

AIG(2024)R7

13/12/2024

**Council of Europe Convention  
on Access to Official Documents (CETS No. 205) – the Tromsø Convention**

**ACCESS INFO GROUP**

**(AIG)**

---

**MEETING REPORT**

**7th meeting**  
13 – 15 November 2024

### **Item 1: Opening of the meeting and solemn declaration by a new member of the Group**

1. The Access Info Group (AIG) held its 7th meeting from 13 to 15 November 2024 in Strasbourg, with Helena JÄDERBLOM in the Chair. The list of participants appears in Appendix I.
2. Based on Rule 3 of the Group's Rules of Procedure, its newly elected member, Elona Hoxhaj, made her solemn declaration.

### **Item 2: Adoption of the agenda**

3. The Group adopted the agenda as it appears in document AIG(2024)OJ3.

### **Item 3: Election of the President and Vice-President**

4. Pursuant to Rules 6 and 7 of its Rules of Procedure, the Group elected Helena JÄDERBLOM as its President and Tetyana OLEKSIYUK as its Vice-President, both for a second term ending on 31 March 2026.

### **Item 4: Exchange of views with Ms Kristi Värk, Chairperson of the Consultation of the Parties**

5. Kristi VÄRK informed the Group about the 4th meeting of the Consultation of the Parties (2–4 October 2024) which had adopted recommendations and conclusions in respect of the first 11 Parties to the Convention based on the Group's baseline evaluation reports. The Consultation of the Parties had expressed its appreciation for the Group's work. It found encouragement in the fact that the AIG had concluded that most of the provisions of the Parties' freedom of information laws were compliant with the Convention.
6. The Consultation of the Parties asked the Parties to report on the measures taken to implement its recommendations within a period of one year, and, where necessary, to provide information within a month's time to the AIG in order to complete its evaluation.
7. Discussions at the meeting of the Consultation of the Parties had also brought to light some common questions among the Parties, particularly regarding the definition of an official document according to the Convention, including on whether a document's link to the sphere of responsibilities of public authorities is relevant to this definition. The question of the application of the Convention to draft documents was underlined. There were also some uncertainties about the implementation of the overriding public interest test provided for by Article 3 of the Convention. The Consultation of the Parties expressed its desire for dialogue with the AIG on these issues with a view to enhancing compliance with the Convention, while respecting the AIG's independence and role as the ultimate authority to interpret the Convention.
8. The Group thanked Ms VÄRK for this information and asked whether the Consultation of the Parties envisages any role for the AIG in the follow-up to conclusions and recommendations. Ms VÄRK noted that this issue had not yet been discussed by the Consultation of the Parties, but it would probably be appropriate that the information provided by the Parties on the recommendations addressed to them would be shared with the AIG.

9. The exchange of views also touched on the desirability of evaluating the implementation in practice of legal frameworks on access to official documents by the Parties. The President noted that it would be appreciated if the Parties to the Convention provided the AIG with good quality translations in one of the Council of Europe's official languages of their laws. She also underlined the openness of the Group to engage in dialogue with the Consultation of the Parties.

10. The Group agreed to discuss, at its next meeting, its role in respect of Parties' follow-up to the Consultation of the Parties' recommendations and conclusions. The Secretariat will provide relevant information on this issue taking into account, *inter alia*, the practice of other Council of Europe treaty-based monitoring bodies.

**Item 5: Examination of draft baseline evaluation reports on the implementation of the Council of Europe Convention on Access to Official Documents (CETS No.205) in respect of Albania and Armenia**

11. Based on Rules 34.2 and 34.3 of its Rules of Procedure, the Group examined and approved draft baseline evaluation reports in respect of Albania (AIG(2024)21REV) and Armenia (AIG(2024)22REV) and decided to transmit them to the relevant Parties for comments by 20 December 2024.

12. Based on Article 11, paragraph 2, of the Convention and Rule 31.1 of its Rules of Procedure, the Group decided to invite Access Info Europe and Article 19 to provide comments on its draft baseline evaluation reports in respect of Albania and Armenia by 20 December 2024.

**Item 6: Thematic discussion on the concept of “drawn up” and other elements of the definition of official documents provided for in Article 1, paragraph 2, of the Convention**

13. The Chair recalled that the Group had reserved its position on the concept of “drawn up”. In a round of general comments, the Group agreed that it should take into account other terms, concepts and provisions of the Convention, having due regard to the principles of treaty interpretation set out in Article 31 of the Vienna Convention on the Law of Treaties. The Convention prescribes the results that the Parties must achieve, not the means; there is no obligation in the Convention that the domestic law which implements it must follow its structure.

14. The Group discussed at length the literal meaning of the term “drawn up” and whether there was a degree of finality that a document must reach in order to fall under the scope of the Convention. It noted various elements which, depending on the document, would indicate that it is final, for example its hierarchical validation within the relevant public authority, its transmission to an external party, its registration in the record keeping system of the authority or its filing in archives of the authority. However, these elements are not necessarily general conditions for a document to be deemed as official and should be considered in the light of the definition of official documents given in Article 1, paragraph 2, sub-paragraph b, of the Convention as well as other provisions of the Convention.

15. Discussions also covered other topics and questions, such as the distinction between documents created in the context of a decision-making process and those created for purely internal or technical reasons; the finality of documents elaborated through collaborative work between multiple actors using advanced technological tools; producing compilations of

information from electronic databases; and whether material contained in the library of a public authority could be considered as held in the meaning Article 1, paragraph 2, sub-paragraph b, of the Convention.

16. As regards the issue highlighted by the Consultation of the Parties on whether a link between a document and the responsibilities or functions of a public authority was necessary for it to be considered as an official document, the Group recalled its conclusion contained in its relevant baseline evaluation reports. It noted that there are differences between legal systems in which public bodies operate. This issue must also be considered in the context of the definition of official documents in the Convention and in relation to its other provisions.

