



Public access to environmental information: key messages from the region

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I will try to cover the following

- 1. Why we wanted this TF**
- 2. What legal basis we have for Access to Information (Atol)**
- 3. Situation in the region: access to information upon request and active dissemination by governments**
- 4. What needs to improve regarding Atol**
- 5. Our view on TF priorities as suggested by the Chair/Secretariat**
- 6. Some suggestions on what the TF should do**



The EEB and the European ECO Forum

- **Established in 1974 to represent ENGOs' interests towards the EU Institutions it brings together over 140 civil society organisations representing the views of an estimated 15 million EU citizens and operates at the heart of the EU decision-making process with a firm foundation at grass root level.**
- **For the Aarhus Convention the EEB works in the framework of the European ECO Forum, a coalition of more than 200 Environmental Citizens' Organisations from the UNECE region, created in 1993 to follow up on the "Environment for Europe" process and leads the Public Participation Campaign.**



Why we wanted this Task Force

Broader scope than with Task Force on Electronic Information Tools and include policy related issues, clarify definitions, exemptions etc.

What legal basis we have for Access to Information



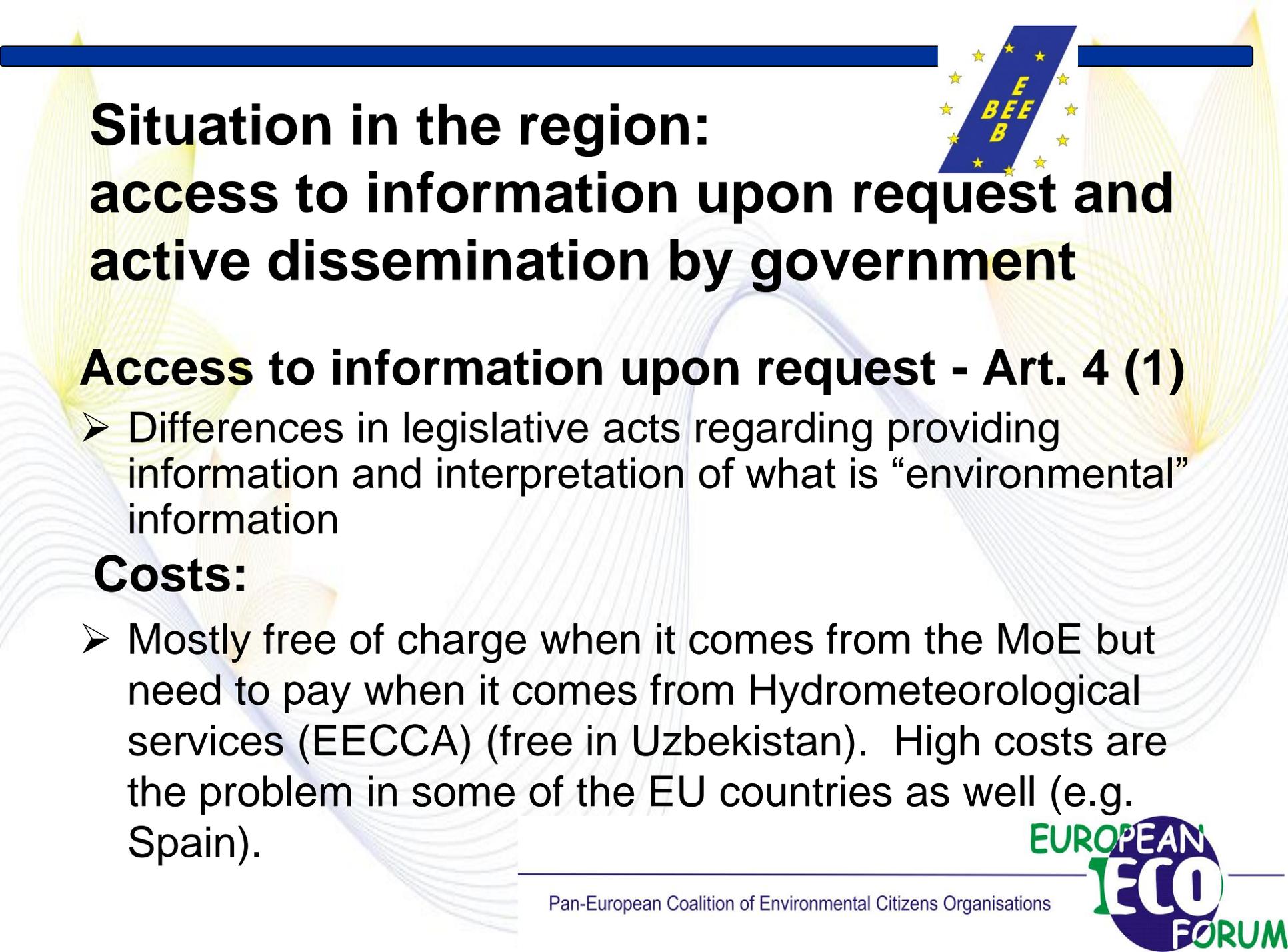
- **Aarhus Convention** – Art 4 and 5 including Recommendations on more effective use of EIT to provide public access to environmental information (Annex to the Decision II/3 of MOP-2 in 2005)
- **EU Directive on Access to Information 2003/4/EC**
- **Regulation (EC) No 1049/2001** regarding public access to European Parliament, Council and Commission documents
- **Regulation (EC) No 166/2006** on establishment of an E-PRTR (which is under the SEIS principles (Shared Environmental Information system) – COM (2008) 46 final)
- **Regulation N° 1367/2006** on application of the provisions of the Aarhus Convention on Access to Information, Public Participation in decision-making and Access to Justice in environmental matters to Community institutions and bodies
- **National legislation**



