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STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

The entry into force of the Council of Europe Convention on Access to Official Documents (CETS No 205) – Tromsø Convention

Information provided by the Secretariat

Introduction

1. On 19 August 2020, Ukraine became the tenth member State to ratify the Council of Europe Convention on Access to Official Documents (CETS No 205, hereinafter the Convention) allowing its entry into force on the 1st of December 2020, in accordance with Article 16 paragraph 3 of the Convention. The State Parties to the Convention are Bosnia and Herzegovina, Estonia, Finland, Hungary, Lithuania, Norway, Montenegro, the Republic of Moldova, Sweden and Ukraine.
2. Section II of the Convention contains provisions establishing a monitoring system which aims at ensuring the effective implementation of the Convention by the State Parties and developing the right of access to official documents. Two monitoring bodies are created through the Convention: the Group of Specialists on Access to Official Documents is a technical body, composed of independent and highly qualified experts in the area of access to official documents (see Article 11 of the Convention reproduced in the appendix below). Then there is a more political body, the Consultation of the Parties, composed of one representative per State Party (see Article 12 reproduced in the appendix).
3. The Secretary General is asked, under Article 12 paragraph 3 of the Convention, to convene the Consultation of the Parties “within one year after the entry into force of this Convention in order to elect the members of the Group of Specialists”. In this context the Secretariat is preparing the necessary legal instruments for the meeting the Consultation of the Parties and a meeting of the Group of Specialists in 2021. The purpose of this information note is to provide an overview of the main steps leading to these meetings.

Envisaged main steps

4. The Secretariat is aiming to convene a meeting with the State Parties in January 2021 to discuss the election procedure of the members of the Group of Specialists in accordance with Article 11 paragraph 5 of the Convention, to prepare the constitution of the Consultation of the Parties in Spring 2021 as well as to prepare for the submission of country reports by mid-year in 2021, in accordance with Article 14 paragraph 1 of the Convention. The Secretariat aims to outline some basic structural elements to guide the State Parties in the preparation of their country reports.

5. In Spring 2021, the Committee of Ministers will be invited to consider with a view to possible adoption a resolution on the election procedure for the Group of Specialists and a decision inviting State Parties to submit accordingly candidates for the Group of Specialists within a deadline of three months.

7. In Summer 2021, the Secretariat will draw up a list of experts for the membership of the Group of Specialists based on the lists of candidates submitted by State Parties, in preparation for the election to be held during the first meeting of the Consultation of the Parties envisaged to take place in the fall 2021. The 1st meeting of the Consultation of the Parties is envisaged to take stock of the State Parties' country reports submitted under Article 14 paragraph 1 of the Convention.

8. The first meeting of the Group of Specialists is envisaged to be held in the 4th quarter of 2021 during which the Group is envisaged to adopt its Rules of Procedures and discuss working methods and/or procedures for completing its monitoring and reporting functions in respect of the implementation of the Convention by the State Parties (see in particular Article 11, paragraph 1/a of the Convention). The Group of Specialists is envisaged to consider country reports submitted by the State Parties under Article 14 paragraph 1 of the Convention.

Appendix

Relevant provisions of the Convention

Article 11 – Group of Specialists on Access to Official Documents

1. A Group of Specialists on Access to Official Documents shall meet at least once a year with a view to monitoring the implementation of this Convention by the Parties, notably:

- a. reporting on the adequacy of the measures in law and practice taken by the Parties to give effect to the provisions set out in this Convention;
- b. i) expressing opinions on any question concerning the application of this Convention;
ii) making proposals to facilitate or improve the effective use and implementation of this Convention, including the identification of any problems;
iii) exchanging information and reporting on significant legal, policy or technological developments;
iv) making proposals to the Consultation of Parties for the amendment of this Convention;
v) formulating its opinion on any proposal for the amendment of this Convention made in accordance with Article 19.

2. The Group of Specialists may request information and opinions from civil society.

3. The Group of Specialists shall consist of a minimum of 10 and a maximum of 15 members. The members are elected by the Consultation of Parties for a period of four years, renewable once, from a list of experts, each Party proposing two experts. They shall be chosen from among persons of the highest integrity recognised for their competence in the field of access to official documents. A maximum of one member may be elected from the list proposed by each Party.

4. The members of the Group of Specialists shall sit in their individual capacity, be independent and impartial in the exercise of their functions and shall not receive any instructions from governments.

5. The election procedure of the members of the Group of Specialists shall be determined by the Committee of Ministers, after consulting with and obtaining the unanimous consent of the Parties to the Convention, within a period of one year following the entry into force of this Convention. The Group of Specialists shall adopt its own rules of procedure.

Article 12 – Consultation of the Parties

1. The Consultation of the Parties shall be composed of one representative per Party.

2. The Consultation of the Parties shall take place with a view to:

- a. considering the reports, opinions and proposals of the Group of Specialists;
- 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.

3. 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 this Convention in order to elect the members of the Group of Specialists. It shall subsequently meet at least once every 4 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. The Consultation of the Parties shall adopt its own rules of procedure.

4. After each meeting, the Consultation of the Parties shall submit to the Committee of Ministers an activity report.

Article 14 – Reporting

1. Within a period of one year following the entry into force of this Convention in respect of a Contracting Party, the latter shall transmit to the Group of Specialists a report containing full information on the legislative and other measures taken to give effect to the provisions of this Convention.

2. Thereafter, each Party shall transmit to the Group of Specialists before each meeting of the Consultation of the Parties an update of the information mentioned in paragraph 1.

3. Each Party shall also transmit to the Group of Specialists any information that it requests to fulfil its tasks.