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Council of Europe Access Info Group (AIG)

Draft Baseline Evaluation Report on the implementation of the Council of Europe Convention on Access to Official Documents (CETS No.205) – Armenia

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I. Introduction

1. The Council of Europe Convention on Access to Official Documents (CETS No.205, hereinafter “the Convention”) entered into force on 1 December 2020. It is the first binding international legal instrument to recognise a general right of access to official documents held by public authorities.
2. The Convention lays down minimum obligations for its Parties on the scope of the right to access official documents upon request, the balancing exercise between the protection of the public interest in transparency and the protection of other legitimate rights and interests, the procedures for handling a request for access and the review of decisions. It also sets out other measures to ensure the transparency of public authorities’ activities such as those relating to the management of documents and publication of official documents at the authorities’ own initiatives.
3. An important added value of the Convention is its monitoring mechanism which consists of the Council of Europe Access Info Group (“the AIG”) and the Consultation of the Parties. The AIG is composed of a minimum of 10 and a maximum of 15 independent and impartial experts appointed on the basis of their recognised expertise in the field of access to official documents. On 31 March 2022, the Consultation of Parties elected 10 members for a period of four years, renewable once. The AIG’s task is to monitor the implementation of the Convention by the Parties, notably reporting on the adequacy of the measures in law and practice taken by the Parties to give effect to the provisions set out in the Convention.
4. This report is part of the baseline evaluation carried out by the AIG on the basis of the report submitted by Armenia pursuant to Article 14, paragraph 1, of the Convention. As a first step, the Party responded to a detailed questionnaire prepared by the Secretariat pending the election of the member of the AIG. The questionnaire was later endorsed by the AIG. [Another source of information for the work of the AIG is civil society. Therefore, it maintained contacts with two international non-governmental organisations, namely Access Info Europe and Article 19, and received comments from the first on the information that the Party had provided. In the spirit of dialogue with the Parties to the Convention, the AIG requested comments from Armenia in the elaboration of the present report which were considered before its adoption. This report will be published together with any further comments received by the Party after its adoption.]
5. The baseline evaluation focuses on the legislative act whose main objective is to regulate the right to access official documents, that is the Law on Freedom of Information¹. Other specialised legislation, such as that on archives or legislation which may contain provisions that regulate access to specific types of information, for example, information containing personal data, information of relevance to national or public security, information belonging to the banking sector, is not analysed in the present baseline evaluation. Such analysis would have required more complete information by the Party and an in-depth examination of numerous other laws which was not feasible in the current evaluation round carried out by the AIG covering 11 Parties to the Convention. The AIG, therefore, plans to evaluate the implementation of the Convention by its Parties in specific sectors in its subsequent evaluation rounds in accordance with its Rules of Procedure. Having considered the different approaches taken by the Parties, the AIG will adopt its position on the concept of “drawn up” provided for in Article 1, paragraph 2, of the Convention after its baseline evaluation.
6. This report is intended to assist the Party in its efforts to ensure compliance with the Convention.

¹ Adopted 23 September 2003, non-official translation available on the website of the National Assembly: [Legislation: National Assembly of RA \(parliament.am\)](https://www.parliament.am/Legislation/National_Assembly_of_RA).

I. Article 1 – General Provisions

Rapporteur's note: *The Law on Freedom of Information (Fol), Article 1, defines the Subject of regulation of this law and field of activity. It is noted that the Article 1, Paragraph 1 of the Law determines - « This law governs the relations connected with freedom of information, determines the rights of managers of information in the field of provision of information, and also procedure, type and conditions of receipt of information.» It can be understood that the law is essentially intended to protect the rights of the information holder more than to ensure the right of individuals to access public information. It is questionable whether this is fully in line with the spirit of the Convention as set out in the Preamble, particularly Paragraph 6. It would be appropriate to propose that the Party supplement the Law on Fol by defining more clearly the rights of individuals to receive information and the responsibilities of information providers in providing information.*

The meaning of public authorities

7. The Law on Freedom of Information states that it applies to the activity of state bodies and local self-government bodies, state offices, organisations financed from the state budget as well as private organisations of public importance and their state officials (Article 1(2)). Information holders are defined in similar terms as “state bodies, local self-government bodies, state offices, state budget sponsored organizations as well as organizations of public importance and their officials” (Article 3). Both provisions do not make any distinction regarding the type of activity carried by state bodies which are bound by it. Hence, all their activities are covered. This definition is in line with Article 1, paragraph 2, sub-paragraphs 2, a, i, 1 and 2 as well as sub-paragraphs 2, a, ii, 1 and 2 of the Convention. It remains not clear why officials of state bodies would also be subject to the law in addition to the state bodies. This point may benefit from clarification from the Party.