Situation in the region: access to information upon request and active dissemination by government

Access to information upon request - Art. 4

- getting information when asking - usually not a major problem for most countries and is indicated as the “easiest” part of the Convention. However, having the legal basis is not a guarantee for implementing this in practice (around 20 complaints to ACCC indicate problems).
- Important issues is how complete the information is, the quality of responses and timing to get it.



Situation in the region: access to information upon request and active dissemination by government

Access to information upon request - Art. 4 (1)

- Differences in legislative acts regarding providing information and interpretation of what is “environmental” information

Costs:

- Mostly free of charge when it comes from the MoE but need to pay when it comes from Hydrometeorological services (EECCA) (free in Uzbekistan). High costs are the problem in some of the EU countries as well (e.g. Spain).

Situation in the region: access to information upon request and active dissemination by government

In some countries information is given free of charge if classified as « environmental ». The problem occurs when the authority decides to classify it as « general » and put charges on it (Czech Republic).

Sometimes agencies other than MoE (e.g. Hydromet) try to establish prices for environmental information about events which took place long time ago – so, have no commercial value. Price corresponds to expenses of collection of information but not of copying.

Situation in the region: access to information upon request and active dissemination by government

.Refusal to give information

- **(mis) interpretation of exemptions**
- **Building documentation, permitting procedures for Nuclear installations, land use plans etc.**
- **Judicial review – often slow and ineffective**

Situation in the region: access to information upon request and active dissemination by government



Remarks:

- Changes in formulations/legislation does not increase access to information –following the ACCC findings in Case 30 (Eco-Tiras) the government of Moldova recently switched from “ no availability of contracts on rent of forest funds between physical persons and state” to “no access to personal data” which means in fact the same = Information will not be given.
- On international agreements: in Ukraine the draft association agreement between Ukraine and the EU was kept in secret and all NGO efforts to get draft agreement (during and after negotiations) failed. However, it was leaked to Internet just recently. So, there is a need to improve Atol in relation to international forums.



Situation in the region: access to information upon request and active dissemination by government

Active collection and dissemination of information - Art. 5

- A lot of information is being gathered in every country.
- Quite a big part of data are based on self-reporting by enterprises; environmental monitoring data often are fake and monitoring is not conducted on a regular basis.

Ex. In Ukraine - all emissions/discharges statistics data are confidential. You can only access general information (e.g., total of SO_x emitted last year).



Situation in the region: access to information upon request and active dissemination by government (4)

Active collection and dissemination of information - Art. 5

- Access to land use documents is restricted in many countries

Remark from quite a few NGOs - in some countries NGOs and citizens themselves do not know what to do with all that information published. So, there should be some capacity building to show what to do with that data. Often actual environmental data are rarely used by NGOs for public campaigns.



What needs to improve regarding Access to Information

- Quality is a key issue as to information about the state of environment.
- Establish a system for monitoring and start to create a publicly available electronic database on the state of the environment with a periodic but regular updates
- Setting-up/Strengthening of the infrastructure of central administrative services as well as that of local authorities
- Changing of administrative culture and practice, free from reliability on confidentiality
- Establishing relations of mutual trust between citizens and public services
- Recognize and realize the importance of public information at different levels of legal procedures and administrative action (public or private bodies)

Last but not the least important – the political will of the governments should be there



Our views on TF priorities as suggested by the Chair/Secretariat

a. *The scope of environmental information and public access to environment-related information available to public authorities other than those responsible for environmental protection (e.g. land administration authorities etc.)*

- Need to pay more attention on definition/meaning of environmental information

Example: in Ukraine good information through ministerial website about what the minister said or with whom he meet, but not a lot about state of environment. Also other administrative structures should inform about state of environment, measures for protection more than just reporting about events and meetings.

