

TC-CP(2024)10
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 Sweden

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

1. Welcomes the following elements of the second Chapter of the Freedom of the Press Act:
 - 1.1. its application to all public authorities which fall within the scope of the Convention according to Article 1, paragraph 2, sub-paragraphs a, i, 1 and 2, of the Convention, including as regards their other activities pursuant to Article 1, paragraph 2, sub-paragraphs a, ii, 1 and 2, of the Convention and to information recorded in any form and held by them;
 - 1.2. 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 of Articles 4 and 5 of the Convention regarding respectively requests for access to official documents and their processing;
 - 1.5. its general compliance with the requirements of Article 6 of the Convention regarding forms of access to official documents;
 - 1.6. its compliance with the requirements of Article 7 of the Convention regarding charges for access to official documents;
 - 1.7. guaranteeing general compliance with 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. Recommends that Sweden take the following measures identified on the basis of the AIG's report:

- 2.1. include in the Appendix to the Public Access to Information and Secrecy Act all state-owned companies or private bodies which exercise administrative authority in order to ensure compliance with Article 1, paragraph 2, sub-paragraph a, i, 3, of the Convention (paragraphs 9-10, 65 of the AIG report);
 - 2.2. include in its legislation the overriding public interest principle in full compliance with Article 3, paragraph 2, of the Convention (paragraphs 27,29, 68 of the AIG report);
 - 2.3. enshrine the right of the applicant to choose the form of access, unless the choice is unreasonable, in its legislation in compliance with Article 6, paragraph 1, of the Convention (paragraphs 46 and 70 of the AIG report);
 - 2.4. reconsider its reservation in relation to Article 8, paragraph 1, of the Convention in respect of decisions taken by the Government, ministers and the Parliamentary Ombudsmen (paragraphs 53-57 and 72 of the AIG report);
3. Requests the government of Sweden 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.