



*News update:*

## Draft Access Convention falls further below widely accepted standards on the right of access to information

- Heads of State excluded from access to information obligations

*Strasbourg, 27<sup>th</sup> March 2008* — The Council of Europe's meeting of the CDDH in Strasbourg, the Steering Committee on Human Rights yesterday (Wednesday 26 March) adopted the draft text of the proposed Convention on Access to Official Documents without incorporating any of the changes proposed by the Slovenian government which were supported by 10 Information Commissioners and substantially reflected the proposals made by Civil Society.

The most shocking development was the introduction of an exception to exclude Heads of State from the scope of the right to information. This was achieved by extending the optional blanket exception for Royal Households to the heads of state.

Civil Society Groups participating in the process expressed their profound disappointment that the opportunity had not been taken by the CDDH to establish a full definition of the right of access to information that obliges all branches of the state and guarantees a binding appeal procedure. Instead, the Council of Europe's main human rights body chose to adopt text that sets an overly-low standard and is of dubious added value for the 39 Council of Europe countries that already have access to information laws.

The civil society observers note that while 23 minutes were spent discussing the wording of the text on royal families and heads of state, no time at all was given to discussing government and civil society proposals that legislative and judicial bodies be included in the core of the right; instead, the proposals were side-stepped in a confused voting procedure.

Other key proposals to include timeframes and to guarantee a binding appeals process were rejected after only brief discussions (with less time given to consideration than to the royal households/heads of state issue).

The only positive substantive amendment was to clarify in the text of the treaty that appeals can be launched not only against refusals but against both express and implied denials of requests.

A negative change was the removal from the text of the statement that the treaty sets "minimum" standards.

Civil society groups raised concerns that, by defining the right of access to information narrowly, the Convention could actually have the pernicious effect of reducing the level of access already enjoyed in many Council of Europe member states that have access to information laws.

*NOTE: All work performed by Open Society Justice Initiative staff concerning the Convention was undertaken on behalf of, and paid for by, the Open Society Policy Center, a separate 501(c)(4) entity.*

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