Rapporteur's note: *Since “manager of information” is defined as local and state organizations that are financed from their own budget, but their activities regarding administrative functions are not defined, it should be clarified by the Party whether this concept covers all legislative bodies, judicial authorities, natural or legal persons regardless of the source of funding which perform administrative functions according national law or as they exercise administrative authority which are defined in Article 1, Paragraph 2 part (i) point 2 and 3 of the Convention.*

8. The law also applies to the activity of organisations of public importance, defined as “private organizations that have monopoly or a leading role in the goods market, as well as those providing services to public in the sphere of health, sport, education, culture, social security, transport, communication and communal services”. It is not clear whether this includes all natural or legal persons insofar as they exercise administrative authority in the sense of Article 1, paragraph 2, sub-paragraph 2, a, i, 3 of the Convention. This point would benefit from clarification from the Party.

Rapporteur's note: *In Article 3 of the Law on Fol, the definition of “organization of social significance” covers private organizations having monopoly or dominant position on commodity market and also in the field of health care, sport, education, cultures, social security, transport and communication providing services to the public in the utility sphere. As defined in these terms, these private organizations do not perform administrative functions and are not administrative institutions, so the question is whether they fall under the Article 1, Paragraph 2 part (ii) point 1 and 2 of the Convention, and therefore their inclusion in the concept of “information manager” should be declared in accordance with Article 1, Paragraph 2., part (II) of the Convention.*

The meaning of official documents

9. Official documents are defined by the Law on Freedom of Information as records or data on facts, people, subjects, events, phenomena, processes, that are received and formed as defined by legislation, in whatever form this data is held (electronic or hard copy documents, records, videos, photos, notes, maps, etc.) (Article 3). Archived documents remain within the scope of the Law on Freedom of Information, even when they are transferred to the national archive after having been archived for seven years by the original information holder.
10. Information is defined with reference to an enumeration of characteristics related to facts, people or processes. The significance of this enumeration which appears to be exhaustive is not clear. Similarly, it is not clear what the significance of data being received and formed “as defined by legislation” is. The Party should clarify which legislation defines how data is received and formed and the objective of the phrase “records or data on facts, people, subjects, events, phenomena, processes”. The AIG recalls that Article 1, paragraph 2, sub-paragraph 2 of the Convention, does not contain any condition regarding the nature of information held by public authorities.

Rapporteur’s note: *Under the definition of “information” a fixed list of entities is enumerated. The question is what the point is of establishing a fixed list of information that gives the impression that there can be no other information entities. Whereas Article 1, paragraph 2, point b of the Convention states that official documents include all information. It should be clarified on what basis the fixed list of entities of “information” was established and how it is compatible with the Article 1, paragraph 2, point b. of the Convention.*

II. Article 2- Right of access to official documents

11. The right of access to information is guaranteed by Articles 51 and 42 of the Constitution of Armenia, which respectively guarantee a right to receive information about activities of state and local self-government bodies, and the right to freedom of expression and opinion. The right is also set out in the Law on Freedom of Information according to which each person has the right to request information from a state holder and have access to the information (Article 6).
12. The Law on Freedom of Information states that foreign citizens can enjoy the rights and freedoms foreseen in it as defined by the Republic of Armenia and/or in cases defined by international treaties (Article 6). The constitutional right of access to information applies to everyone regardless of citizenship (Article 51 of the Constitution).
13. These provisions appear to be broadly in line with the requirements of Article 2, paragraph 1, of the Convention. However, a question remains regarding Article 6 of the Law on Freedom of Information which seems to provide that foreign citizens are not entitled to the right to access official documents but instead can enjoy this right in the cases defined by the State. The Party should clarify whether foreign citizens are entitled to the right of access without distinction compared to nationals of Armenia.

