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## STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

### Promoting access to official documents

#### Introduction

1. On 18 June 2009, the Council of Europe Convention on Access to Official Documents (CETS n° 205) was opened for signature and ratification in Tromsø (Norway). This Convention was prepared by the Group of Specialists on access to official information (DH-S-AC). The principle which governed the work was that all official documents are in principle public and should only be withheld in order to protect other rights and legitimate interests.
2. At its 87<sup>th</sup> meeting (June 2017), the CDDH highlighted the need for a rapid entry into force of this instrument, which will enter into force following ten ratifications. Currently, 9 member States<sup>1</sup> have ratified it and 6 others have signed but not ratified it.
3. The follow-up of this treaty, assigned to the CDDH by the Committee of Ministers, the CDDH decided in June 2017 to organise an event during the next biennium which would, *inter alia*, allow member States to make their positions on this Convention known and also involve civil society during the next biennium.
4. At its 98<sup>th</sup> meeting (21-22 November 2017), the Bureau of the CDDH noted that the follow-up on the issue of the right to access to official documents, which appears in the Agenda of the 88<sup>th</sup> meeting of the CDDH (5-7 December 2017) interests some delegations in particular, while for others it is not a priority topic.
5. The Bureau noted that a half-day Workshop could be held during the plenary meeting of

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<sup>1</sup> As of 5 December 2017, the Convention has been signed by Belgium, Georgia, Serbia, Slovenia and “The former Yugoslav Republic of Macedonia”, and ratified by Bosnia and Herzegovina, Estonia, Finland, Hungary, Lithuania, Montenegro, Norway, Republic of Moldova and Sweden. 10 ratifications are required for it to enter into force.

the CDDH in November 2018 and that this event could be organised under the Finnish Chairmanship of the Committee of Ministers (November 2018 - May 2019).

- According to the Bureau, the Workshop could cover the issue of access to official documents and, in this context, on the position of member States with respect to Tromsø Convention.
6. At this preliminary stage, it should be considered if one of the following **themes** could be chosen for discussion at the Workshop:
- Existing good practices concerning access to official documents, including by electronic means;
  - Difficulties encountered, including possible disadvantages caused by digital systems of access to official documents;
  - Council of Europe norms and norms of other bodies in the field of access to official documents;
  - The added value of the Tromsø Convention; possible interest of completing/revising this instrument or its explanatory report; in particular, analysis of envisaged limitations to Article 3 of the Convention; analysis of measures to ensure the right to a private life faced with access of third-parties to official documents;
  - The possible interest of completing/revising the 2014 Guide on access to official documents; means to ensure a better diffusion of it.
7. The possible **participation** of the following bodies could be envisaged:
- Representatives from member States and observers from the CDDH;
  - Concerned bodies of the Council of Europe, such as the European Committee on Legal Co-operation (CDCJ), Steering Committee on Media and Information Society (CDMSI), Bureau of the Consultative Committee of the Convention for the protection of individuals with regard to automatic processing of personal data, European Commission;
  - European Union Agency for Fundamental Rights (FRA);
  - *Access Info Europe*,<sup>2</sup> *Article 19*,<sup>3</sup> *Open Society Justice Initiative*,<sup>4</sup> *International Council on Archives*.

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<sup>2</sup> An international NGO focused on researching and mapping actual levels of decision-making transparency. Its General Activity Report (2015) is the first mapping ever carried out in Europe. It carries out its work with partner organisations across the European region.

<sup>3</sup> A human rights NGO working at the global level for the protection and promotion of freedom of expression. Its name comes from Article 19 of the Universal Declaration of Human Rights, which guarantees freedom of expression.

<sup>4</sup> A human rights NGO emerging from *Open Society Foundation*, which promotes the right of access to information as a way to achieve good governance in democratic societies.

8. The present document will be completed by a collection of relevant texts, such as Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents; Recommendation Rec(2002)2 of the Committee of Ministers to member states on access to official documents (21 February 2002); the CDDH Guide on access to official documents (2004); and Report 11698 of the Parliamentary Assembly (12 September 2008).<sup>5</sup>

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<sup>5</sup> In this text, the Assembly welcomed “the draft Council of Europe convention on access to official documents as the first binding international legal instrument which recognises the general right of access to official documents held by public authorities” and shared “the conviction expressed in the explanatory report to the draft convention which emphasises that “Transparency of public authorities is a key feature of good governance and an indicator of whether or not a society is genuinely democratic and pluralist”.