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**29/11/2021**

## **Rules of Procedure of the Consultation of the Parties – Council of Europe Convention on Access to Official Documents (CETS No. 205) – Tromsø Convention**

The Consultation of the Parties having regard to the Council of Europe Convention on Access to Official Documents (CETS No. 205), hereinafter referred to as “the Convention”, pursuant to Article 12, paragraph 3 of the Convention, adopts the following rules:

### **Rule 1 – Functions**

- 1.1. Pursuant to Article 11, paragraph 3 of the Convention, the Consultation of the Parties shall elect the members of the Group of Specialists on Access to Official Documents (hereinafter referred to as the Council of Europe Access Info Group) in accordance with rules on the election procedure of the Access Info Group adopted by the Committee of Ministers.<sup>1</sup>
- 1.2. Pursuant to Article 12, paragraph 2 of the Convention, the Consultation of the Parties shall take place with a view to:
  - a. considering the reports, opinions and proposals of the Council of Europe Access Info Group;
  - b. making proposals and recommendations to the Parties;
  - c. making proposals for the amendment of this Convention in accordance with Article 19;
  - d. formulating its opinion on any proposal for the amendment of this Convention made in accordance with Article 19.

### **Rule 2 – Composition**

- 2.1. Members
  - a. The Consultation of the Parties shall be composed of one representative per Party to the Convention, in accordance with Article 12, paragraph 1 of the Convention. Members of the Consultation of the Parties shall have the right to the defrayal of expenses. Where necessary, the Party which holds the Chairmanship of the Consultation of the Parties may appoint a second representative with the right to the defrayal of expenses.

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<sup>1</sup> At the time of the adoption of the present Rules the election procedure is set out in Resolution CM/Res(2021)2 on rules on the election procedure of the members of the Group of Specialists on Access to Official Documents Adopted by the Committee of Ministers on 3 March 2021 at the 1397<sup>th</sup> meeting of the Ministers' Deputies.

- b. The Parties to the Convention shall endeavour to nominate as their representatives experts of the highest possible rank in the field of access to official documents, freedom of expression and access to information and with knowledge of the Convention.
- c. The Parties shall promptly notify the Secretariat of the Convention (hereinafter referred to as “the Secretariat”) of any change in the nomination of their representative.

## 2.2. Participants

- a. The following may appoint representatives to participate in the meetings of the Consultation of the Parties without the right to vote:
  - i) the Committee of Ministers of the Council of Europe;
  - ii) the Parliamentary Assembly of the Council of Europe;
  - iii) the Congress of Local and Regional Authorities of the Council of Europe;
  - iv) the European Court of Human Rights;
  - v) the Council of Europe Commissioner for Human Rights;
  - vi) the Conference of International Non-Governmental Organisations of the Council of Europe;
  - vii) any other Council of Europe body invited to do so by the Committee of Ministers of the Council of Europe after consulting the Consultation of the Parties.

Where applicable, the defrayal of expenses of these participants shall be governed by the rules or terms of reference of the institutions and bodies listed above.

- b. The following may appoint representatives to participate in the meetings of the Consultation of the Parties without the right to vote or the defrayal of expenses:
  - i) States or international organisations which have ratified or acceded to the Convention but for which it has not yet entered into force;
  - ii) States or international organisations which have signed but not yet ratified the Convention;
  - iii) States or international organisations invited to accede to the Convention;
  - iv) the European Union.

## 2.3. Observers

- a. The Consultation of the Parties may authorise States and international organisations other than those mentioned in Rule 2, paragraph 2.2., (b) of the present Rules to send representatives as observers to its meetings on an ad hoc basis.
- b. The Consultation of the Parties may authorise intergovernmental organisations to send representatives as observers to its meetings, in particular:
  - i) the United Nations;
  - ii) the Organisation for Security and Co-operation in Europe (OSCE);
  - iii) the United Nations Educational, Scientific and Cultural Organisation (UNESCO);
  - iv) the Organisation of American States (OAS);

- v) other intergovernmental organisations and any other entity authorised to participate in meetings of steering and ad hoc committees by virtue of a resolution or decision of the Committee of Ministers of the Council of Europe.
- c. The Consultation of the Parties may authorise representatives of national human rights institutions that are responsible for protecting and promoting the right to access official documents as well as representatives of civil society and non-governmental organisations with expertise in the field of access to official documents, freedom of expression and access to information, to send representatives as observers to its meetings.
- d. Observers shall have no right to vote or to the defrayal of expenses.

### **Rule 3 – Restricted composition**

The Consultation of the Parties may decide to hold sessions in a more restricted composition than that provided for in Rule 2 of the present Rules without restricting the participation of the members as defined in Rule 2, paragraph 2.1., in any session.

