



United Nations  
Economic Commission for Europe

## A Decade of Promoting Environmental Democracy

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) celebrated its 10<sup>th</sup> anniversary in 2008

The Convention was adopted on 25 June 1998 in Aarhus, Denmark, at the Fourth Ministerial Conference "Environment for Europe". It remains the UNECE region's main effort and the only legally binding instrument so far to implement principle 10 of the Rio Declaration on Environment and Development.

Impressive progress has been made during the 10 years since the Convention's adoption. After entering into force in October 2001, the Parties and

Signatories, with the strong support of civil society organizations, laid the foundations for the work under the Convention at the first meeting of the Parties (Lucca, Italy, October 2002).

With 42 Parties to the Convention (41 member States and the European Community), the standards established by the Convention now prevail throughout much of the region.

### Promoting citizens' environmental rights

The Aarhus Convention is unique among multilateral environmental agreements in the extent to which it promotes citizens' environmental rights. Its core principles – the right to information, the right to participate and the right to seek access to justice – empower ordinary members of the public both to play a greater role in promoting more sustainable forms of development and to hold Governments accountable.

The Convention has established legally binding norms that give the public a major role in decisions impacting the environment at all levels – global, national and local. In ways that no other legal agreement has done before, the Convention is helping to make Governments more accountable and decision-making more transparent. By opening up participation to grassroots communities, it is forging a new process for public participation in the negotiation and implementation of international agreements.

### GMO amendment

At the second meeting of the Parties (Almaty, Kazakhstan, May 2005), long-running discussions on how the Convention should address the issue of genetically modified organisms (GMOs) came to a successful conclusion with the adoption of an amendment that expands the public's possibilities to participate in decision-making in this hotly-debated area.

At the Parties' third meeting (Riga, June 2008), the Parties clarified the interpretation of the Convention's article 14, which concerns the calculation of the number of ratifications needed to bring about an

amendment's entry into force. The Parties agreed that the percentage of ratifications required should be calculated according to the number of Parties at the time of the adoption of the amendment. For the GMO amendment, this means 27 ratifications by those member States that were Parties at the time of the adoption of the amendment are required to bring about its entry into force.

During 2008, 12 member States and the European Community ratified the GMO amendment, bringing the total number to 18.

### Challenges remain

Nonetheless, many challenges remain. Implementation of the Convention's provisions concerning access to justice – and to some extent public participation – continues to be more problematic than the imple-

mentation of those concerning access to information. In line with the Parties' recognition of the need for capacity-building on access to justice, a subregional workshop for senior members of the judiciary was held

in Tirana on 17 and 18 November 2008. The workshop brought together senior judges from the subregion, as well as several senior judges from the European Union countries and international environmental law experts.

It was organized in cooperation with the Organization for Security and Co-operation in Europe (OSCE), with the financial support of the Government of France.

## Convention's compliance mechanism gets into full swing

The Convention is facing new tests of its innovative compliance mechanism.

The mechanism, established by the first meeting of the Parties in 2002, includes an independent Compliance Committee elected to look into cases of possible non-compliance.

The Aarhus compliance mechanism is unprecedented among multilateral environmental agreements in the extent to which it gives the public, including non-governmental organizations (NGOs), a role in triggering a review of a Party's compliance. Numerous environmental organizations have taken advantage of this relatively open regime to challenge certain Parties over their compliance with the Convention.

In Riga, Parties approved decisions calling on six of the treaty's then 41 Parties – Albania, Armenia, Kazakhstan, Lithuania, Turkmenistan and Ukraine – to take measures to bring their countries into compliance with

the Convention. In the second test of the Convention's compliance mechanism, the Riga review of compliance drew upon the findings and recommendations of the Compliance Committee in the period 2005–2008. All of the Riga cases were triggered by communications received from the non-governmental community.

The Meeting of the Parties issued conditional cautions to Turkmenistan and Ukraine, both of which had been found to be in non-compliance at the Parties' previous meeting in Almaty. Unless certain steps are taken by the end of 2008, and then verified by the Compliance Committee to have been taken, these cautions will take effect from 1 May 2009.

