

CDDH(2018)29

20/11/2018

STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

Access to official documents

Briefing note

Introduction

The present note recalls briefly the state of the discussions within the CDDH. It also contains:

- (i) Chart of signatures and ratifications of Council of Europe Convention on Access to Official Documents (CETS n°205)¹, treaty elaborated by the CDDH and opened to signature at Tromsø (Norway) on the 18th of June 2009 (**Appendix I**);
- (ii) Proposals for potential themes and participants for a future CDDH Workshop on the access to official documents (**Appendix II**)

Reminder of the state of the discussions

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).
 - (i) This Convention was prepared by the Group of Specialists on access to official information (DH-S-AC).

¹ See the [Convention](#) and the [Explanatory report](#)

- (ii) 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 87th 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
 - (i) Currently, 9 member States² have ratified it and 6 others have signed but not ratified it. 3. The follow-up of this treaty, has been assigned to the CDDH by the Committee of Ministers
 - (ii) The CDDH seized this opportunity to decide to organize an event which would, inter alia, allow member States to make their positions on this Convention known and also involve civil society.
 3. At the 89th meeting, several delegations reiterated their interest in raising awareness of the Tromsø Convention.
 4. In order to do so, the possibility of organizing a Workshop was raised. For instance, it could take place in the framework, for example, of the future Georgian Chairmanship of the Committee of Ministers (November 2019–May 2020), given that Georgia is the one of the member States that have already signed the Convention
 5. At its 90th meeting (27-30 November 2018), will be asked to exchange views on this issue. In this respect, at its 100th meeting (8-9 November 2018), the Bureau noted that Georgia intends to organize, during its future Chairmanship, a Conference on the environment, a topic where access to public information held by public authorities remains important.

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6. For information purposes, it should be recalled that the European Union adopted the Regulation (EC) No 1049/2001 which lays down the general principles and limits on the right of access to documents of the EU institutions, bodies, offices provided for in article 15 of the TFEU. It aims to ensure that citizens can exercise their right of access in the easiest possible way. Access can be requested to all documents drawn up or received by an institution, in all areas of EU activities.

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² As of 21 November 2015, the Convention has been signed by Belgium, Georgia, Serbia, Slovenia, Ukraine 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.

	Signature	Ratification	Entry into Force	Notes	R.	D.	A.	T.	C.	O.
Netherlands										
Norway	18/06/2009	11/09/2009				D.				
Poland										
Portugal										
Republic of Moldova	21/12/2010	02/09/2016								
Romania										
Russian Federation										
San Marino										
Serbia	18/06/2009									
Slovak Republic										
Slovenia	18/06/2009									
Spain										
Sweden	18/06/2009	19/04/2010			R.					
Switzerland										
“The former Yugoslav Republic of Macedonia“	18/06/2009									
Turkey										
Ukraine	12/04/2018									
United Kingdom										

Notes:

a: Accession; s: Signature without reservation as to ratification; su: Succession; r: Signature “ad referendum”.

R.: Reservations; D.: Declarations, Denunciations, Derogations; A.: Authorities; T.: Territorial Application;

C.: Communication; O.: Objection.

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Appendix II

**Proposals for potential themes and participants
for a future CDDH Workshop on the access to official documents**

1. Among the following topics, some of them could be chosen for discussion at the Workshop:

- (i) Existing good practices concerning access to official documents, including by electronic means;
- (ii) Difficulties encountered, including possible disadvantages caused by digital systems of access to official documents;
- (iii) Council of Europe norms and norms of other bodies in the field of access to official documents;
- (iv) 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;
- (v) The possible interest of completing/revising the 2014 Guide on access to official documents; means to ensure a better diffusion of it.

1. The possible **participation** of the following bodies could be envisaged:

- (i) Representatives from member States and observers from the CDDH;
- (ii) 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;
- (iii) European Union Agency for Fundamental Rights (FRA);
- (iv) *Access Info Europe*,³ *Article 19*,⁴ *Open Society Justice Initiative*,⁵ *International Council on Archives*.

³ 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.

⁴ 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.

⁵ 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.