### **Rule 4 – Chair and Vice-Chair**

- 4.1. The Consultation of the Parties shall elect a Chair and a Vice-Chair from among its members entitled to vote. The election of the Chair and Vice-Chair shall require a two-thirds majority at the first ballot and a simple majority at the second ballot.
- 4.2. The elections are held by secret ballot, unless the Consultation of the Parties decides otherwise by unanimity.
- 4.3. The term of office of the Chair and Vice-Chair shall be one year. It may be renewed once.
- 4.4. The Chair shall conduct proceedings and sum up the conclusions whenever she/he thinks necessary. She/he may call to order a speaker who departs from the subject under discussion or from the functions of the Consultation of the Parties set out in Rule 1 of the present Rules. The Chair shall retain the right to speak and to vote in her/his capacity as a member of the Consultation of the Parties except in cases where one additional representative from the same Party has been appointed to sit on the Consultation of the Parties. The Chair shall perform all other functions conferred upon her/him by these rules of procedure or by the Consultation of the Parties.
- 4.5. The Vice-Chair shall replace the Chair if the latter is absent or otherwise unable to preside over the meeting. If the Vice-Chair is absent, the Chair shall be replaced by a member of the Consultation of the Parties appointed by the latter.
- 4.6. The Chair, the Vice-Chair or any other member carrying out the duty of chairing the meeting, shall be replaced in the Chair during the adoption of recommendations under Rule 1, paragraphs 1.2., (a) and (b) of the present rules concerning the Party she/he is representing. As from the second meeting of the Consultation of the Parties, the election of the members of the Council of Europe Access Info Group under Rule 1, paragraph 1.1. of the present Rules shall not be chaired by a member representing the Party which nominated candidates for the Council of Europe Access Info Group membership.

- 4.7. The Chair and the Vice-Chair shall function as the Bureau of the Consultation of the Parties. They shall supervise the preparation of the meetings, ensure continuity between meetings as necessary and execute other additional tasks delegated by the Consultation of the Parties.

#### **Rule 5 – Secretariat**

Pursuant to Article 13 of the Convention, the Consultation of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions as set out in Rule 1 of the present Rules.

#### **Rule 6 – Languages**

- 6.1. The official languages of the Consultation of the Parties shall be those of the Council of Europe (English and French).
- 6.2. A member of the Consultation of the Parties may speak in a language other than the official languages, in which case she/he must herself/himself provide for interpretation into one of the official languages.
- 6.3. Any document written in a language other than the official languages shall be translated into one of the official languages, the member, participant or observer submitting it being responsible for making the necessary arrangements and covering the costs.

#### **Rule 7 – Seat of the Consultation of the Parties**

The Consultation of the Parties shall be convened at the premises of the Council of Europe in Strasbourg.

#### **Rule 8 – Convening meetings**

- 8.1. Pursuant to Article 12, paragraph 3 of the Convention, the Consultation of the Parties shall be convened by the Secretary General of the Council of Europe within one year after the entry into force of the Convention in order to elect the members of the Council of Europe Access Info Group. Subsequently the Consultation of the Parties shall meet at least once every four years and, in any case, when the majority of the Parties, the Committee of Ministers or the Secretary General of the Council of Europe requests its convocation. It shall hold such meetings as are required for the exercise of its functions as set out in Rule 1 of the present Rules.
- 8.2. The Secretariat shall notify the members of, the participants in and the observers to the Consultation of the Parties of the date and opening time of the meeting, its duration and the subjects to be dealt with, as well as any other practical modalities. Convocations and preliminary draft agendas of meetings shall be circulated, except on grounds of urgency which shall be duly explained, at least six weeks prior to the meeting.

#### **Rule 9 – Agenda**

- 9.1. The Secretariat in consultation with the Chair shall draw up the draft agenda for a meeting.
- 9.2. The agenda shall be adopted by the Consultation of the Parties at the beginning of its meeting.

