



# Government records and records management: Law on the right to information in Turkey

Fahrettin Özdemirci \*

*Ankara University, Faculty of Letters, Department of Information and Records Management, Atatürk Bulvarı, 06100 Sıhhiye, Ankara, Turkey*

Available online 2 January 2007

---

## Abstract

Operating of the laws on right to information is related to effective management of government records and information having social value. This article contains the relation of government records and records management considering the role of records management at institutions in execution of law on right to information in Turkey, and the evaluation of Turkish Law on the right to information that came into force in 2004 in view of records management and archival approaches.

© 2006 Elsevier Inc. All rights reserved.

*Keywords:* Government records; Records management; Turkish Law on the right to information

---

## 1. Introduction

The creation and use of government records seems to be an institutional behavior, but in fact it has a social value. Law on right to information frames an approach determining the social value of government records.

Right to information acts, in accordance with the principles of equality, impartiality, and openness that are the necessities of a democratic and transparent government are prepared and put into force in order to regulate principles and procedures related to the obligation of public

---

\* Fax: +90 312 310 57 13.

E-mail address: [odemirci@humanity.ankara.edu.tr](mailto:odemirci@humanity.ankara.edu.tr).

bodies to provide information and right to information of individuals. The basic source of right to information is government records.

“Today it is a recognized principle that the information held by public bodies is in the public domain belonging to all citizens, and therefore it is their obligation to ensure free access to this information” (Milenkovic, 2004).

There are two aspects of right to information acts. On one hand, they obliged institutions to give information, and on the other hand they gave the citizens the right to information.

In this context, right to information acts guarantee access to the government records, and records management units of the institutions carrying out the studies and applications relating to the management of government records are the guarantors. In other words, the achievement of freedom of information is linked with the quality of records management at institutions.

Various domestic and foreign pressures had an effect on the adoption of freedom of information acts. In most countries, media and environmental groups supported these acts and played an important role in the adoption of them. International organizations have also realized the importance of right to information in the modernization of governments and they strived to achieve this.

“Over fifty countries around the world have now adopted comprehensive Freedom of Information Acts to facilitate access to records held by government bodies and over thirty more have pending efforts. While FOI acts have been around for several centuries, over half of the FOI laws have been adopted in just the last ten years” (Banisar, 2004).

Legalization of freedom of information acts is just a beginning. As long as they are not applied because of several shortcomings there is no meaning to it. For an effective application, governments should change their understanding of government and their inner culture. The matters like governments’ resistance to providing information, their long delays, shortcomings of the institutions in organizing information sources, and providing access to them all show the difficulties in the application of the acts. That there is a law does not necessarily mean it will enable continuous access.

## 2. Government records and records management

We can define government records as follows: all kinds of documents created, received, and used without looking physical form or characteristics of an institution while carrying out its natural activities and legal obligations.

“Records management: Field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records” (ISO, 2001).

The aim of records management is to handle from the creation stage all the records created as a result of institutional activities, and to evaluate, organize, and when needed enable access to these records.

For this reason, in public administration, the organisation of a unit in an administrative structure of the institution, responsible for the flow of records, occurring from the natural

activities of administration, constituting the original sources of the institution and containing important institutional information, should not be neglected.

Records management and archives units are essential parts of institutions. These units are important for a better administration to provide people with freedom of right to information and for institutions to fulfill their obligation to provide information.

Records management and archives applications can basically be defined as the administrative and social activities made for the continuation of the governments. The formation of records management and archives unit at institutions can differ according to the administrative structure of the countries; however, its existence and necessity do not change. Therefore, they have a universal quality.

“Citizens can take part in the government and speak for their rights only if the government which is one of the two sides enable access – as a necessity of the system – to the information and records held. It should not be forgotten that government records do not constitute the basis of only institutions, administrations and administrators, but also the society, and the continuation of the regime” (Özdemirci, 1999).

Right to information acts have an important role in giving information on government records and safe access to the information. In this context, archival aspect of right to information acts should not be forgotten.

In a country, inadequacy in records management and applications obviously has negative effects in the execution of the law on the right to information.

