

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

Consultation of the Parties

Comments of Hungary on the conclusions and recommendations of the Consultation of the Parties on the implementation of the Council of Europe Convention on Access to Official Documents by Hungary

FOLLOW-UP TO THE CONCLUSIONS AND RECOMMENDATIONS OF THE CONSULTATION OF THE PARTIES IN RESPECT OF HUNGARY

[The Consultation of the Parties recommends that Hungary take the following measures identified on the basis of the AIG's report:¹]

2.1. reconsider the qualification of data of public interest in §3(5) of the Freedom of Information Act as information pertaining to the activities of and processed by the public authorities to which the Act applies or generated in the course of performing their public duties (paragraphs 8 and 60 of the AIG report);

First and foremost, it should be noted that Act LXXXV of 2024 on the amendment of certain laws for the purpose of deregulation in order to ensure legal competitiveness amended §3(5) of the Information Act (the definition of „data of public interest”) as the following:

“5. data of public interest means information or data other than personal data, recorded through any method or in any form, processed by, and pertaining to the activities of, or generated in the context of the performance of public duties by, an organ, **organization** or person performing state or local government duties as well as other public duties – **including bodies, organizations, or persons taking over such tasks** – defined by law, irrespective of the method in which it is processed and regardless of its singular or collective nature; in particular, data concerning subject-matter competence, territorial competence, organisational structure, professional activities and the evaluation of such activities, including their effectiveness, the type of data held and the laws governing its operation, as well as financial management and concluded contracts;”

This amendment further broadened the scope of the definition by clarifying that Information Act is also applicable to organizations, and also, that it is applicable when an organ or organization takes over a public task.

Hungary also reconsidered the relevant provisions of the Information Act and concluded that from a **practical standpoint** neither the legislation, nor the jurisprudence of the courts (especially the highest court of Hungary, the Curia), nor the practice of the National Data Protection and Freedom of Information Authority (hereinafter referred to as „NAIH”) supports the assumption that the qualification of data of public interest in the Information Act is incomplete.

However, we also greatly appreciate the participation of the Chair of AIG in the last meeting of the CoP and the further clarification provided on how the Convention is interpreted in this regard. Based on this fruitful dialogue, we will continue to examine the possibility of bringing our legislation into closer alignment with the Convention in the future.

2.2. bring official documents containing personal data within the scope of the right of access under the Freedom of Information Act and ensure that any limitations of access that may be necessary to protect personal data are carried out in accordance with Article 3, paragraph 1, sub-paragraph f, of the Convention (paragraphs 11-13 and 59 of the AIG report);

It should first be emphasized that this issue is currently being examined, taking into account the relevant case law of the domestic courts – and also the European Court of Justice in the field of protection of personal data.

However, we maintain our position that personal data related to information of public interest is currently fully public by virtue of the law. **Personal data is only redacted in exceptional**

¹ [TC-CP\(2024\)04](#)

cases, such as when there is no connection between the data subject and the information of public interest. In contractual relationships or in support payments in connection with the use of public funds (or even in the case of subsidiary partners), the personal data of the parties concerned shall be fully public.

This is also enshrined in Article 39 of the Fundamental Law which is also binding on all public authorities:

“Article 39

(1) Support or contractual payments from the central budget may only be granted to organisations of which the ownership structure, the organisation and the activity aimed at the use of the support is transparent.

(2) Every organisation managing public funds shall be obliged to publicly account for its management of public funds. Public funds and national assets shall be managed according to the principles of transparency and the purity of public life. Data relating to public funds and national assets shall be data of public interest.

(3) Public funds shall be the revenues, expenditures and claims of the State.”²

2.3. ensure compliance of limitations of the right of access to classified information (§27(2) of the Freedom of Information Act) with Article 3, paragraph 2, of the Convention (paragraphs 22-25 and 64 of the AIG report);

In this regard, it should be noted that on September 15, 2025, the Minister heading the Prime Minister's Office introduced a draft Act to the National Assembly, entitled „**Amendments to the Act on the Protection of Classified Data and Other Related Acts, and Act CXXV of 1995 on National Security Services in Connection with Amendments Related to National Security Screening**”.³ The draft is expected to be voted on during the current session of the National Assembly. We will, of course, keep the CoP and the AIG informed of any developments.

Sections 19-21 of the draft amends the Act CLV of 2009 on the protection of classified data so that in the event when a request concerns classified data, **the classifier would be required to review the classification** within a maximum of 21 days. According to the draft, it would also be mandatory to review the classification even without a request for data if there has been a change in the conditions of classification.

The draft would also amend the Information Act so that in future, a situation where the requested data of public interest is also classified national data, the request would not be automatically rejected. **In such cases, the classifier would have to carry out a review in accordance with the provisions of the Act on the Protection of Classified Data.**

If the data controller is also the classifier, it would have to carry out the classification on its own. If the data controller different in person from the certifier, the data controller must immediately take steps to inform the certifier and ask for an immediate review of the classification.

The procedure would remain unchanged in the subsequent stages. If the requesting party turns to a court against the refusal of his or her request, the court – with the suspension of its own proceedings – shall initiate the so-called **authority procedure for the supervision of data classification** before the NAIH (as laid down in Subtitle 33 of the Information Act⁴). If the requesting party turns to the NAIH instead turning to the court, the NAIH will conduct the same proceeding ex officio. In this procedure, the NAIH also has the right to review (including the

² <https://njt.hu/jogszabaly/en/2011-4301-02-00>

³ Draft No. T/12537. <https://www.parlament.hu/irom42/12537/12537.pdf>

⁴ See our initial report for detailed information on this procedure [AIG/Inf(2022)10REV, 18-19. pp.]

modification) the classification of the requested data. It should be emphasized, that in the so-called authority procedure for the supervision of data classification, an independent judicial remedy may also be sought against this decision of the NAIH.

Regarding recommendations **2.4.-2.6**, we continue to examine the content of these recommendations and will keep the AIG and the CoP informed on any further developments