III. Article 3 – Possible limitations to access to official documents

14. According to Article 8(1) of the Law on Freedom of Information a public authority refuses access to information if: it contains state, official, bank or trade secrets (sub-paragraph a); it infringes the privacy of a person and his family, including the privacy of correspondence, telephone conversations, post, telegraph and other transmissions (sub-paragraph b); it contains pre-investigation data not subject to publicity (sub-paragraph c); it discloses data

that requires accessibility limitation, conditioned by professional activity (medical, notary, attorney secrets) (sub-paragraph d); infringes copy right and associated rights (sub-paragraph e).

15. The limitation of Article 8(1), sub-paragraph a, appears on its face to correspond to the legitimate aims provided in Article 3, paragraph 1, sub-paragraphs a, b and g. The Party should clarify what is considered as state and official secrets under this provision of the Law on Freedom of Information.

Rapporteur's note: *Article 8, paragraph 1 of the Law on Freedom of Information sets out legal grounds for limitations to the right of access to public information. Any particular documents or information is defined as restricted by sectoral laws. Almost all mentioned restrictions in are in line with the Article 3, Paragraph. 1 of the Convention. It should be specified what is considered "office information of limited distribution" mentioned in Article 8, Paragraph 1, point 1 and to which group of restrictions provided for in Article 3, Part 1 of the Convention, it can be assigned.*

16. Other limitations contained in Article 8(1) correspond to the legitimate aims of the Convention, notably:

- the limitation of sub-paragraph b corresponds to the legitimate aim provided in Article 3, paragraph 1, sub-paragraph f, of the Convention;
- the limitation contained in sub-paragraph c corresponds to the legitimate aim provided in Article 3, paragraph 1, sub-paragraph c, of the Convention.
- the limitation contained in sub-paragraph e corresponds to the legitimate aim provided in article 3, paragraph 1, sub-paragraphs f and g.

17. The formulation of the limitation provided for by Article 8(1), sub-paragraph d, is not clear. The AIG invites the Party to clarify the meaning and application of this provision, notably what legitimate interest does it seek to protect.

18. Only the limitations of Article 8(1) sub-paragraphs b and e, of the Law on Freedom of Information appear to be subjected to a case-by-case harm test. The limitations provided for in Article 8(1) sub-paragraphs a and c, appear to presume the harm to national security, public safety, the investigation of criminal activities or commercial interests. They apply, therefore, automatically without an evaluation being carried out by the public authority receiving a request of the harm that the disclosure of information would cause to protected interests.

19. The AIG recalls that the harm test provided for in Article 3, paragraph 2 of the Convention, may be carried out for each individual request or by the legislature through the way in which the limitations are formulated, for example by setting down varying requirements for carrying out the harm test (Explanatory Report to the Convention, paragraph 38). This seems to be the case for Article 8(1) sub-paragraphs a and c of the law. These exemptions are subject to a balancing of interests' exercise in accordance with Article 8(3) of the Law on Freedom of Information which would allow for disclosure of the requested information. However, Article 8(3) has certain shortcomings as explained paragraphs 20 and 21 of the present report and the AIG recommends that it be improved. Therefore, the AIG notes that the limitations of Article 8(1) sub-paragraphs a and c, of the Law on Freedom of Information as they currently stand are not in line with Article 3, paragraph 2, of the Convention.

20. The Law on Freedom of Information provides that an information request cannot be declined if: "it concerns urgent cases threatening public security and health, as well as natural disasters" (including officially forecasted ones) and their aftermaths (Article 8(3) sub-paragraph a); "it presents the overall economic situation of the Republic of Armenia, as well as the real situation in the spheres of nature and environment protection, health, education, agriculture, trade and culture" (Article 8(3) sub-paragraph b) ; "if the decline of

the information request will have a negative influence on the implementation of state programs of the Republic of Armenia directed to socio-economic, scientific, spiritual and cultural development” (Article 8(3) sub-paragraph c).

21. Article 8(3) may be assimilated to an overriding public interest test to the extent that it allows for disclosure of information in certain specific situations, which appear to relate to the protection of public security and health or to general transparency goals in various contexts of societal development. By confining the public interest to the situations explicitly listed in its three sub-paragraphs, this provision effectively narrows the meaning of public interest in having access to information to those situations. The AIG recalls that in setting out the principle of balancing the interest of public access to official documents against the interest protected by the limitation, Article 3, paragraph 2, of the Convention does not define the notion of public interest. This should, therefore, not be considered as limited to specific situations or as being static over time. As a matter of principle, the public interest in disclosing the requested information must be evaluated on a case-by-case basis in respect of each request. This implies that a public authority should be able to take into account public interests other than those specifically indicated by the law, for example ensuring the accountability of the public administration, fighting maladministration or corruption. The AIG recommends that the Party clearly provides for the overriding public interest test in the Law on Freedom of Information without limiting its application to specific circumstances and situations.

