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Council of Europe Access Info Group (AIG)

Comments submitted by Montenegro on the AIG's Baseline Evaluation Report on the implementation of the Council of Europe Convention on Access to Official Documents (CETS No.205) in respect of Montenegro

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Footnote 1:

The Parliament of Montenegro has omitted from the agenda the Law on Amendments to the Law on Free Access to Information. The Ministry of Public Administration has initiated the process of preparing a new Proposal for the Law on Free Access to Information, which was drafted in order to improve the existing standards and solve the problems that have been shown in practice, as well as to harmonize with the Directives and recommendations of the European Commission.

§18:

The authority may restrict access to information or part of information, among other things, if it is in the interest of protecting privacy from the disclosure of data provided by the law governing the protection of personal data, except for data related to:

- public officials in connection with the performance of public functions, as well as the income, property and conflict of interest of those persons and their relatives that are covered by the law regulating the prevention of conflicts of interest,
- funds allocated from public revenues, except for social benefits, health care and unemployment protection;

Access to information will be limited if the disclosure of the information would significantly threaten the interest from Article 14 of this law, i.e. if there is a possibility that the disclosure of the information would cause harmful consequences for an interest that is of greater importance than the interest of the public to know that information, unless there is an overriding public interest prescribed Article 17 of this law. Harmfulness test is not performed for information from Article 14 point 1 para. 1 and 2 of this law, i.e. for the cases mentioned above.

§20:

Article 15 prescribes the cases in which prescribed time limits apply.

§26:

Article 20 of the Law on Free Access to Information stipulates the following: The authority is obliged, in accordance with its competences, to help the applicant to gain access to the requested information.

If the request for access to information is incomplete or incomprehensible and therefore cannot be acted upon, the authority is obliged to invite the applicant to remedy the deficiencies in the request within eight days from the date of submission of the request and instruct him on how to remedy the deficiencies .

In the case referred to in paragraph 2 of this article, the deadline for resolution starts from the day of submission of the corrected request.

If the authority is not in possession of the requested information, it is obliged to, without delay, if it knows which authority is responsible for acting on the request for access to information, send the request to the competent authority and inform the applicant about it.

§27:

It should be deleted here (Article 28) since the request is not rejected in accordance with it (Article 30 paragraph 1 should be added).

§30:

The costs of the procedure are prescribed by the Regulation on reimbursement of costs in the procedure for access to information. The parties know the costs in advance, since the information access guide contains, among other things, data on the costs of information access.

The decision that decides on the request for Free access to information also decides on the costs of the procedure, so that the applicant has the option of filing an appeal, and subsequently a lawsuit, if he is not satisfied with the decision.

§31:

During the drafting of the new Law, the given recommendation will be considered.

§54:

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