

TC-CP(2024)08
3 October 2024

Consultation of the Parties

Council of Europe Convention on Access to Official Documents (CETS No. 205)

Conclusions and recommendations on the implementation of the Council of Europe Convention on Access to Official Documents by Montenegro

The Consultation of the Parties to the Council of Europe Convention on Access to Official Documents (CETS No. 205) (hereinafter referred to as “the Convention”), acting under the terms of Article 12, paragraph 2, sub-paragraphs a and b, of the Convention;

Bearing in mind the provisions of Article 11, paragraph 1, of the Convention concerning the role of the Council of Europe Access Info Group (AIG) in monitoring the implementation of the Convention;

Bearing in mind the overarching obligation under Article 2, paragraph 2, of the Convention on each Party to take the necessary measures in its domestic law to give effect to the provisions for access to official documents set out in this Convention;

Having regard to the Rules of Procedure of the Consultation of the Parties;

Having examined the baseline evaluation report concerning the implementation of the Convention by Montenegro adopted by the AIG at its 6th meeting (29-31 May 2024) which focuses on the Law on Free Access to Information as well as the comments of the Government received on 15 July 2024;

1. Welcomes the following elements of the Law on Free Access to Information:
 - 1.1. the definitions of public authorities and official documents contained in the Law on Free Access to Information are in line with the requirements of Article 1, paragraph 2, of the Convention;
 - 1.2. the implementation of the principles of Article 2, paragraph 1, of the Convention;
 - 1.3. its compliance of the limitations on the right of access with the grounds and principles provided for in Article 3, paragraphs 1 and 2, of the Convention;
 - 1.4. its implementation of the requirements of Article 4 of the Convention regarding requests for access to official documents;
 - 1.5. its general compliance with the obligations of Article 5 of the Convention regarding the processing of requests for access to official documents;
 - 1.6. guaranteeing the access to official documents in accordance with the requirements and obligations of Articles 6 and 7 of Convention respectively on forms of and charges for access to official documents;
 - 1.7. its general compliance with the requirements of Article 8 of the Convention regarding review procedures;
 - 1.8. its measures to comply with Articles 9 and 10 of the Convention regarding respectively complementary measures and documents made public at the initiative of the public authorities;
2. In respect of the proposal being prepared by the Ministry of Public Administration on a new law on free access to information, requests Montenegro to submit to the AIG relevant information on the content of such new law when it is enacted.
3. Recommends that Montenegro:
 - 3.1. clarify in the Law on Free Access to Information the duty of the public authority to help the requester identify the requested official document, in line with Article 5, paragraph 1, sub-paragraph i, of the Convention (see paragraphs 26 and 54 of the AIG report);

- 3.2. bring Article 29(2) of the Law on Free Access to Information providing for refusal of applications for the same information within a period of six months into compliance with the condition of Article 5, paragraph 5, sub-paragraph ii, of the Convention that such applications be manifestly unreasonable (see paragraphs 31 and 54 of the AIG report);
4. Requests the government of Montenegro to report to the Consultation of the Parties on the measures taken to improve the implementation of the Convention pursuant to point 3 of the present conclusions by 6 October 2025.