Rapporteur’s note: *Paragraph 3, Article 8 of the Law on Freedom of Information provides a specific harm test which defines three types of circumstances under which information cannot be refused 1) emergency situations safety and health of citizens; 2) it represents general state of the economy of the Republic of Armenia; 3) negative impact on implementation of state programs of development in social and economic, scientific and technical areas. However, it is not clear how the evaluation of an overriding public interests works, and who makes the decision on disclosure of information, since the Armenian report says that the assessment of absence of an overriding public interest is not at the discretion of the holders of information, it is at the discretion of the legislator.*

22. The Law on Freedom of Information does not provide for any time limits beyond which the limitations to access to information no longer apply.

IV. Article 4- Requests for access to official documents

23. Article 9(4) of the Law on Freedom of Information stipulates that the applicant does not have to justify the inquiry. This seems to satisfy the requirements of Article 4, paragraph 1, of the Convention that the applicant shall not be obliged to give reasons for having access to an official document.
24. An access request may be lodged in writing or orally. A written request must include the applicant’s name, citizenship, place of residence, work or study (Article 9(1)). The requirement to indicate the applicant’s name and place of residence may be considered as essential to process an access request. However, information on the citizenship and the place of work or study of the applicant is not needed for purposes of processing and responding to an access request. These requirements cannot be considered as compliant with Article 4, paragraph 3, of the Convention. The AIG recommends that they be removed from the relevant legal provision.
25. An applicant making an oral request must provide his/her first and last name (Article 5).

Rapporteur’s note: *According to Article 9 of the Law on Freedom of Information, in a written application an applicant must provide detailed information about himself and sign the application if he is applying on behalf of a legal entity. All legal provisions regarding written request are intended to identify the individual, but not to define the information*

requested itself. Also, Article 9 Paragraph 3, point 1 and 2 of the Law on FoI establish that written requests will not be answered if the data provided in the application does not meet the established requirements and does not correspond to the identity of the person. The same regulation applies to requests submitted orally. Such regulation means that when submitting a request, a person must provide accurate identification data. The national regulations regarding requests of information do not meet the Article 4 Paragraph 2 and 3 of the Convention.

26. The Party has reported that, despite the legal provisions requiring identification of the applicant, in practice requests can often be made anonymously, for example on Armenia's online e-request platform for access to documents.

V. Article 5 – Processing of requests for access to official documents

27. The Law on Freedom of Information does not provide for the duty of the authority to help the applicant, as far as reasonably possible, to identify the requested information as provided by Article 5, paragraph 1, of the Convention. The Party is invited to provide additional information on whether this duty is provided for in another law (for example administrative procedural law) and whether and how it is implemented in practice.
28. If the public authority does not possess the requested information or if the disclosure of that information is beyond its powers, it must inform in written form the applicant within five days of the request about this and if possible, indicate the public authority that holds the information (Article 9(10)). This is in line with Article 5, paragraph 2 of the Convention.
29. There is no explicit legal requirement for all requests to be dealt with on an equal basis in the Law on Freedom of Information. The Party is invited to provide additional information if this principle is guaranteed in another law (for example administrative procedural law) and whether and how it is applied in practice. In particular, it should be clarified whether distinctions in processing requests are made on the basis of the nature of the request or status of the requestor.
30. The Law on Freedom of Information provides for a time limit of 5 days to answer a request for information submitted in writing, unless additional work is needed to provide the requested information, in which case the time limit is extended to 30 days from the date of the filing of the application. A notice of this extension is given to the applicant within five days of the request, providing the reasons for the delay and the date by which the request will be answered (Article 9(7)). An oral request is answered immediately or within the shortest possible time-frame (Article 9(6)). The Party is invited to provide additional information about the practice of extending the deadline to 30 days, notably whether extensions are applied frequently and what factors are taken into account for purposes of determining that additional work is needed to provide the requested information.
31. The Law on Freedom of Information sets out some cases that allow a public authority to restrict or limit the right of access when the request is made orally. First, a public authority may decline to provide information requested in an oral request, "if at the given moment this interferes with the main responsibilities of the information holder", except if the publication of the information could prevent dangers facing state and public security, public order, public health and morals, others' rights and freedoms, the environment, and personal property (Article 11(2)). The AIG notes that Article 5, paragraph 5, sub-paragraph ii, of the Convention allows for the refusal of a request if it is manifestly unreasonable. One instance may be when the request is clearly vexatious, for example one of many requests intended to hinder a department's work (see Explanatory Report to the Convention, §52). Article 11(2) of the law establishes a lower threshold for rejecting oral requests not linked