In Turkey, for instance, there are yet no “national archives act” covering records and archives of institutions, although there are some legal and administrative provisions for present applications. Countries having national archives acts consider the records management and archival aspect of right to information acts and government records in view of these acts. In Turkey, however, it is inevitable to face several difficulties in applying right to information acts because of the shortcomings like these.

### **3. Turkish law on right to information and records management approaches**

In Turkey since 1990s, right to information and related regulations have been baselines of the subjects in reconstruction of public administration, programs of parties and the government, election reports, and five-year development plans (Başbakan Abdullah Gül Tarafından TBMM’ne Sunulan 58’nci Hükümet Programı, 2002; Değişimin Yönetimi İçin Yönetimde Değişim: Kamu Yönetiminde Yeniden Yapılanma-1, 2003; Kamu Yönetimi Araştırması (KAYA): Genel Rapor, 1991; Kamu Yönetimi Temel Kanunu Tasarısı: Kamu Yönetiminde Yeniden Yapılanma-2, 2003; Kamu Yönetiminin Temel İlkeleri ve Yeniden Yapılandırılması Hakkında Kanun (Tasarısı), 2004; Uzun Vadeli Strateji ve Sekizinci Beş Yıllık Kalkınma Planı, 2000).

These initiatives are proof of the first mentioning of right to information among the works of reconstruction of the public administration. Especially after the “Public Administration Research Report” (known also KAYA report) (Kamu Yönetimi Araştırması (KAYA): Genel Rapor, 1991), one can see that right to information has been mentioned more often as a part of our development plans, governmental programs. However, it took 13 years to put this need

into law. During this period, the previous governments prepared several drafts of law however they were not successful in turning them into law.

Moving force in the development of legal changes, in regard to right to information in the country, has been studies relating to legislations of the European Union for conformity.

It has become a necessity to enact a number of laws within the framework of the “Turkish National Programme for the Adoption of the Acquis” ([Turkish National Programme for the Adoption of the Acquis, 2003](#)). A number of laws have been enacted recently. One of them is “Turkish law on the Right to Information (Law no. 4982)” ([Turkish Law on the Right to Information, 2005](#)) and the other one is regulation prepared to easy understanding of the above law, which is titled: “Regulation Concerning Procedures and Principles Relating to the Application of Right to Information Act (Council of Ministers decided, no. 2004/7189)” ([Bilgi Edinme Hakkı Kanununun Uygulanmasına İlişkin Esas ve Usuller Hakkında Yönetmelik, 2004](#)).

These changes require that institutions are to keep the records in order and make them available for services for information and research. In addition, by this law, institutions will have to found records management units to manage the current and future records. And this will be a factor in institutionalizing of records management and archives applications. Moreover, it is obligatory to appoint records managers at these institutions for these activities. Otherwise, it will not be possible to get required results out of this law.

The draft Law on the Principles of Public Administration and its Reorganization ([Kamu Yönetiminin Temel İlkeleri ve Yeniden Yapılandırılması Hakkında Kanun \(Tasarısı\), 2004](#)) which has been planned to be enacted, along the line of the legislations of the European Union, requires that government institutions should make necessary arrangements for the right to information to meet the needs of the general public (Article nos. 5, 41). This draft law has not been enacted yet. When it goes into effect, organizational structures of institution will change and the central government will transfer some of its authorities to local administrations. It means that the central administration will be restructured. As a result of this significant change, the organization of the archival services and records management practices will take a new form. The General Directorate of the Turkish National Archives is making necessary preparations for this change and working on the new law for the archives. When completed this law is expected to provide means and ways for the use of the law on the right to information.

### *3.1. Turkish law on the right to information (Law No. 4982)*

The law was adopted in October 2003 and was put into force in April 2004. The current law consists of 5 parts and 33 articles: (1) Object, Scope, and Definitions; (2) Right to Information and the Obligation to Provide Information; (3) Application for Access to Information; (4) The Restrictions on the Right to Information; (5) Miscellaneous.