## **Rule 10 – Documentation**

- 10.1. The Secretariat shall be responsible for preparing and distributing working documents for the Consultation of the Parties and shall bring to its attention any relevant communications containing information submitted for the Consultation of the Parties' consideration.
- 10.2. The Agenda of the meetings and documents requiring a decision shall be sent, in both official languages, to the Consultation of the Parties at least three weeks before the opening of the meeting at which the decision is to be taken. In exceptional cases, the Consultation of the Parties may, if no member objects, consider a document submitted at a later stage. Maximum use should be made of information technology, including gathering together amendments and proposals, finalising texts and publishing decisions, provided in the latter cases that all the members of the Consultation of the Parties have been properly informed in good time.
- 10.3. Documents shall be made public after the meeting of the Consultation of the Parties for which they were prepared, unless the Consultation of the Parties decides otherwise.
- 10.4. At the end of each meeting, the Secretariat shall submit to the Consultation of the Parties a draft list of decisions taken during the meeting for its approval. The approved list of decisions shall be made public, unless the Consultation of the Parties decides otherwise.
- 10.5. Pursuant to Article 12, paragraph 4 of the Convention, the Consultation of the Parties shall submit to the Committee of Ministers an activity report after each meeting which shall be made public in accordance with Article 15 of the Convention. The activity report shall include an evaluation of the completed activities, a presentation of ongoing and planned work and a summary of the Consultation of the Parties' deliberations at its meeting.
- 10.6. No later than one month after the last meeting day of the Consultation of the Parties, the Secretariat shall submit to the Chair and the members of the Consultation of the Parties for their approval a draft of the activity report, in both official languages. Meeting reports shall be made public shortly after approval. The Consultation of the Parties may decide not to make public any part of a meeting report related to a session conducted in accordance with Rule 3 of the present Rules.

## **Rule 11 – Privacy of meetings**

- 11.1 Meetings shall not be public. They are opened to the representatives of the Parties, the Secretariat, participants and observers authorised to send representatives under the provisions of Rule 2, paragraph 2.3., of the present Rules.
- 11.2. The meetings shall be held in camera for the matters that must be discussed exclusively by representatives of the Parties and the Secretariat. These sessions shall be mentioned in the agenda of the meeting. Participants and observers shall not be present during these sessions.
- 11.3. Representatives of the Parties, members of the Secretariat and other persons assisting the Consultation of the Parties are required to maintain the confidentiality of the documents of the Consultation of the Parties and of the information of which they have become aware at meetings held in camera, unless the Consultation of the Parties decided otherwise.

## **Rule 12 – Working methods**

- 12.1. The Consultation of the Parties may appoint a rapporteur, a working group, or both.
- 12.2. The Consultation of the Parties may entrust a rapporteur or a limited number of its members with a specific task to be fulfilled by its next meeting.
- 12.3. The Consultation of the Parties may request, within the limits of budgetary appropriations, the Secretariat to have recourse to the service of one or more consultants.

## **Rule 13 – Hearings**

The Chair or the Consultation of the Parties may decide to organise hearings with any person considered to be in a position to contribute to the work of the Consultation of the Parties, within the limits of resources available.

## **Rule 14 – Proposals**

- 14.1. Any proposal must be submitted in writing in one of the official languages if a member so requests. In that case, it shall not be discussed until it has been circulated.
- 14.2. Proposals made by participants and observers may be put to a vote if sponsored by a member of the Consultation of the Parties.

## **Rule 15 – Quorum**

There shall be a quorum if two-thirds of the members of the Consultation of the Parties are present.

## **Rule 16 – Order of voting on proposals or amendments**

- 16.1. Where a number of proposals relate to the same subject, they shall be put to the vote in the order in which they were submitted. In case of doubt as to the order of priority, the Chair shall decide.
- 16.2. Where a proposal is the subject of an amendment, the amendment shall be put to the vote first. Where two or more amendments to the same proposal are presented, the Consultation of the Parties shall vote first on whichever departs furthest in substance from the original proposal. It shall then vote on the next furthest removed from the original proposal, and so on until all the amendments have been put to the vote. However, where the acceptance of one amendment necessarily entails rejection of another, the latter shall not be put to the vote. The final vote shall then be taken on the proposal as amended or not amended. In case of doubt as to the order of priority, the Chair shall decide.
- 16.3. Parts of a proposal or amendment may be put to the vote separately.
- 16.4. In the case of proposals with financial implications, the most costly shall be put to the vote first.

### **Rule 17 – Points of order**

During the discussion of any matter, a member of the Consultation of the Parties may at any time raise a point of order which shall immediately be decided upon by the Chair in accordance with these rules. Any appeal against the decision of the Chair shall immediately be put to a vote. A member may not, in raising a point of order, speak on the substance of the matter under discussion.

### **Rule 18 – Procedural motions**

Procedural motions shall take precedence over all other proposals or motions except points of order. They shall be put to the vote in the following order:

- a. suspension of the sitting;
- b. adjournment of discussion on the item in hand;
- c. postponement of a decision on the substance of a proposal until a specified date;
- d. closure of discussion on the item in hand.

### **Rule 19 – Reconsideration of a question**

When a decision has been taken it may only be re-examined if a member of the Consultation of the Parties so requests, and if this request receives a two-thirds majority of the votes cast.

