

**Comments of Estonia on the conclusions and recommendations of the  
Consultation of the Parties on the implementation of the Council of Europe  
Convention on Access to Official Documents by Estonia**

The Government of Estonia has been requested to report to the Consultation of the Parties on the measures taken to improve the implementation of the Council of Europe Convention on Access to Official Documents (CETS No. 205) ('the Convention') pursuant to point 2 of the conclusions of the Consultation of the Parties on 3 October 2024 (TC-CP(2024)02).

The Consultation of the Parties has in its conclusions and recommendations recommended that Estonia takes the following measures identified on the basis of the report from the Access Info Group:

- reconsider the qualification of "upon performance of public duties provided by law" in the definition of public information in §3(1) of the Public Information Act with a view to ensuring compliance with Article 1, paragraph 2, sub-paragraph b, of the Convention (paragraphs 11-12, 57 of the AIG report);
- revise the system of proactive classification of information as internal under §35(1) of the Public Information Act with a view to fully implementing the harm test principle and the overriding public interest principle in compliance with Article 3, paragraph 2, of the Convention (paragraphs 27-31, 60 of the AIG report);
- ensure full compliance of §21(3) of the Public Information Act with Article 5, paragraph 2, of the Convention as regards the duty of legal or natural persons which perform specific administrative tasks to transfer requests for access to competent authorities and of §23 (2) (6) of the Public Information Act with Article 5, paragraph 5, of the Convention as regards refusal of access on grounds of legal incapacity of the applicant (paragraphs 36, 39 and 62 of the AIG report).

The following comments provide information on initiatives to review the Public Information Act to address the recommendations made by the Consultation of the Parties.

On March 11, 2024, the Minister of Justice formed a working group consisting of the Data Protection Inspectorate, the Estonian Bar Association, the Estonian Cooperation Assembly, the Association of Estonian Cities and Municipalities, the Estonian Media Companies Association, the e-Governance Academy, the Ministry of Defence, the Ministry of Economic Affairs and Communications, Open Knowledge Estonia, the Ministry of Finance, the Government Office, the Chancellery of the Riigikogu, the Ministry of the Interior, the University of Tartu, and the Ministry of Foreign Affairs. The aim was to map the implementation practices and identified shortcomings of the Public Information Act (PIA). The working group also discussed the recommendations mentioned above. In January 2025, the working group released an analysis indicating that the recommendations from the Consultation of the Parties necessitate amendments to the PIA.

In 2025, the Ministry of Justice and Digital Affairs has been preparing a legislative intent to introduce amendments of the PIA. Among other issues, the recommendations received by Estonia from the Consultation of the Parties will also be addressed in the legislative intent. To finalize the legislative intent, it is important to understand for Estonia how AIG interprets the term "drawn up" before proposing any changes to the PIA.

In addition, there is ongoing debate in Estonia about whether the PIA should remain a comprehensive law covering both public documents and public databases, or whether data governance should be regulated by a separate act following new EU legislation. This issue also impacts the completion of legislative intent.

The Ministry of Justice and Digital Affairs will finalise the legislative intent to amend the PIA after receiving feedback from the AIG and deciding which data governance issues require public consultation. Once the consultation concludes, the ministry will draft the relevant PIA amendments.