to their vexatious nature. Therefore, this provision cannot be considered in line with Article 5, paragraph 5, sub-paragraph ii, of the Convention.

32. Secondly, a response to an oral request will be provided when “a) [t]he disposal of the inquired information can prevent to state and public security, public order, public health and morals, other’s rights and freedoms, environment and person’s property ; b) it is important to make sure that the given information holder has the relevant information; c) it is important to clarify the procedure according which the information holder processes the written inquiries” (see Article 9(5) of the Law on Freedom of Information). By enumerating the circumstances in which a response will be provided, these provisions appear to include a presumption of confidentiality in respect of oral requests. The AIG invites the Party to explain what the justification is for this approach and how it complies with the Convention.
33. According to Article 9(3) of the Law on Freedom of Information, a written request will not be answered if it is the second request of the same person within the last 6 months for the same information. The AIG notes that Article 5, paragraph 5, sub-paragraph ii, of the Convention allows for the refusal of a request if it is manifestly unreasonable. One instance may be when the request is clearly vexatious, for example repeated requests for the same document within a very short space of time (see Explanatory Report to the Convention, §52). The AIG does not consider 6 months as a very short space of time and, therefore, considers that this provision of the law must be brought in line with the Convention.
34. In the event of a denial of access to a document, the information holder should inform the applicant in writing of the grounds for the refusal, the time frame within which the decision on refusal was made as well as the appeal procedure (Article 11(3)). This is in line with Article 5, paragraph 6, of the convention.

VI. Article 6 – Forms of access to official documents

35. According to Article 9(8) of the Law on Freedom of Information, requested official documents are provided in the format that is asked for in the request, or in the format that is most convenient for the public authority if the request does not mention a format. The provisions of the law on applicable fees (Article 10(2)) imply that access to official documents can be provided in printed form or as a copy, as well as by email and via the internet. Also, the Party has informed the AIG about the existence of the “e-request.am” platform used for purposes of submitting requests for information and providing replies to the requests. It appears from Article 9(9) that the applicant also has the right to consult the requested official documents in the premises of the public authority. This is in line with Article 6, paragraph 1, of the Convention.

Rapporteur’s note: *According to Article 9, paragraph 7, point 1 of the Law on Freedom of Information, if the information is not published, the applicant can receive a copy of it, but no one is told whether the applicant has the right and opportunity to get acquainted with the original of the document, whenever he or she so requests. Such a provision of the law raises doubts as to whether it complies with Article 6, Paragraph 1 of the Convention. It should be explained whether it is possible and what the established procedure is for the applicant to get acquainted with the original of the document.*

36. The principle that when access to some of the information contained in an official document is restricted the authority should grant access to the remainder of the information is provided for in Article 8(2) of the Law on Freedom of Information. The Party has noted that according to the Government Decision No. 1204 of 2015 the remainder of the requested information should be provided by making the restricted information illegible without editing the accessible information. If fifteen percent or more of the requested information is made illegible, the remaining accessible information “may be provided in the

form of permitted pages or excerpts.” These provisions comply with Article 6, paragraph 2, of the Convention.

37. It appears that in cases of requests submitted in writing for information which is already published, the public authority may respond by referring the applicant to the means and place where the information is already published (Article 9(7)b of the Law on Freedom of Information). The response of the public authority must be given within five days after the application. Providing access to an official document by referring the applicant to easily accessible alternative sources of information is not an obligation under Article 6, paragraph 3, of the Convention. Nevertheless, the AIG notes that the reasonableness of the five-day time limit appears to be questionable given the fact that the requested information is already public.