- Often not only the public but state officials too do not have easy access to environmental information from other agencies. Emphasis here should be on public access to information on the results of state environmental control which today are practically closed to the public.



Our views on TF priorities as suggested by the Chair/Secretariat

b. Providing sufficient environmental information with regard to products

- It is important to provide full information on products, including its contents, safety, environmental impact during its lifetime etc. Control over product information - does the state control what is written and what happens if what is written it is false.

c. Access to environmental information and copyright protection

- In some countries there is an intention to establish copyright on data received either by budget funds or by external public funds.

Example – in 2005-2010 Norwegian government supported air mapping of the territory of Moldova for land cadastre. Now these maps are not available for free but cost a lot.



Our views on TF priorities as suggested by the Chair/Secretariat (2)

- d. *Protection of a legitimate economic interests through protected by law confidentiality of commercial and industrial information related to the environment and the public interest served by disclosure of such information (information from the private sector)*
- Seek for synergies and work/act together with various business associations, UN Global Compact, centers for CSR and other relevant structures.
 - Sometimes the whole sections of project documentation which usually should be reflected in the EIA are put under the privacy and protection of copyrights. This prevents the adoption of decisions on the admissibility of the proposed activity. Often there is also a need for information on raw materials, technologies, processes, capacities of facilities which is not directly an environmental, but allows you to make calculations on emissions into the environment. So, it has to change!!!



Our views on TF priorities as suggested by the Chair/Secretariat (3)

e. Access to raw data and primary statistical data related to environmental information

- Access to raw data and statistical information is of primary concern in many countries, including the EU. Necessary to analyze the mechanism for opening the primary information in the countries to develop recommendations for the implementation of the necessary steps for disclosure of such information, the choice of possible solutions.
- There is a need to have a country-applied single database (even for internal use primarily by MoE) for such data. It would then enable MoE to provide information on permits, fines etc.
- Data from various departments often are very different. So, there is no harmonization of data.

Problem in KG - the data on different categories of land: forest land, agricultural land, protected areas, etc. sometimes very different in different reports which are approved by the Government. For example - the Agency for Geology licenses for exploration works in the protected area (nature reserve) because they do not have the data and maps, and information sharing and process coordination between agencies is not always effective].



Our views on TF priorities as suggested by the Chair/Secretariat (4)

f. Improving dissemination of priority categories of information in accordance with decision II/3 adopted at the MOP-2 (Almaty, 2005).

Reports on the state of the environment;

- In most countries available and regular. But there are also signals that they are not published regularly, data are not up-to-date and sometimes reports are contradictory.

Texts of legislation, regulations, rules and other legally binding instruments on or relating to the environment;

- Available. Most countries posted on the web and information is for free

Texts of policies, plans and programmes on or relating to the environment, and environmental agreements;

- Available as part of legislation. Exceptions include state or military secrets.

Our views on TF priorities as suggested by the Chair/Secretariat (5)



f. Improving dissemination of priority categories of information in accordance with decision II/3 adopted at the MOP-2 (Almaty, 2005).

Environmental impact assessment and strategic environmental assessment documentation where it is held in electronic form or, where it is not available in such form, a reference to where such documentation can be accessed;

- Often not available for public. Shall be a priority.

Data on environmentally significant releases and transfers of pollutants, within the scope of the Protocol on Pollutant Release and Transfer Registers;

- Mainly for EECCA countries but not only - often not available, sometimes you get this information when ask but the problem can be a quality of the information received. For most of the EU countries the reporting is regular and data available of the website.



Our views on TF priorities as suggested by the Chair/Secretariat

f. Improving dissemination of priority categories of information in accordance with decision II/3 adopted at the MOP-2 (Almaty, 2005).

Documentation forming an integral part of any licensing or permitting process subject to the provisions of article 6 (e.g. applications for licences or permits, comments of third parties, draft and final licences and attached conditions) where it is held in electronic form or, where it is not available in such form, a reference to where such documentation can be accessed;

- Usually not available and no guarantee to get if asked

Information on mechanisms related to access to justice within the meaning of the Convention;

- Hardly existing.



Our suggestions on what the TF should do

- Focus on sharing databases (and access) related to cross-border objects (rivers, seas).
- Establish clear rules for business to inform public directly via their own websites and responsibilities (fines) for no-information. On-line access to monitoring data for public
- Clear guidance on exemptions (guidelines, experiences, amendments or...)
- Clear guidance on judicial reviews
- Assist in creating a system for effective informing which needs to be based on requests' analyses, public assessments, cases etc. Collect and share good practises
- Organise (in the country and then in the region) research and prepare an assessment of the capacity of countries (at the system level, institutions, entities) aimed at improving the quality of information
- ... and much more !!!



Thank you!

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