to provide the requested information in part or in full as stipulated in Article 17 of UU KIP.

(2) The decision of the Information Commission regarding the substance of objections as referred to in Article 35 paragraph (1) subparagraphs b to g, includes one of the following orders: (a) Instruct the Information and Documentation Management Officer to fulfill their obligations as specified in the Law on Public Information Openness; (b) Instruct the Public Body to fulfill its obligations within the timeframe for providing information as regulated in the Law on Public Information Openness; or (c) Affirm the considerations of the superior of the Public Body or decide on the costs of searching and/or duplicating information.

(3) The decision of the Information Commission is pronounced in an open hearing, except for decisions related to excluded information.

(4) The Information Commission is obligated to provide copies of its decision to the parties in dispute.

(5) If there is a commission member who, in deciding a case, holds a different opinion from the decision taken, the opinion of that commission member is attached to the decision and becomes an integral part of the decision.

The final resolution for public information disputes is through litigation or court proceedings, either through the administrative court or the general court. Article 47 of the Law on Public Information Openness (UU KIP) states that: (a) A lawsuit is filed through the administrative court if the sued party is a state Public Body; (b) A lawsuit is filed through the general court if the sued party is a Public Body other than a state Public Body as referred to in paragraph.

Furthermore, Article 48 of UU KIP regulates: (a) Filing a lawsuit as mentioned in Article 47 paragraphs (1) and (2) can only be pursued if one or more parties in dispute, in writing, express their disagreement with the adjudication decision of the Information Commission no later than 14 (fourteen) working days after receiving the decision; (b) Regarding exempted information, hearings in the Information Commission and in court are closed.

Article 49 of UU KIP states that:
(1) The court's decicion, whether from the administrative court or the general court, in the resolution of Public Information Disputes regarding granting or denying access to all or part of the requested information contains one of the following orders:

a. Revoke the Information Commision's decision and/or instruct the Public Body: (1) To provide part or all the information requested by the Applicant of Public Information; or (2) To reject providing part or all the information requested by the Applicant of Public Information.

b. Affirm the Information Commission;s decision and/or instruct the Public Body: (1) To provide part or all of the information requested by the Applicant of Public Information; or (2) To reject providing part or all of the information requested by the Applicant of Public Information.

(2) The court's decision, whether from the administrative court or the general court, in the resolution of Public Information Disputes regarding the substance of objections as referred to in Article 35 paragraph (1) subparagraphs b to g contains one of the following orders:

a. Order the Information and Documentation Management Officer to fulfill their obligations as specified in this Law and/or instruct them to meet the timeframe for providing information as regulated in this Law.

b. Reject the request of the Applicant of Public Information; or c. Decide on the duplication costs of information.

The administrative court or the general court provides copies of its decision to the parties in dispute. Article 50 of UU KIP states that: Parties dissatisfied with the decision of the administrative court or the general court may file a cassation appeal to the Supreme Court no later than 14 (fourteen) days after receiving the decision of the administrative court or the general court.

## 5. Correlation The Construction of Public Information Dispute Resolution Arragements in South Korea

Dynamics of the development of the Public Information Openness Law in South Korea:

(1) Wholly Amended by Act No. 7127, Jan. 29, 2004

(2) Amanded by Act No. 7796, Dec. 29, 2005

(3) Act No. 8026, Oct. 4, 2006

(4) Act No. 8171, Jan. 3, 2007

(5) Act No. 8871, Feb. 29, 2008

(6) Act No. 8854, Feb. 29, 2008

(7) Act No. 10012, Feb. 4, 2010

(8) Act No. 11690, Mar. 23, 2013

(9) Act No. 11991, Aug. 6, 2013

(10) Act No. 12844, Nov. 19, 2014

(11) Act No. 14185, May. 29, 2016 Act No. 14839, Jul. 26, 2017

(12) Act No. 17690, Dec. 22, 2020

The regulations regarding information disclosure in South Korea are currently regulated in Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act). The purpose of this Act is to ensure people's rights to know and to secure people's participation in state affairs and the transparency of the operation of state affairs by prescribing matters necessary for people's requests for the disclosure of information kept and controlled by public institutions and the obligations of public institutions to disclose such information.

In Chapter IV article 18 Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act:
(1) When any applicant is dissatisfied with a decision made by any public institution not to disclose information or a decision made by any public institution to partially disclose information, or when no decision is made to disclose information even after 20 days elapse after a request for information disclosure is made, he or she may raise an objection in writing to the relevant public institution within 30 days from the date on which he or she receives a notice on whether or not to disclose the information or

from the date on which 20 days elapse after a request for information disclosure is made.

(2) State agencies, etc. shall hold a meeting of the Council when any objection under paragraph (1) is raised: Provided, That this shall not apply to any of the following cases and state agencies, etc. shall notify an applicant of grounds of not holding a meeting of the Council in writing: (a) Matters which have already underwent deliberations of the Council; (b) Simple and repetitive requests; (c) Requests for information classidield as confidential information pursuant to statutes or regulations.