In 2008, a total of 13 communications from the public were received, including ones raising questions about aspects of compliance by Albania, Austria, Denmark, Georgia, Germany, Moldova, Poland, Spain, the United Kingdom and the European Community.

## Protocol on Pollutant Release and Transfer Registers

The Protocol on Pollutant Release and Transfer Registers (PRTRs) was adopted in May 2003. As the first legally binding international instrument on PRTRs, the Protocol aims to enhance public access to information by establishing coherent, national registers of pollutants from industry and other sources. The Protocol is expected to exert a significant downward pressure on levels of pollution.

PRTRs also assist Governments to collect information on emissions of greenhouse gases and hazardous substances, thus contributing to the fight against global warming and toxic chemicals, which pose the most significant threats to the global environment and human health.

The Protocol on PRTRs to the Convention has been negotiated and adopted as an "open" global protocol, in which all States and regional economic integrations organizations can participate, including those which have not ratified the Convention and those which are not members of UNECE.

During 2008, seven member States ratified the Protocol, bringing the total number of ratifications to 12, including the ratification by the European Community. Five additional ratifications by member States are needed to bring about the Protocol's entry into force.

At the sixth meeting of the Working Group on PRTRs (24–26 November 2008, Geneva), the Parties completed work on the main decisions setting out key aspects of the instrument's future governance. The Protocol is expected to enter into force in 2009, with the first meeting of the Parties being scheduled for early 2010.

## Global significance and relevance of the Convention outside UNECE

The Parties also agreed in Riga that the benefits of the Convention could and should be enjoyed in more countries. The Convention can serve as an inspiration not only in other regions but also in other subject areas with a parallel interest in transparency, public participation and democratization.

The Convention is open for accession by any member

State of the United Nations. Indeed, the Parties to the Convention actively encourage Member States outside the UNECE region to accede to the treaty; their decisions have invited and encouraged countries outside the region to join both the Convention and the Protocol.

With 10 years of active work to implement the Convention at national and local levels under their belt, the

Convention's Parties and bodies have a store of lessons learned they can share with other countries implementing principle 10 of the Rio Declaration. In turn, the

Convention can learn from other regions, benefiting from their experience.

### **Aarhus Clearinghouse for Environmental Democracy**

The Aarhus Clearinghouse for Environmental Democracy contains information relevant to the implementation of principle 10 of the Rio Declaration at the global, regional and national levels around the world, and is probably the leading global repository of information on the topic. As of 2008, the Clearinghouse Resource Directory and News Archive contained more than 1,500 separate entries covering regional and global developments (see <http://aarhusclearinghouse.unece.org>).

The Bureau of the Convention's Task Force on Electronic Information Tools recognized the Aarhus Centre Georgia as "Best National Node 2008" and the NGO umbrella organization European ECO-Forum as "Best Information Node 2008" in recognition of their contributions to the Convention's clearinghouse mechanism.

### **Progress being made in China**

One example of the beneficial exchange of experience between the Convention and other countries is China, where environmental protection measures such as access to information and public participation are being put in place. In China, access to review procedures and the role of the judiciary in enforcement are also growing in importance.

Government agencies and other stakeholders in China are learning from the relevant experience in other regions, for example Central Europe. This is helping the Chinese to know what challenges to expect as well as what solutions others have found.

Over the past three years, the Aarhus Convention secretariat has twice been invited to give presentations to Chinese government officials and other stakeholders on the experiences and challenges its Parties have encountered in implementing the Convention.