17. The Group concluded that the concept of “drawn up” in the Convention must be construed in a broad manner. Parties to the Convention must be allowed a certain margin of appreciation to define the remits of their laws, including by means of determining the point when a document should be considered as finalised. There should, however, be certain limits to the discretion allowed to the Parties, which must be identified having regard to all the requirements of the Convention regarding the right of access and its permissible limitations.

18. The Group agreed that at its next meeting, it will examine a draft opinion on the definition of “official documents” contained in Article 1, paragraph 2, sub-paragraph b, of the Convention. It asked the Secretariat to prepare, based on the discussions of the Group, a draft opinion for a first online reading ahead of its 8<sup>th</sup> meeting and proper examination at that meeting.

**Item 7: Presentation of Council of Europe co-operation activities in the field of access to information and freedom of expression by Ms Alina Tatarenko – Head of the Division for Cooperation on Freedom of Expression**

19. Ms TATARENKO presented the Council of Europe’s technical assistance and capacity-building activities with national authorities in various member States in the Western Balkans and the South Caucasus, as well in non-Council of Europe member States. The areas of work included transparency of media ownership, safety of journalists and quality of journalism.

20. Ms TATARENKO recalled that in the context of such work, the Council of Europe has in the past helped some member States prepare their process of ratification of the Convention. Currently, the agencies in charge of freedom of information issues in some non-Council of Europe member States, notably Morocco and Tunisia, have expressed an interest in accession to the Convention. The Division for Cooperation on Freedom of Expression will provide its support in this context, in close cooperation with the Secretariat of the monitoring mechanism of the Convention. Ms TATARENKO invited the AIG members to consider participating as experts in her Division’s cooperation activities.

21. The AIG welcomed the presentation and the enhanced co-ordination that is now in place between its Secretariat and the Division for Cooperation on Freedom of Expression, which is necessary to ensure consistency in the positions expressed on behalf of the Council of Europe on the right to access official documents. The Group expressed its openness to the Division drawing from the expertise of its individual members in its activities.

### **Item 8: Other Business**

22. In view of the receipt of Slovenia's report under Article 14, paragraph 1, of the Convention on 12 November 2024, the Group agreed that at its next meeting, it will examine the draft baseline evaluation report in respect of this Party. It decided to appoint Biljana BOŽIĆ and Elona HOXHAI as rapporteurs and asked them to prepare, with the support of the Secretariat, a draft report for examination at its 8th meeting.

23. The Group noted that, according to Article 14, paragraph 1, of the Convention, Spain should provide its report by 1 January 2025.

24. The Group noted difficulties that it has encountered during the baseline evaluation of the first 11 Parties to the Convention as regards having access to reliable translations of the main laws of the Parties on access to official documents. It agreed, therefore, that when transmitting its questionnaire to a Party pursuant to Rule 26.1 of its Rules of Procedure, it shall ask the Party concerned for an official translation of such law to be submitted to it in one of the official languages of the Council of Europe.

25. Also, the Group invited the Secretariat to remind the Parties of their obligation under Article 14, paragraph 2, of the Convention to send updates to the information they have already provided under the first paragraph of this provision of the Convention.

26. The Group exchanged briefly on possible areas for its thematic work. It agreed to have a discussion at its next meeting about the planning of its future work on the basis of relevant information to be provided by the Secretariat.

27. The Group agreed on the following dates for its meetings in 2025: 8<sup>th</sup> meeting, 3- 5 February; 9<sup>th</sup> meeting 14-16 May; and, 10<sup>th</sup> meeting, 19-21 November (provisionally agreed). It also agreed to hold its 8<sup>th</sup> and 9<sup>th</sup> meetings in the Council of Europe offices in Paris.

### **Item 9: Adoption of the list of decisions**

28. Pursuant to Rule 23.1. of its Rules of Procedure, the Group adopted the list of decisions as it appears in AIG(2024)LD7.

Appendix**List of participants****AIG MEMBERS****Helena JÄDERBLOM**

Chair of the AIG, President of the Supreme Administrative Court of Sweden

**Tetyana OLEKSIYUK**

Vice-chair of the AIG, Consultant on access to information issues

**Kestutis ANDRIJAUSKAS**

Deputy Director, Information Society Development Committee of Lithuania

**Inge Lorange BACKER**

Professor emeritus, Department of Public and International Law, University of Oslo, Substitute Parliamentary Ombudsman

**Biljana BOŽIĆ**

Chief Inspector and Head of Department for Free Access to Information, Agency for Personal Data Protection and Free Access to Information of Montenegro

**Elona HOXHAI**

Director General of RTI Directorate at Information and Data Protection Commissioner of Albania

**Thordis INGADOTTIR**

Associate Professor, Reykjavik University

**Päivi Hannele Korpisaari**

Professor in Communication Law, University of Helsinki

**Attila PÉTERFALVI *APOLOGISED***

President of the Hungarian National Authority for Data Protection and Freedom of Information

**Ivar TALLO**

Consultant on access to information issues

**SECRETARIAT**

**General Directorate  
Human Rights and Rule  
of Law / Direction générale  
Droits humains et État de  
droit (DG I)**

**David MILNER**

Secretary of the CDDH

Head of the Human Rights Intergovernmental Co-operation Division

**Elvana THACI**

Head of the Tromsø Convention Unit

Secretary of the AIG

Human Rights Intergovernmental Co-operation Division

**Anna-Lisa LAFAY**

Assistant Lawyer

Human Rights Intergovernmental Co-operation Division

**Corinne GAVRILOVIC**

Administrative Assistant

Human Rights Intergovernmental Co-operation Division