This law is intended to include provisions for the proper management of the Right to Information in a democratic society where equality, openness, and impartiality are highly valued. It comprises government agencies and other institutions that function in a similar fashion (Article nos. 1–2).

The law emphasizes that all types of information materials owned by the government agencies and institutions such as files, documents, journals, pamphlets, plans, films, drawings,

books, letters, photographs, videos, maps, electronical, and digitized materials are considered important sources of archival documents which need to be utilized in the application for the right to information. Access to those materials and information, depending on their quality and rarity, will be facilitated by providing copies, if not possible, users will be permitted to examine the original materials and take necessary notes (Article no. 3).

Everyone in the country has equal access to information. The new law stresses the importance of this right. Foreigners residing in Turkey and foreign institutions engaged in business, cultural, educational, and research activities have the same right to access information, provided that information is related to their field of activities. Moreover, the principle of reciprocity is another requirement that must be taken into consideration (Article no. 4).

Applications for the use of information maybe submitted to institutions where applicants can also reach by way of electronic means. Responses from institutions are given by the same channels within 2 weeks (Article nos. 6, 11–12).

It is important to note that all kinds of publications, pamphlets, ads, and information put out by government agencies and institutions may also be obtained from other information centers such as libraries and documentation centers (Article nos. 7–8).

Unfortunately, the law does not specify which unit will be in charge of records management and archival services. This deficiency is expected to be remedied with the enactment of the draft Law on the Principles of Public Administration and its Reorganization and within this framework, the Law of the National Archive, a by-product.

The Article 14 defines the structure and duties of The Board of Review of the Access to Information. This Board formed by nine members with legal background, none of whom is a records manager or archive specialist. For this reason, the right to information is seen as a legal process. It is understood that records management and archival aspect of the information right to process is undervalued. However, the use of right to information is directly related with the quality of both records and archives units of institutions and their services. People specialized in records management and archives should also take part in a board like this. It is necessary to do away with this shortcoming.

In accordance with the same article, requiring “The Board can set up commissions and working groups on the matters determined,” a commission should be set up to counsel records management and archives units at institutions. Otherwise, both the Board and the institution meeting the application for access to information might have trouble solving the problems proceed from the shortcomings in carrying out the records management and archives. A permanent commission on this subject should be formed. By the regulations to be released in accordance with the provisions of this article stating that a regulation is to be released by Prime Ministry concerning the procedures and basis for the activities and tasks of the Board, records management and archives services commission should be set up.

### *3.2. Regulation concerning principles and procedures relating to the application of right to information act (Council of Ministers decided no. 2004/7189)*

“The right to information act” numbered 4982, in accordance with Article 31 “Regulation Concerning Procedures and Principles Relating to the Application of Right to Information

Act” decided by Council of Ministers on 19.04.2004, published in Official Gazette dated 27.04.2004 and numbered 25445 to be valid 24.04.2004 onwards.

The regulation comprises six (6) parts and has 46 articles as well as 6 provisional articles and 2 appendixes.

Provisions of the regulation relating to records and archives studies based on Article 31 of Right to Information Act appear in part two titled “Right to Information, the Obligation to Provide Information and Procedures of Providing Information.”

Provisions under the title “The Obligation to Provide Information” in Article 5 of the law are repeated in Article 6 of the regulation under the title “The Measures to Be Applied Under the Obligation to Provide Information” and followed by explanations relating to the matter. “Necessary administrative and technical measures” mentioned in the Law and Regulations is explained further in Article 6:

“Article 6—The institutions are required to apply necessary administrative and technical measures to provide every kind of information and document, with the exceptions set out in this law, to provide the information for applicants; and to review and decide on the applications for access information promptly, effectively and correctly.

Institutions shall classify all the information or documents available which might concern the application for access information in a way to facilitate the use of right to information. For this reason, institutions shall apply the necessary administrative and technical measures relating to records registration, filing, and archives procedures.