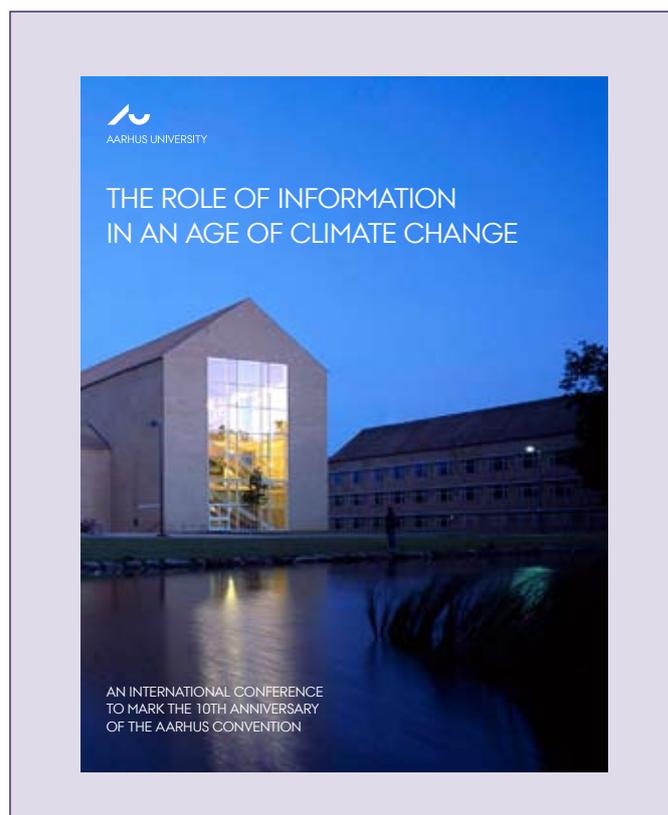
On 1 May 2008, China implemented its first Open Government Information Regulations, thereby creating a nationwide government information disclosure system. Under China's unitary legal system, the Regulations apply to central, provincial and local government agencies. The rules also give the public the right to seek information from the Government through written inquiry.

### **Assessment of principle 10 and climate change governance**

UNECE and the United Nations Institute for Training and Research (UNITAR) jointly developed and pilot-tested a methodology for preparing a National Profile to Assess National Capacities to Implement the Aarhus Convention in three UNECE countries: Kyrgyzstan, Tajikistan and Serbia. The methodology was subsequently adapted by UNITAR to assist countries outside the UNECE region in assessing national capacities and developing action plans to implement principle 10 of the Rio Declaration.

In 2008, National Profiles were prepared in Costa Rica, the Dominican Republic and Honduras through a multi-stakeholder process, with support from UNITAR, the Central American Commission on Environment and Development (CCAD) and the Economic Commission for Latin America and the Caribbean (ECLAC).

*In 2008, two international conferences marked the 10<sup>th</sup> anniversary of the Aarhus Convention: "The Aarhus Convention at Ten: Interactions and Tensions between Conventional International Law and EU Environmental Law" was held at the University of Amsterdam, Netherlands, on 25 June; "The Role of Information in an Age of Climate Change" was held at the University of Aarhus, Denmark, on 23 and 24 November.*



With funding from the Government of Spain, four additional countries – Panama, Guatemala, El Salvador and Nicaragua – will initiate project activities in 2009. A regional workshop on principle 10 implementation in Central America and the Dominican Republic is

scheduled to take place in early 2010 with support from UNITAR and CCAD. In the Africa region, pilot projects will be initiated in Botswana, Mali and the Democratic Republic of Congo.

### Third Meeting of the Parties honours Willem Kakebeeke

At the invitation of the Government of Latvia, an anniversary concert and reception celebrating the Convention's accomplishments was held in the historic centre of Riga. The honoured guest speaker at this special

event was Mr. Willem Kakebeeke of the Netherlands, who chaired the negotiation of the Convention and later served as Chairman of the first meeting of the Signatories.



*Top left:* Charlot De Waal (secretariat), Brita Bohman (volunteer), Andrea Hegedus (secretariat), Fiona Marshall (secretariat), Monika Linn (secretariat), Marianna Bolshakova (secretariat), Cathrin Zengerling (volunteer), Petra Beickert-Evers (secretariat)

*Inner row left:* Maricar De la Cruz (secretariat), Leonie Evers (intern), Zaneta Mikosa (Latvia), Dace Dravniece (Latvia)

*Lower left:* Michael Stanley-Jones (secretariat), Willem Kakebeeke, Jeremy Wates (secretariat)

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