



Environmental information: minding the gap

Scope of environmental information

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Few speaking points

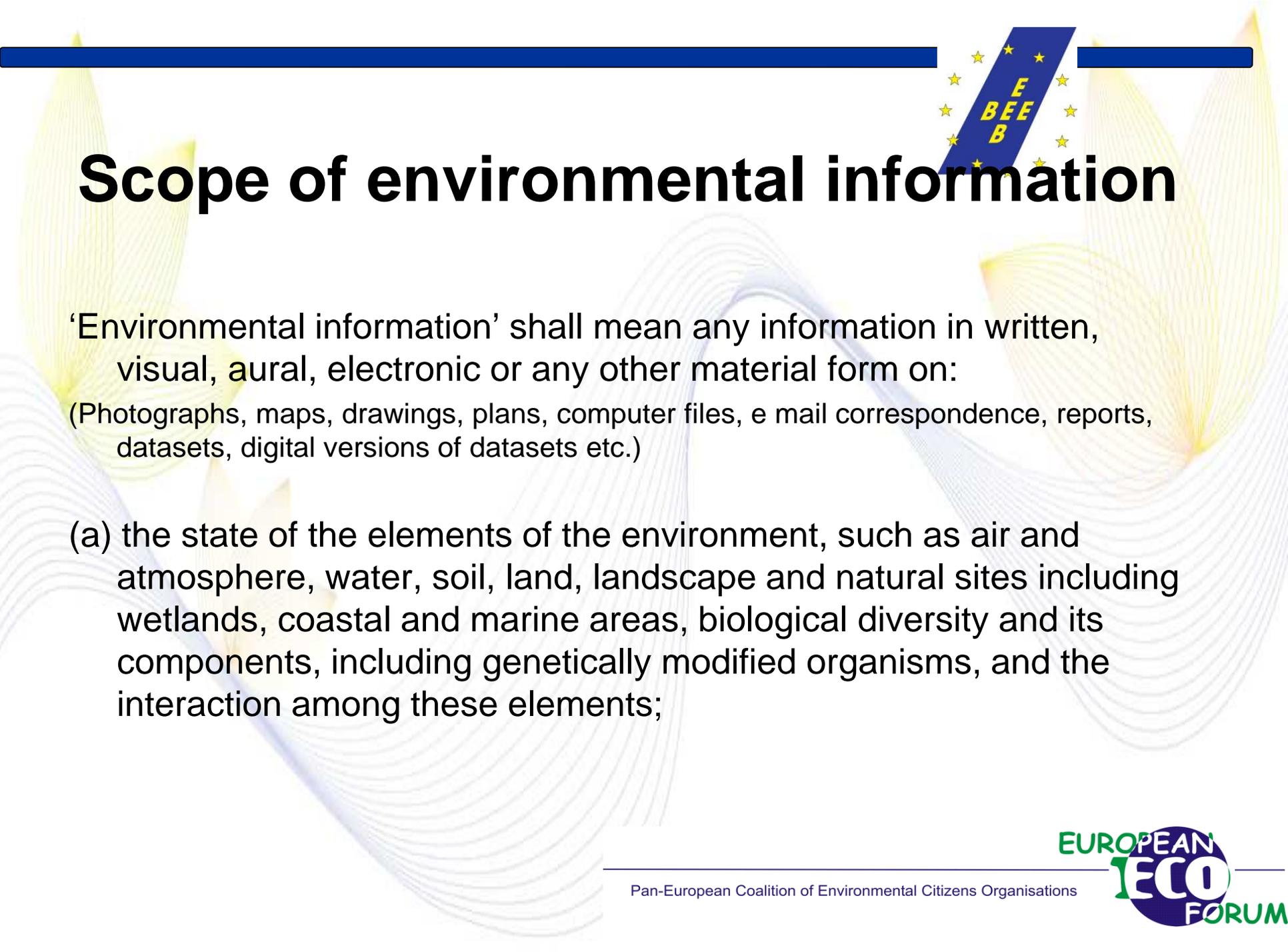
- 1. Legal basis for Access to Information (Atol)**
- 2. Scope of environmental information**
- 3. Boundaries between environmental and other information**
- 4. Work ahead**



Great legal basis for Access to Information

- Aarhus Convention – Article 2 (Definitions)
- EU Directive on Access to Information 2003/4/EC - Article 2

But legal basis should be seen as “**NOT** the ceiling but the floor” for further developments and improvements.



Scope of environmental information

‘Environmental information’ shall mean any information in written, visual, aural, electronic or any other material form on:

(Photographs, maps, drawings, plans, computer files, e mail correspondence, reports, datasets, digital versions of datasets etc.)

