

# Committee of Ministers: Access to Official Documents

**IRIS 2002-3:1/36**

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On 21 February 2002, the Council of Europe's Committee of Ministers (CM) adopted Recommendation Rec (2002) 2 on access to official documents. The starting premise of the Recommendation is that wide access to official documents helps to: (i) develop an informed, critical and active public; (ii) foster "the efficiency and effectiveness of administrations" and reduce the risk of corruption, and (iii) affirm the legitimacy of administrations and strengthen public confidence in them.

The scope of the Recommendation is limited to official documents held by public authorities. The term, "official documents", means "all information recorded in any form, drawn up or received and held by public authorities and linked to any public or administrative function, with the exception of documents under preparation". The term, "public authorities", includes all levels of government and administration, as well as natural or legal persons performing public functions or exercising administrative authority and as provided for by law.

The driving principle of the Recommendation is that all Council of Europe member states should "guarantee the right of everyone to have access, on request, to official documents held by public authorities" on a non-discriminatory basis. This right is shaped by possible limitations and procedural provisions. The possible limitations span national security, public safety, crime prevention, privacy, commercial and other economic interests, equality in court proceedings, etc.

As regards procedural matters, requesters of information should not have to give reasons for their requests. Formalities for requests should also be minimal. Requests should be processed promptly and if a public authority does not hold the requested document, it should refer the applicant to the appropriate public body. Assistance by public authorities in identifying documents is recommended. Requests may be refused when a document is not identifiable or when a request is "manifestly unreasonable". Refusals of access to official documents should be explained by the public authority.

Different forms of access to official documents are countenanced in different situations: full or partial access; inspection of an original document or provision of a copy. In principle, consultation of original documents on the premises of the public authority holding them, should be free-of-charge. If a fee is charged for a

copy of an official document, it should be reasonable and not exceed the costs incurred by the public authority. The Recommendation states that an applicant should “always have access to an expeditious and inexpensive review procedure, involving either reconsideration by a public authority or review” by a court or other independent and impartial body.

Finally, envisaged complementary measures include the training of public officials about access to official documents and own-initiative publicity strategies for the access regimes in place at public authorities.

*Recommendation Rec (2002) 2 of the Committee of Ministers to member states on access to official documents & Explanatory Memorandum, 21 February 2002*

[http://www.coe.int/t/dghl/standardsetting/media/Doc/CM/Rec\(2002\)002\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/media/Doc/CM/Rec(2002)002_en.pdf)