VII. Article 7 – Charges for access to official documents

Rapporteur’s note: *In the Report, the Party recognizes that the Law on Freedom of Information does not provide for free access to documents in the premises of the information holder. The national regulation regarding access to documents in the premises of information holders does not comply with the provisions of Article 7 Paragraph 1 of the Convention.*

38. The Law on Freedom of Information provides that no fees are charged for consultation of an official document within the premises of the public authority, for responses to oral requests for information, for up to 10 pages of printed or copied information, or for information provided via email (Article 10(2)). According to the same provision of the law no charges apply for providing notice to the applicant of the extension of the deadline to respond to an information request, or that the requested authority does not hold the requested information, or for denying the request, as well as when a public authority publishes on its own initiative information which prevent dangers facing state and public security, public order, public health and morals, others’ rights and freedoms, the environment, or personal property (Article 7(2)).
39. As regards all other cases, each public authority decides on its own the fees to be charged (Article 10(3)). The law does not provide any further specification about the principles to be followed in determining and applying fees. According to the Party, Government Decision No. 1204 of 2015 defines the fees and provides that for printed information exceeding 10 pages or provided in a non-standard format the fee is limited to the amount of actual and reasonable costs incurred to provide the information. Access to archive documents is in principle subject to the same conditions as other official documents, however state and municipal archives can provide paid services for specific access, e.g. for commercial use of archival documents, or for special reference-search tools. Noting that the governmental decision quoted by the Party dates back to 2015, the Party is invited to provide further information on the amount of fees that are actually charged for requests a response to which exceeds 10 pages, as well as on the whether the fees contained in the Government decision are published and in which form.
40. These provisions are generally in line with Article 7 of the Convention.

VIII. Article 8 – Review Procedure

41. Appeals in cases of access denials can be lodged only with the administrative courts, whose decisions can overturn decisions taken by public authorities, or request the public authority to reconsider its position. This is in line with Article 8, paragraph 1, of the Convention.

Rapporteur's note: Article 11, Paragraph 4 of the Law on Freedom of Information provides that a refusal of provision of information can be appealed to an authorized body of public administration or in court. In the report, the Party recognises that it does not have a freedom of information authorized body, therefore, only the judicial mechanism of appeal is applicable. This means that the Law on Freedom of Information regarding the possibility of a review procedure has not been implemented and the real situation does not comply with Article 8, paragraph 1 of the Convention. Examination in the administrative courts can last several months or several years and fees are of approximately 25 Euros. It would be appropriate to suggest that the country designate a non-judicial authorized body that could resolve the complaint more quickly and simply.

42. According to the Party, the review procedure in front of the courts can last from several months to several years. Fees of approximately 25 euros are charged for this procedure. The length of this procedure, as far as it can go beyond several months, does not comply with the Convention's requirement that the review procedure for denials of access to information be expeditious (Article 8, paragraph 2).

IX. Article 9 – Complementary measures

43. The Party has informed the AIG that in the absence of an agency in charge of freedom of information issues, no public authority takes measures to inform the public about its right of access to official documents. The burden of raising public awareness about this right is mainly carried by representatives of civil society, by specialised NGOs. This does not meet the requirements Article 9 of the Convention.
44. As concerns training of public authorities about their duties and obligations regarding the right of access to official documents, knowledge on the subject of freedom of information is required to obtain civil service positions, as the competitions for these positions include questions on freedom of information. Additional training sessions for civil servants may be carried out through punctual programmes and events with the support of international organisations and sectoral NGOs. Where it is relevant, freedom of information issues are also addressed in training courses conducted by the authorised body for personal data protection. These measures contribute to the implementation of Article 9, sub-paragraph a, of the Convention.
45. Article 7(3) of the Law on Freedom of Information provides that public authorities must publish the following information concerning their activities once a year: 1) activities and services provided to public; 2) budget; 3) forms for written enquiries and the instructions for filling those in; 4) lists of personnel, as well as name, last name, education, profession, position, salary rate, business phone numbers and e-mails of officers; 5) recruitment procedures and vacancies; 6) influence on environment; 7) public events' program; 8) procedures, day, time and place for accepting citizens; 9) policy of cost creation and costs in the sphere of work and services; 10) list of held (maintained) information and the procedures of providing it; 11) statistical and complete data on inquiries received, including grounds for refusal to provide information; 12) sources of elaboration or obtainment of information mentioned in this clause; 13) information on the person entitled to clarify the information defined in this clause. Any changes made to this information is also published within ten days of the change. This provision contributes to the implementation of Article 9, sub-paragraph b, of the Convention.
46. The Party has informed the AIG that Government Decision no. 1204 of 2015 defines the procedure for registration, classification and storage of information. In principle, this measure contributes to the implementation of Article 9, sub-paragraph c, of the Convention.

