

Press Release:

European Parliamentarians call on Council of Europe

To Redraft Substandard Convention on Access to Official Documents

Strasbourg, 6 October 2008: The Parliamentary Assembly of the Council of Europe (PACE) on Friday (3 October 2008) adopted unanimously a resolution expressing concern that the world's first treaty intended to guarantee public access to information had significant flaws. In a rare step, PACE called for the Convention on Access to Official Documents to be redrafted.

The PACE 'Opinion' identifies a series of problems with the draft treaty including:

- **Lack of a general statement on the right to information** establishing that "all official documents are in principle public and can be withheld subject only to the protection of other rights and legitimate interests";
- The **absence of mandatory time limits** for answering requests – the European Court of Human Rights has established that information "is a perishable commodity and to delay its publication even for a short period may well deprive it of all value and interest";
- **Narrow definition of "public authorities"** that excludes the main functions of legislative and judicial bodies as well as private bodies that perform public functions or operate with public funds, "allowing some public bodies to continue operating in the shadows";
- **Requestors should have a right to appeal** to a review body that has the power to order disclosure of the requested official document;
- **States given freedom to enter reservations** on any provision of the Convention, thereby undermining the "delicate balance of many individual components" needed to make the right of access to information function in practice.

Access Info Europe, ARTICLE 19 and the Open Society Justice Initiative, which have raised these concerns for more than two years and garnered endorsements of more than 250 civil society organizations welcomed Friday's vote and called on the Council of Europe's Committee of Ministers not to adopt the draft Convention as it stands.

Speaking in the Parliamentary Assembly debate on Friday, Mr Klaas de Vries, a

former cabinet minister in the Netherlands, who prepared the Opinion on behalf of the PACE Legal Affairs and Human Right Committee, called on the Committee of Ministers to “go this extra mile now” adding that “we will be criticized for years to come if we don’t act now.”

Mr de Vries noted the current crisis of trust in government in Europe, pointing out that this was a result of the “structural reluctance to inform” the public and that “governments are not trusted because they do not trust their own citizens [with information]”.

During the debate other parliamentarians stressed that the world’s first binding convention on the democratic right of access to information should not be drafted by government experts alone but in full consultation with the elected representatives of the Council of Europe’s 47 member states.

The Parliamentary Assembly’s opinion will be presented to the Council of Europe’s Committee of Ministers. This body, composed of the Foreign Ministers of member states, has the final say on whether or not to adopt the draft Convention on Access to Official Documents in its present form or to set up a process for redrafting. Sweden currently holds the Chairmanship of the Council of Europe (May to November 2008).

The PACE Opinion can be found at: <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta08/EOP1270.htm>

Notes for Editors

Drafting of the Council of Europe Convention on Access to Official Documents took place from January 2006 to February 2008 and was conducted by a group of experts, predominantly government representatives, from 15 of the Council of Europe’s 47 member states. Access Info Europe, ARTICLE 19 and the Justice Initiative participated in the drafting meetings of as observers.

The concerns raised during the process by over 250 civil society groups were also raised by, amongst others, 12 Information Commissioners from Estonia, Germany, Hungary, Latvia, Macedonia, Serbia, Slovenia, Switzerland and the UK, by the OSCE’s Representative on Freedom of the Media, and by the Council of Europe’s Steering Committee on the Media and New Communication Services.

Access Info Europe is an independent non-governmental organization dedicated to promoting the right of access to information as a fundamental human right in and of itself, and as an essential tool for participation in government decision-making, for holding governments accountable, and for defence of other human rights.

ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.

The **Open Society Justice Initiative**, an operational program of the Open Society Institute, pursues law reform activities grounded in the protections of human rights, and contributes to the development of legal capacity for open societies worldwide. All work performed by Open Society Justice Initiative staff in connection with this project was undertaken on behalf of, and paid for by, the Open Society Policy Center, a separate 501(c)(4) entity.

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