In order to lower the burden resulting from the applications of information, and therefore enable effective use of the right to information, institutions, by using information technologies, shall inform the public of

- (a) subjects of the information or documents related to the field of their work and service, and the institution file plans showing in which units these subjects are;
- (b) decisions and transactions, purchase of goods and service, sales, projects, and annual reports related to the field of their work and service; and
- (c) law and regulations, decision of Council of Ministers or other regulations, and the date and number of Official Gazette if published, amendments related to the field of their work and service.

Final activity and audit reports shall be available to public examination by using appropriate means.

In order to lower the burden resulting from the applications for the access to information, and therefore enable effective use of the right to information, institutions shall reform their institutional Internet pages under the provisions of this article. Institutions covered by these regulations shall provide the public with information on the basis of every unit on one institutional Web page or in obligatory conditions using a link to the units on the page.

Institutions shall arrange the subjects of information or document related to the field of their work and service, and the institution file plans showing in which units these subjects are in accordance with the law. Institution file plans shall be kept in information units set up under public relations units of the institutions and adequate number of copies of these files shall be

spared for the use of the applicants. Another copy of the institution file plans shall be submitted on the Web page.”

The studies to be carried out here are related to the field of records management and archives management and require scientific approaches. Therefore, the institutions have to employ professionals trained in this field and they have to form records and archives units. However, neither in the law nor in the regulation can one see such an approach.

The law in question here is archives regulations prepared alone by the institutions and based on “Regulation Relating Governmental Archives Services” ([Devlet Arşiv Hizmetleri Hakkında Yönetmelik, 1988](#)), which was released by Governmental Archives General Directorate in order to carry out archive services at the institutions and which was based both on “The Law Relating to Prime Ministry Organization” ([Başbakanlık Teşkilatı Hakkında KHK'nin Değiştirilerek Kabulü Hakkında Kanun, 1984](#)) numbered 3056, and on “The Law Relating the Amendment and Adoption of the Law Relating Destroying Documents and Supplies No Longer Used” ([Muhafazasına Lüzum Kalmayan Evrak Ve Malzemenin Yok Edilmesi Hakkında KHK'nin Değiştirilerek Kabulü Hakkında Kanun, 1988](#)) numbered 3473.

All those archive regulations, being in effect since 1988, have been prepared for the purpose of organizing file plans in the government agencies and transferring their documents to the government archives. Sadly, these regulations could not be implemented simply due to the lack of units to carry out the services and the trained personnel. With the enactment of the law of the right to information, the issue is before us once again.

As it is stressed in the Right to Information Act and Regulation, archives procedures such as registration, filing, and classifying play an important role in responding the applications for access to information and records. Unless a unit to carry out these procedures is established by law and trained personnel are employed not only the problems of records management and archives will remain unsolved but also the expected result of Right to Information Act will not be achieved.

Also in Article 7 of the regulation, preparation of the information expected to be submitted on the Web pages to lower the burden resulting from the applications and carrying out this service can be realized by records management and archives units formed at institutions.

The Article no. 40 has been inserted in order to clarify the situation of the General Directorate of the Government Archives and other archives that provide research services.

This article reiterates that “The principles that Turkish or foreign natural or legal entities requesting search and inspection at government archives subjected” ([Devlet Arşivlerinde Araştırma ve İnceleme Yapmak İsteyen Türk veya Yabancı Uyruklu Gerçek veya Tüzel Kişilerin Tabi Olacakları Esaslar, 2002](#)), which was the Decision of Council of Ministers published in the Official Gazette on 01/3/2002, will be continued to be in use. Those principles mentioned include requirements of the use of these archives which provide research services to Turkish and foreign individuals and institutions.

The Regulation Concerning Procedures and Principles Relating to the Application of Right to Information Act states that institutions should provide their personnel with the necessary training relating to the application of the Law and Regulation (Article no. 43).

In this respect, training programs are needed for the records management and archives studies to be carried out at institutions. Government Archives General Directorate and Information and Records Management Departments of the universities should be consulted for the support needed in this matter.