47. The preservation and destruction of official documents is regulated by the Law on Archives. Official documents are stored by the original public authority for 7 years, following which the documents are transferred and stored in the national archive. No further information is provided by the Party concerning the modalities for destroying official documents. The AIG invites the Party to bring further clarifications on its legal framework on archives in order to assess whether it complies with the requirements of Article 9, subparagraph d, of the Convention.

X. Article 10 – Documents made public at the initiative of the public authorities

48. The Party has informed the AIG that the Government Decision No. 1204 requires the official websites of state bodies to have a “frequently asked questions” section, where questions asked five or more times to the state body are published alongside their answers.

49. The AIG notes that, in accordance with Article 7(5) of the Law on Freedom of Information, certain information is proactively published by public authorities on their internet pages. No further information is provided by the Party about measures taken by public authorities to make public official documents which they hold. The AIG invites the Party to provide further information on such measures, if applicable.

Rapporteur’s note: *Article 7 of the Law on Freedom of Information establishes that managers of information publish once a year the information listed in the law about their activities which is important to the public. However, Article 7, paragraph 5 of the Law on Freedom of Information states that the manager of the information shall publish the information on the website only in case of availability. One of the most effective means of proactively publishing publicly relevant information is the Internet. Publishing on the Internet allows the publishing of relevant information without being limited in the scope and form of the content. It would be useful to encourage the Party to establish in its legal regulations an obligation and create opportunities for all state and local government organizations to have their own websites and publish the information of public interest on it.*

XI. Conclusions and recommendations

50. The provisions of the Law on Freedom of Information are in line with Article 1, paragraph 2, sub-paragraphs 2, a, i, 1 and 2 as well as sub-paragraphs 2, a, ii, 1 and 2 of the Convention.

51. Conclusions on Article 2 are to be completed based on the information expected from the Party on the questions/ issued raised by the AIG the relevant parts of the present report.

52. The limitations contained in Article 8(1) correspond to the legitimate aims of the Convention, notably:

- the limitation of sub-paragraph b corresponds to the legitimate aim provided in Article 3, paragraph 1, sub-paragraph f, of the Convention;
- the limitation contained in sub-paragraph c corresponds to the legitimate aim provided in Article 3, paragraph 1, sub-paragraph c, of the Convention.
- the limitation contained in sub-paragraph e corresponds to the legitimate aim provided in article 3, paragraph 1, sub-paragraphs f and g.

Article 8(1) sub-paragraphs b and e, of the Law on Freedom of Information appear to be subjected to a case-by-case harm test. Those provided for in Article 8(1) sub-paragraphs a and c, apply automatically without an evaluation being carried out by the public authority receiving a request of the harm that the disclosure of information would cause to protected interests. This considered in conjunction with the shortcomings of Article 8(3) of the law is not in compliance with Article 3, paragraph 2, of the Convention.

53. Article 8(3) of the Law on Freedom of Information which allows for disclosure of the requested information in cases of restrictions, applies in certain circumstances and situations and is, therefore, narrower in scope than the overriding public interest test contained Article 3, paragraph 2, of the Convention. The AIG recommends that the Party clearly defines the overriding public interest test in the Law on Freedom of Information without limiting its application to specific circumstances and situations.
54. The Law on Freedom of Information meets the requirements of Article 4, paragraph 1, of the Convention. The AIG recommends that the Party should remove the requirement contained in Article 9 (1) of the law that a written request must contain the citizenship and the place of work or study of the applicant.
7. Conclusions on Article 5 are to be completed based on the information expected from the Party on the questions/ issues raised by the AIG the relevant parts of the present report.
8. The AIG considers that the Law on Freedom of Information generally complies with the requirements of Article 6 and 7 of the Convention.
9. The review procedure required by article 8 of the Convention, particularly regarding the length of procedure, is not provided for by the Law on Freedom of Information. The AIG recommends that the Party endeavours to make its review procedure expeditious, in accordance with article 8 of the Convention.
10. The AIG notes that the Party has taken certain measures to implement Articles 9 and 10 of the Convention.