

TC-CP(2024)09
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 Norway

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 Norway adopted by the AIG at its 6th meeting (29-31 May 2024) which focuses on the Freedom of Information Act as well as the comments of the Government received on 4 July 2024;

1. Welcomes the following elements of the Freedom of Information Act:

- 1.1. its application to all public authorities which fall within the scope of the Convention according to Article 1, paragraph 2, sub-paragraph a, i;
- 1.2. its guaranteeing the right of access to official documents held by public authorities to everyone, on request, without discrimination in compliance with Article 2, paragraph 1, of the Convention;
- 1.3. its compliance of the limitations on the right of access with the grounds provided for in Article 3, paragraph 1, of the Convention and the principle of harm test stipulated in Article 3, paragraph 2, of the Convention;
- 1.4. its implementation of the requirements and principles of Article 4 of the Convention regarding requests for access to official documents, Article 5 of the Convention regarding processing of requests for access to official documents, Article 6 of the Convention regarding forms of access to official documents, Article 7 of the Convention regarding charges for access to official documents, and Article 8 of the Convention regarding review procedures;
- 1.5. its measures to comply with Articles 9 and 10 of the Convention respectively on complementary measures and documents made public at the initiative of public authorities;

2. Recommends that Norway take the following measures identified on the basis of the AIG's report:

- 2.1. reconsider the qualification contained in §4, second paragraph of the Act – that official documents are those which relate to a public authority's area of responsibility or activities (paragraphs 15 and 63 of the AIG report);
- 2.2. ensure compliance of §22 of the Freedom of Information Act concerning exemptions in respect of documents concerning certain budget matters with Article 3, paragraph

- 1, of the Convention, which requires that the limitations shall be set down precisely in law (paragraphs 27 and 67 of the AIG report);
- 2.3. ensure that the duty to consider allowing full or partial access provided for in §11 of the Freedom of Information implements the overriding public interest principle in full compliance with Article 3, paragraph 2, of the Convention (paragraphs 32 and 68 of the AIG report);
3. Requests the government of Norway to report to the Consultation of the Parties on the measures taken to improve the implementation of the Convention pursuant to point 2 of the present conclusions by 6 October 2025.