(3) Relevant public institutions shall decide on an objection raised within seven days from the date on which such objection is raised and notify the relevant applicant of outcomes thereof without delay in writing: Provided, That when public institutions cannot make a decision within a fixed period due to inevitable grounds, such period may be extended by up to seven days when calculated from the day following the date when such fixed period expires, and applicant shall be notified of the grounds for such extension.

(4) Where public institutions decide to dismiss or reject an objection, they shall notify applicants of the fact that applicants may file for an administrative appeal or administrative litigation, along with notification on the outcomes under paragraph (3).

Article 19 (Administrative Appeal):
(1) When any applicant is dissatisfied with a decision made by a public institution in connection with information disclosure, or when no decision is made about whether to disclose information even after 20 days elapse after a request for information disclosure was made, he or she may file an administrative appeal as prescribed by the Administrative Appeals Act. In such case, the administrative agency that supervises the decision of a public institution, other than state agencies and local governments, shall be the head of the relevant central administrative agency or the head of the relevant local government.

(2) An applicant may file an administrative appeal without going through the procedures for filing administrative appeals under Article 18.

(3) Any member who is involved in administrative appeals against decisions on whether or not to disclose information, from among the members of the Administrative Appeal Committee, shall not divulge secrets that the he or she has learned while performing his or her duties not only during his or her tenure and but also after his or her retirement.

(4) The members of the Administrative Appeal Committee referred to in paragraph (3) shall be deemed public officials in the application of the Criminal Act and the penalty provisions of other Acts.

Furthermore Article 20 (Administrative Litigation):
(1) When an applicant is dissatisfied with a decision made by a public institution in connection with information disclosure, or when no decision is made about whether to disclose information even after 20 days elapse after a request for information disclosure was made, he or she may file for an administrative litigation as prescribed by the Administrative Litigation Act.

(2) The presiding judge may, if deemed necessary, peruse or examine the information, the disclosure of which is requested, in private, without involving parties therein.

(3) Where the subject of an administrative litigation is a disposition not to disclose or to partially disclose information pertaining to national security, national defense, or diplomatic relations, from among the information provided for in Article 9 (1) 2, the presiding judge may order not to submit the relevant information if the relevant public institution substantiates procedures for classifying the information, the levels, types, and nature of the classification, practical reasons for keeping the information secret, and the grounds for not disclosing the information, etc.

Article 19 (Administrative Appeal):
(1) A third party, who is notified of the fact that a request was made to disclose information pursuant

to Article 11 (3), may request the relevant public institution not to disclose the information pertaining to himself or herself within three days from the date he or she receives such notification.

(2) Notwithstanding a request made by the third party not to disclose the information under paragraph (1), if a public institution decides to disclose such information, such public institution shall promptly notify in writing the third party of its decision to disclose the information, explicitly indicating reasons for deciding to disclose the information as well as the date of disclosure of the information, and the third party may raise an objection in writing to the relevant public institution or file for an administrative appeal or an administrative litigation. In such cases, the third party shall raise an objection within seven days from the date when notification of such decision is received.

(3) The relevant public institution shall give an interval of at least 30 days between the date on which a decision is made to disclose the information under paragraph (2) and the date on which the information is to be disclosed.

[This Article Wholly Amended on Aug. 6, 2013]
In Chapter V Information Disclosure Committee, Article 22 (Establishment of Information Disclosure Committee): The Information Disclosure Committee (hereinafter referred to as the "Committee") shall be established under the Prime Minister in order to deliberate on and adjust the following matters: (a) Matters concerning the formulation of an information-disclosure policy and the improvement of the current information-disclosure system; (b) Matters concerning the formulation of information-disclosure standards; (c) Matters concerning the examination and analysis of the result of deliberation of the Council under Article 12 and the presentation of opinions on the improvement of deliberation standards; (d) Matters concerning the evaluation of the actual operational state of information disclosure by public institutions under Article 24 (2) and (3) and the handling of findings from such evaluation; (e) Matters concerning the inspection of unreasonable systems, statutes or regulations, and operation thereof related to information disclosure and recommendations for improvement thereof; (f) Other matters prescribed by Presidential Decree with respect to information disclosure.

[This Article Wholly Amended on Aug. 6, 2013]
(1) The Committee shall consist of eleven members, including one chairperson and one vice chairperson, in consideration of gender.

(2) The following persons shall become Committee members. In such cases, seven members, including the chairperson, shall be commissioned from among persons who are not public officials: (a) Vice ministers or public officials in general service belonging to the Senior Executive Service, all of whom work for the relevant ministries and agencies prescribed by Presidential Decree; (b) Person with profound learning and experience in information disclosure, who are commissioned by the Prime Minister; (c) Persons recommended by civic groups (referring to civil organizations provided for in Article 2 of the Assistance for Nonprofit, Non-Government Organizations Act), who are commissioned by the Prime Minister.