Finally, the Regulation specifies the three Provisional Articles, which are as follows:

- (1) Right to information units shall be formed at institutions within a month in accordance with the provisions of Article 8.
- (2) Within 3 months starting from the publication date of this regulation, institutions shall prepare their institution file plans mentioned in Article 6 and inform the public of these by using information technologies.
- (3) Necessary amendments and other regulating procedures of institutions' records registration, filing, and archives arrangements shall be completed within 6 months.

With these provisional articles, the completion of the studies of government agencies and institutions are urged in the area of records management and archival operations.

#### **4. Conclusion**

Putting the Right to Information Act into action requires that institutions should establish records management and archives units in short notice. Bringing records management and archives units into life effectively requires the guidance and support of national archives that can be defined as “the centre founded by a law in order to manage the archives of central administration and to coordinate and guide other archives procedures and service, that is; the centre carrying out archives services of a country.” In order to obtain this support, it is imperative that the Turkish National Archive should be reorganized and the national archive law be enacted.

These days when right to information acts have just been adopted, establishing units at institutions to carry out records management and archives procedures and employing personnel trained in this field are important matters for both government records management and bringing freedom of information into life. There are four library and archive management schools in Turkey.<sup>1</sup> Graduate of these schools should be employed in archives.

With the enactment of the law and the regulation for the right to information, not all obstacles have been removed. The process just began. Problems that will arise will be solved gradually. All government agencies and institutions must make necessary provisions in order to eliminate all deficiencies, in the light of the new law and the regulation.

---

<sup>1</sup> Ankara University, Faculty of Letters, Department of Information and Records Management. Retrieved from <http://www.humanity.ankara.edu.tr/bilgibelge/English/enindex.htm>; Hacettepe University, Faculty of Letters, Department of Information and Records Management. Retrieved from <http://www.kut.hacettepe.edu.tr/genel.html>; Istanbul University, Faculty of Letters, Department of Information and Documentation Management. Retrieved from <http://www.istanbul.edu.tr/edebiyat/edebiyat/p3a8111.htm>; Marmara University, Faculty of Arts and Sciences Department of Information and Records Management. Retrieved from <http://fef.marmara.edu.tr/BBY/index.htm>.



Decisive steps to ensure the foundation of “records management and archives units” at institutions in accordance with the law and to establish the link with National Archives should be taken as soon as possible. In the meantime, the studies for the Turkish National Archive Act should be finalized.

In Turkey, the widespread of Internet use increases information demands of general public, private, and non-governmental organizations. In meeting these demands, the law for the right to information and the Regulation has an important place because it provides new ways and means to agencies and institutions to function more effectively.

In conclusion, the new law and the regulation will enforce the agencies and institutions to comply with new regulations required for the modernization of the archival applications and system of recordings.

It must be admitted that all the new legal arrangements has an important place in the sphere of public administration. We hope that the realization of these changes for better archival services will meet the aspirations of Turkish people, and others as well.