### **Rule 20 – Voting**

- 20.1 Each member of the Consultation of the Parties shall have one vote.
- 20.2 Voting requires a quorum.
- 20.3 The decisions of the Consultation of the Parties are taken by a two-thirds majority of the votes cast.
- 20.4 Procedural questions shall be decided by a majority of the votes cast.
- 20.5 If any question arises as to whether a matter is procedural or not, it shall not be treated as procedural unless the Consultation of the Parties so decides by a two-thirds majority of the votes cast.
- 20.6 For the purposes of these rules, “votes cast” shall mean the votes of members cast for or against. Members abstaining shall be regarded as not having cast a vote.

### **Rule 21 – Specific rules for the election of the Council of Europe Access Info Group**

- 21.1. Rules 18, 19 and 20 of the present rules do not apply to the election of members of the Council of Europe Access Info Group.
- 21.2. The Consultation of the Parties shall examine the manner in which candidates for the Council of Europe Access Info Group membership are selected at national level, having due regard to the requirements set out in the rules on the election procedure of the members of the Council of Europe Access Info Group, in order to facilitate the exchange of information and good practices between the Parties and to improve national selection procedures.

- 21.3. Once a nomination of candidates for the Council of Europe Access Info Group membership has been submitted to the Secretary General of the Council of Europe, it shall not be modified before consideration by the Consultation of the Parties. A partial or complete modification of a nomination by the Party concerned shall only be accepted by the Consultation of the Parties on an exceptional basis.
- 21.4. A decision of the Consultation of the Parties to request the withdrawal of one or more candidates who do not meet the requirements for membership of the Council of Europe Access Info Group as set out in Rules 2 to 4 of the Rules on the election procedure of the members of the Group requires a two-thirds majority of the votes cast. For the purposes of the present rule, "votes cast" shall mean the votes of members cast for or against. Members abstaining shall be regarded as not having cast a vote.
- 21.5. The Secretariat shall draw up a matrix providing an overview of the nominations of experts for the Council of Europe Access Info Group membership and any member of the Council of Europe Access Info Group whose term of office will not end until after the term of office of the members to be elected begins. The Chair of the Consultation of the Parties shall be consulted in advance.
- 21.6. Voting requires a quorum.
- 21.7. The members of the Consultation of the Parties can only vote for one expert of each Party and give only one vote to each candidate.
- 21.8. The Consultation of the Parties shall elect members of the Council of Europe Access Info Group in as many rounds as may be necessary to fill the seats of the Council of Europe Access Info Group. In each round, up to a maximum of three seats can be filled. The candidate(s) who has/have received the most valid votes, and at least the votes cast by the majority of the members of the Consultation of the Parties, shall be elected as member(s) of the Council of Europe Access Info Group. In each round, the number of votes of each member of the Consultation of the Parties shall be the same as the number of seats to be filled in that round.
- 21.9. Should two or more candidates receive the same number of votes, resulting in more than the maximum number of candidates to be elected in any given round, the Consultation of the Parties shall proceed with a vote to elect one or more of these candidates as (a) member(s) of the Council of Europe Access Info Group.
- 21.10. Should the preceding paragraphs of this rule result in the election of two candidates of the same Party, only the candidate with the highest number of votes shall be elected as a member of the Council of Europe Access Info Group.
- 21.11. After a vote has commenced, there shall be no interruption of the voting except on a point of order raised by a member in connection with the voting.
- 21.12. Procedural matters shall be settled by a majority of the votes cast. For the purpose of votes on procedural matters, "votes cast" shall mean the votes of members cast for or against. Members abstaining shall be regarded as not having cast a vote.



**Rule 22 – Periodic meetings with the President of the Council of Europe Access Info Group**

The Consultation of the Parties shall periodically meet with the President of the Council of Europe Access Info Group to be informed about the state of the work of the Council of Europe Access Info Group and progress in preparing its reports and conclusions concerning the measures taken by the Parties to implement the provisions of the Convention, as well as any other issue relating to the functioning of the monitoring mechanism of the Convention.

**Rule 23 – Suspension of a Rule**

Upon the proposal of a member of the Consultation of the Parties, the application of a rule may be suspended by a two-thirds majority of the votes cast, subject to the Statute of the Council of Europe as well as the provisions and spirit of the Convention. The suspension of a rule shall be limited to its operation to the particular purpose for which such suspension has been sought.

**Rule 24 – Amendments to the Rules of Procedure**

The Consultation of the Parties may amend these rules of Procedure by a two-thirds majority of the votes cast.