(3) The term term of office of the chairperson, vice chairperson, and members (excluding members under paragraph (2) 1) shall be two years and they may be reappointed.

(4) The chairperson, vice chairperson, and members shall be prohibited from divulging information they have obtained while performing their respective information-disclosure duties or from committing the act of profiting personally from such information or compromising the interests of other persons by using such information.

(5) From among the chairperson, vice chairperson, and members, a person who is not a public official shall be deemed a public official in the application of the Criminal Act and the penalty provisions of other Acts.

(6) Matters necessary for the operation of the Committee, including organization of the Committee

and procedures for resolution, shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 6, 2013]
Article 24 Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act) (Overall Control of Systems):

(1) The Minister of the Interior and Safety shall exercise overall control of planing and general administration concerning formulation of policy on information disclosure system under this Act, system improvements, etc.

(2) The Minister of the Interior and Safety may evaluate the current status of operation of the information disclosure system of public institutions (excluding the National Assembly, courts, Constitutional Court, and National Election Commission), if the Committee makes a request for such evaluation for an efficient operation of the system.

(3) The Minister of the Interior and Safety shall, if he or she conducts an evaluation referred to in paragraph (2), publish findings of the evaluation after reporting them to the State Council through the Committee and shall request the relevant public institution to take corrective measures, etc. with respect to matters that are recommended by the Committee as being necessary to be improved.

(4) The Minister of the Interior and Safety may recommend heads of public institutions (excluding the National Assembly, courts, Constitutional Court, and National Election Commission) to improve conditions concerning information disclosure, when necessary for information disclosure. In such cases, the relevant public institutions shall faithfully comply with such request, and notify the Minister of the Interior and Safety of outcomes thereof. <Amended on Nov. 19, 2014; Jul. 26, 2017>

(5) The National Assembly, courts, Constitutional Court, and National Election Commission, central administrative agencies, and local governments may present their opinions on information disclosure to institutions affiliated thereto or competent public institutions, or supervise or check information disclosure made by such institutions.

[This Article Wholly Amended on Aug. 6, 2013]
In Article 25 Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act) (Request for Submitting Materials): If deemed necessary, the Secretary General of the National Assembly, the Minister of the Court Administration, the Secretary General of the Constitutional Court, the Secretary General of the National Election Commission, and the Minister of the Interior and Safety may request public institutions to cooperate with them in submitting materials, etc. concerning information disclosure. This Article Wholly Amended on Aug. 6, 2013

Furthermore in Article 26 Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act) (Report to National Assembly):

(1) The Minister of the Interior and Safety shall make a report on information disclosure during the preceding year to the National Assembly every year before the regular session of the National Assembly opens.

(2) Matters necessary for preparing a report under paragraph (1) shall be prescribed by Presidential Decree.

Article 27 Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act) (Provisions concerning Delegation): Matters necessary for enforcing this Act shall be prescribed by the National Assembly Regulations, Supreme Court Regulations, Constitutional Court Regulations, National Election Commission Regulations, and Presidential Decree. In Article 28 Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act) (Guarantee of Status): No one shall be put at a disadvantage in terms of his or her status, including disciplinary measures, or be discriminated in work conditions on the grounds of legitimate information disclosure under this Act.

Article 29 Act No. 17690, Dec. 22, 2020 (Official Information Disclosure Act) (Calculation of Period of

Time):

(1) The calculation of a period pursuant to this Act shall be governed by the Civil Act.

(2) Not with standing paragraph (1), the period in the following subparagraphs shall be calculated on a daily basis, including the first day, but excluding holidays and Saturdays: (a) Period for decision on whether or not to disclose information under Article 11 (1) and (2); (b) Period that has elapsed after a request for information disclosure is made under Article 18 (1), Article 19 (1), and Article 20 (1); (c) Period for decision on raising an objection under Article 18 (3).

This Article Newly Inserted on Dec. 22, 2020, addenda Act No. 7127, Jan. 29, 2004:

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation: Provided, That the amended provisions of Article 8 (1) shall enter into force one year and six months after the promulgation thereof.

(2) (Preparations for Establishment of Committee) The Minister of Government Administration and Home Affairs may perform administrative work necessary to establish the Committee, such as selecting and appointing its members, etc. in accordance with the amended provisions of Articles 22 and 23 prior to the enforcement of this Act.

(3) (Applicability to Shortening of Period, etc. for Deciding on Whether or Not to Disclose Information) The amended provisions of Article 11 shall apply starting with the first request that is made for disclosing information after the enforcement of this Act.

## 6. Conclusions

Based on the description in the previous chapter, the conclusions of the results of this research are:

1. Settlement of public information disputes, whether through litigation or non-litigation, is an effort to fulfill citizens' rights to public information and an effort to realize justice for public information.

2. The resolution of public information disputes in South Korea has similarities with the resolution of public information disputes in Indonesia. In Korea, dispute resolution can also be resolved through objections submitted to public bodies and information dispute resolution to information bodies in each public body. Administrative courts are the last resort in resolving public information disputes in South Korea.

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