



OPEN SOCIETY
JUSTICE INITIATIVE



News update, 5 November 2007:

**COUNCIL OF EUROPE URGED NOT TO ADOPT DRAFT CONVENTION
ON ACCESS TO INFORMATION WITHOUT FURTHER DISCUSSION.**

The Council of Europe's Steering Committee on Human Rights (CDDH) has been urged not to adopt the draft text of the future European Convention on Access to Official Documents when it meets on Wednesday 7 November in Strasbourg. Instead, the CDDH should allow time for further consideration of the outstanding problems with the draft, for finalisation of the Explanatory Memorandum which will interpret the text of the Convention, and for the options to enter reservations on the future treaty to be defined.

In a letter to representatives of the 47 Council of Europe member states who sit on the CDDH, Access Info Europe, Article 19 and the Open Society Justice Initiative urge that all Council of Europe member governments should be given the opportunity to comment on their own law and practice, at least on five key issues:

- Whether legislative bodies should fall under the scope of the right in all their functions;
- Whether judicial bodies should fall under the scope of the right in all their functions;
- What is the national definition regarding how private bodies to which the law applies (e.g., bodies that exercise public functions or receive public funds);
- Whether States should be required to set maximum time limits for responding to requests;
- Which are the core provisions of the Convention that may not be subject to reservation.

The civil society groups note that the Group of Specialists drafting the Convention over the past 2 years had a total meeting time of just 14.5 working days – a remarkably tight schedule for what will be the world's first binding instrument on the right to information. The time pressures resulted, on several occasions, in important discussions being curtailed. For instance, rather than defining precisely which provisions should be non-derogable and which open to reservations, the draft Convention has been left wide open to any reservations by ratifying States.

The Civil Society groups note that it is particularly unusual for a Council of Europe treaty to be adopted until the reservations defined and the Explanatory Memorandum finalised, particularly

in this case when some member states are arguing that some of the issues with the text can be resolved through language in the Explanatory Memorandum.

Access Info, Article 19 and the Justice Initiative also point to concerns about the current draft of the Convention raised by the Government of Slovenia, Information Commissioners from across Europe (Estonia, Germany, Ireland, Serbia, Slovenia, and the UK), the Organization for Security and Cooperation in Europe (OSCE) and a large number of civil society groups (including a letter signed by 250 organizations and 270 individuals).

The letter to the members of the Steering Committee on Human Rights (CDDH) is attached.

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