

## **Council of Europe Access Info Group (AIG)**

### **Comments submitted by Bosnia and Herzegovina 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 Bosnia and Herzegovina**

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*Bosna i Hercegovina*  
MINISTARSTVO PRAVDE



*Босна и Херцеговина*  
МИНИСТАРСТВО ПРАВДЕ

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MINISTRY OF FOREIGN AFFAIRS  
OF BOSNIA AND HERZEGOVINA  
SARAJEVO

Subject: Council of Europe Convention on Access to Official Documents (CETS-205), Tromso Convention, Basic Evaluation Report on Bosnia and Herzegovina

- answer, delivered,

Reference: 07/2-33-05-4-21059-1/24 of June 13, 2024.

With the above mentioned acts, number and date of reference, the Ministry of Foreign Affairs of Bosnia and Herzegovina has submitted to the Ministry of Justice of Bosnia and Herzegovina the Report of the Council of Europe on the fundamental evaluation regarding Bosnia and Herzegovina, dated June 11, 2024, which relates to the implementation of the Council of Europe Convention on Access to Official Documents (CETS-205) - Tromso Convention.

With the above mentioned act, the Ministry of Justice of Bosnia and Herzegovina was given the opportunity to submit any objections and comments on the Report of the Council of Europe, in order to be taken into consideration before the official publication of the Report.

In accordance with the abovementioned, within the specified deadline, attached, including the English translation, we submit the comments of the Ministry of Justice of Bosnia and Herzegovina on the Report on the Fundamental Evaluation regarding Bosnia and Herzegovina on the implementation of the Council of Europe Convention on Access to Official Documents (CETS-205) - Tromso Convention, as well as the translation of the Law on Freedom of Access to Information at the level of institutions of Bosnia and Herzegovina.

Yours Sincerely,

Secretary General of Ministry

Željko Bogut

COMMENTS OF THE MINISTRY OF JUSTICE OF BOSNIA AND HERZEGOVINA ON THE  
TEXT OF THE REPORT ON THE FUNDAMENTAL EVALUATION REGARDING BOSNIA AND  
HERZEGOVINA ON THE IMPLEMENTATION OF THE COUNCIL OF EUROPE  
CONVENTION ON ACCESS TO OFFICIAL DOCUMENTS (CETS-205) - TROMSO  
CONVENTION OF JUNE 11, 2024.

1.

**COMMENT ON POINT 79. OF THE COUNCIL OF EUROPE REPORT:**

**LEGAL ENTITIES**

At the level of institutions in Bosnia and Herzegovina, legal entities exist as legal entities established by the institutions of Bosnia and Herzegovina and to which the provisions of the Law on the Registration of Legal Entities, established by the Institutions of Bosnia and Herzegovina, apply ("Official Gazette of BiH", no. 37/03 and 76/11), and as independent institutions established by special laws. - Article 1, paragraph (1) of the Law on Freedom of Access to Information at the level of institutions of Bosnia and Herzegovina (Official Gazette of BiH, number 61/23):

“(1) This Law prescribes the right to access information and re-use documents in the possession of government institutions of Bosnia and Herzegovina, legal entities that establish institutions of Bosnia and Herzegovina in accordance with the provisions of the Law on Registration of Legal Entities that Establish Institutions of Bosnia and Herzegovina ("Official Gazette of BiH" , Nos. 37/03 and 76/11) and independent bodies of Bosnia and Herzegovina established by a special law (hereinafter: institutions of BiH), which are implemented as prescribed by this Law”.

All the mentioned subjects are defined through the term "institution" - Article 5, Paragraph (1), point b) of the Law:

“b) **BiH Institution**, in the sense of the provisions of this Law, is a law-based body of legislative, judicial or executive power, which is entrusted by law to exercise public powers, is financed from public revenues, and is entrusted by a special law with administrative tasks at the level of Bosnia and Herzegovina. The institution of Bosnia and Herzegovina is also a legal entity established by the institutions of Bosnia and Herzegovina in accordance with the provisions of the Law on the Registration of Legal Entities Established by the Institutions of Bosnia and Herzegovina and other entities of Bosnia and Herzegovina established by a special law”.

2.

**COMMENT ON POINT 88 OF THE COUNCIL OF EUROPE REPORT:**

**PROCESSING OF REQUESTS**

The institution's handling of the submitted request for access to information is regulated through Part Five - Procedure for Exercising the Right to Access Information (Articles 22-29 of the Law).

The Council of Ministers of Bosnia and Herzegovina adopted the Guidelines to Access to Information at its 44th Session held on April 4, 2024. The Guidelines comprehensively regulate the procedure for submitting requests, handling requests, prescribed request forms, the manner and procedure for exercising the right to free access to information, and the handling of institutions, etc. It has been sent to all institutions of Bosnia and Herzegovina and is publicly available with the corresponding forms on the institutions' websites.

The Minister of Justice, based on the authorization from the Law contained in Article 18, paragraph (3) of the Law, has adopted the Regulation on the content and manner of keeping the Register of requests for access to information ("Official Gazette of BiH" number 35/24).

The Ministry of Justice of Bosnia and Herzegovina has prepared and sent two by-laws to the

Council of Ministers, which regulate the procedure as follows: Rulebook on types and content of conditions for reuse of documents (Article 33, Paragraph (5) of the Law) and Rulebook on content and keeping of records of exclusive rights for reuse of documents, whose adoption we expect.

Regarding the procedure for handling requests for reuse of documents, the procedure is prescribed through the provisions of the Law, Article 30-35 of the Law.

**3.**

### **COMMENT ON POINT 90 OF THE COUNCIL OF EUROPE REPORT**

#### **FEES**

The basic principle is that administrative fees for requests for access to information, as well as requests for reuse of documents, are not charged, and that the institution can only request reimbursement of actual material costs, such copies, scanning or costs of data carriers, as well as reimbursement of costs of delivering the requested information.

The institution of BiH is obliged to inform the applicant about the cost calculation. The amount of the fee and the method of fee collection in accordance with market prices shall be determined by the decision of the Council of Ministers of Bosnia and Herzegovina, upon the proposal of the Ministry of Finance and Treasury of Bosnia and Herzegovina. The income from the incurred costs is the income of the Budget of the institutions of Bosnia and Herzegovina. The law has prescribed administrative fees in Article 24 and Article 34 of the Law.

The Ministry of Finance and Treasury of Bosnia and Herzegovina is responsible for preparing and proposing Decisions to the Council of Ministers to regulate these issues in detail. The procedure is ongoing.

**4.**

### **COMMENT ON POINTS 92 AND 93 OF THE COUNCIL OF EUROPE REPORT**

#### **PROACTIVE DISCLOSURE OF INFORMATION**

Proactive disclosure of information is regulated by Article 14 of the Law. The organization and management of the Central Public Information Portal at the level of institutions of Bosnia and Herzegovina will be regulated by a by-law act, proposed by the General Secretariat of the Council of Ministers of Bosnia and Herzegovina, in accordance with Article 15, paragraph (3) of the Law.

It should be emphasized that the majority of institutions in Bosnia and Herzegovina already have published information on their websites, as prescribed by Article 14 of the Law