## References

- Banisar, David (2004). *Freedom of information and access to government records laws around the world: May 2004*. Available: [http://www.freedominfo.org/survey/global\\_survey2004.pdf](http://www.freedominfo.org/survey/global_survey2004.pdf) [02.07.2004].
- “Başbakan Abdullah Gül Tarafından TBMM’ne Sunulan 58’nci Hükümet Programı,” T.C. Resmi Gazete, 24951 (29.11.2002).
- Başbakanlık Teşkilatı Hakkında KHK’nin Değiştirilerek Kabulü Hakkında Kanun (3056 s.k.). *T.C. Resmi Gazete*, 18550 (19.10.1984), 1–11.
- Bilgi Edinme Hakkı Kanununun Uygulanmasına İlişkin Esas ve Usuller Hakkında Yönetmelik. *T.C. Resmi Gazete*, 25445 (27.04.2004). Available: <http://rega.basbakanlik.gov.tr>
- Değişimin Yönetimi İçin Yönetimde Değişim: Kamu Yönetiminde Yeniden Yapılanma-1. (2003). Ankara: T.C. Başbakanlık.
- Devlet Arşiv Hizmetleri Hakkında Yönetmelik. *T.C. Resmi Gazete*, 19816 (16.5.1988), 4–20.
- Devlet Arşivlerinde Araştırma ve İnceleme Yapmak İsteyen Türk veya Yabancı Uyruklu Gerçek veya Tüzel Kişilerin Tabi Olacakları Esaslar. *T.C. Resmi Gazete*, 24682 (01.03.2002). Available: <http://www.devletarsivleri.gov.tr> and <http://rega.basbakanlik.gov.tr>
- ISO (2001). *ISO 15489-1: Information and documentation—Records management: Part 1. General—First Edition-15.09.2001*. Available: <http://www.iso.org>
- Kamu Yönetimi Araştırması (KAYA): Genel Rapor (1991). Ankara: TODAİE. Available: <http://www.todaie.gov.tr/ekutuphane/kaya.pdf> [02.12.2004].
- Kamu Yönetimi Temel Kanunu Tasarısı: Kamu Yönetiminde Yeniden Yapılanma-2. (2003). Ankara: T.C. Başbakanlık.
- “Kamu Yönetiminin Temel İlkeleri ve Yeniden Yapılandırılması Hakkında Kanun (Tasarısı)” TBMM Tutanak Gergisi. Available: <http://www.tbmm.gov.tr> [25.12.2004].
- Milenkovic, Dejan (2004). Freedom of information. In Christian Möller and Arnaud Amouroux (eds.), *The media freedom Internet cookbook* (Vienna: Organization for Security and Co-operation in Europe-OSCE, 2004), pp. 191–202.
- Muhafazasına Lüzum Kalmayan Evrak Ve Malzemenin Yok Edilmesi Hakkında KHK’nin Değiştirilerek Kabulü Hakkında Kanun (3473 s.k.). *T.C. Resmi Gazete*, 19949 (4.10.1988), 2–4.
- Özdemirci, Fahrettin (1999). Arşivlerimizin Kurumsal Yapılanma Gereksinimleri=Structural Reorganization of Turkish Archives, in Özlem Bayram... (at all) (eds.), *Bilginin serüveni: Dünü, bugünü, yarını: Türk Kütüphaneciler Derneği’nin Kuruluşunun 50. Yılı Uluslararası Sempozyum Bildirileri 17–21 Kasım 1999*,

Ankara [*Adventure of information: It's past, present and future: 50th Anniversary of the Establishment of Turkish Librarians' Association Proceedings of the International Symposium, 17–21 November 1999, Ankara*]. (Ankara: TKD, 1999), pp. 366–383. Available: <http://www.humanity.ankara.edu.tr/bilgibelge/ozdemirciyayin.htm>

Turkish Law on the Right to Information (Law No. 4982). Available: <http://www.freedominfo.org/news/turkey> [26.01.2005]. Turkish version: Bilgi Edinme Hakkı Kanunu (K.No: 4982). *T.C. Resmi Gazete*, 25269 (24.10.2003). Available: <http://rega.basbakanlik.gov.tr>

Turkish national programme for the adoption of the Acquis. (Decision of the Council of Ministers Dated, 23 June 2003 No. 2003/5930). *Republic of Turkey Official Gazette*, 25178 (24 July 2003). Available: <http://www.abgs.gov.tr/NPAA/up.htm> [24.03.2005]. Turkish version: Avrupa Birliği Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programı (23 Haziran 2003 tarih ve 2003/5930 sayılı Bakanlar Kurulu Kararı) *T.C. Resmi Gazete*, 25178 Mükerrer, (24 Temmuz 2003). Available: <http://www.abgs.gov.tr/up2003/up.htm> [24.03.2005].

Uzun Vadeli Strateji ve Sekizinci Beş Yıllık Kalkınma Planı, 2001–2005. (2000). Ankara: DPT.

Fahrettin Özdemirci is an assistant professor in the field of records management and archives management. He has been working at Ankara University, Faculty of Letters, Department of Information and Records Management since 1990. He was granted with a PhD degree with his study titled “Records Management at Institutions” in 1995. He is currently teaching records management, archives management, and information legislation at Ankara University. He has several studies on these subjects.