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;



Scope of environmental information

- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;



Scope of environmental information

- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c);
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c)



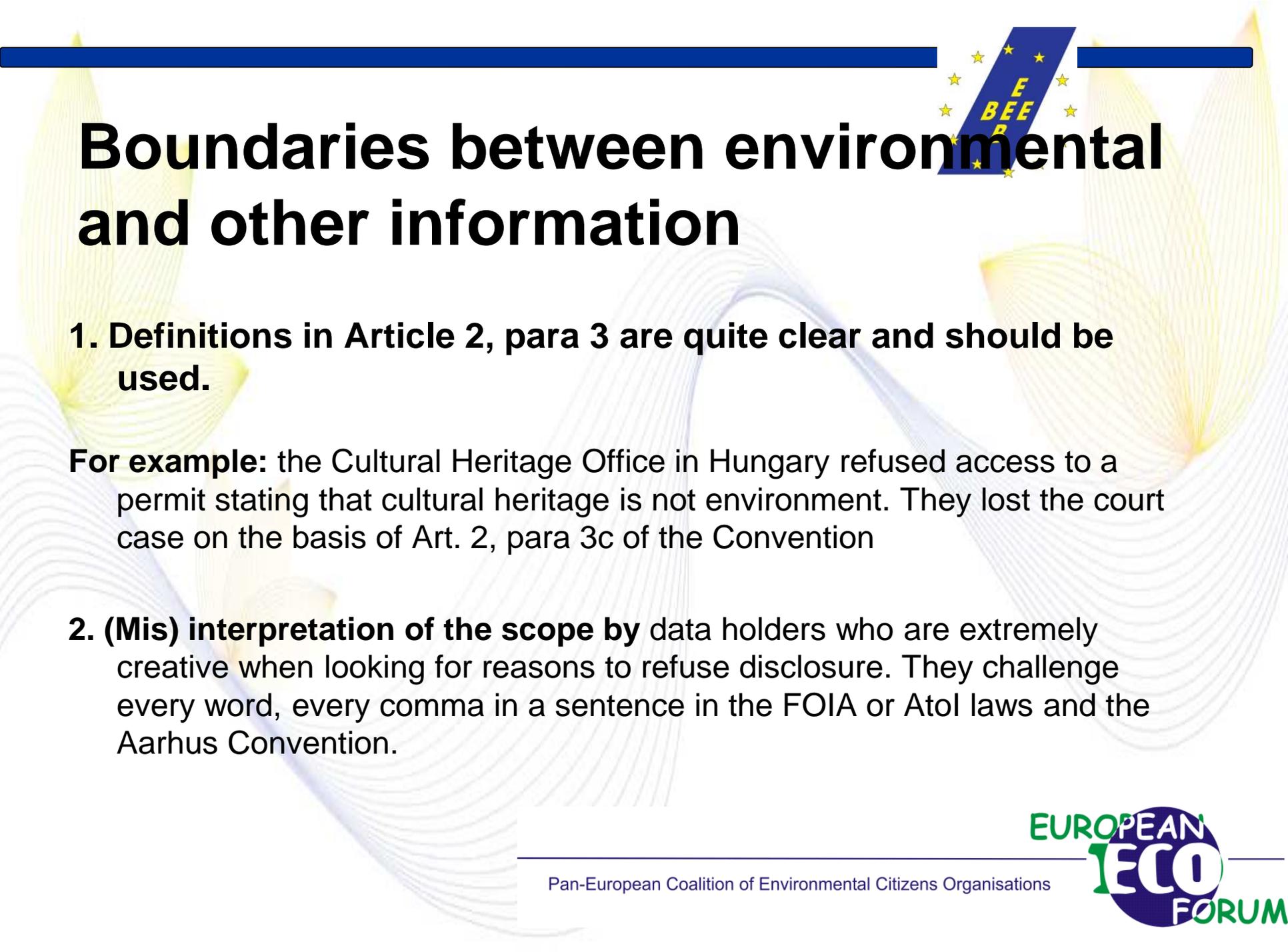
Do we need to broaden the scope of environmental information - YES!!!

To include among others:

- information on products, including its contents, safety, environmental impact during its lifetime etc.
- Access to raw data, statistical, data from state control documentation, spatial and hydrometeorological information etc.

But also:

- (inter)national processes involving environment



Boundaries between environmental and other information

1. Definitions in Article 2, para 3 are quite clear and should be used.

For example: the Cultural Heritage Office in Hungary refused access to a permit stating that cultural heritage is not environment. They lost the court case on the basis of Art. 2, para 3c of the Convention

2. (Mis) interpretation of the scope by data holders who are extremely creative when looking for reasons to refuse disclosure. They challenge every word, every comma in a sentence in the FOIA or Atol laws and the Aarhus Convention.



Boundaries between environmental and other information

For example:

- you cannot have access to this because that is not a data, that is a set of data
- you cannot have access to this because this is information and not data or vice versa
- you cannot have a document, a permit, a study but only the data what is in the document, permit, study etc.

To overcome these artificial barriers is via interpretative statements from courts in a particular cases (can be time and resource consuming)

3. (Mis)use of other legislative acts (Atol versus FOI and similar)

Work ahead



- To do anything that would make progress in proactive online information sharing an obligation, instead of rights that can be enforced at courts
 - Establish a system for monitoring and create a publicly available electronic database on the state of elements of the environment (Art.2§3)
 - Setting-up/Strengthening of the infrastructure of central administrative services as well as that of local authorities to deal with info requests
 - Awareness raising and capacity building for administrations as well as civil society organisations on understanding 'environmental information'
 - Recognise and realise the importance of public information at different levels of legal procedures and administrative action (public or private bodies)
 - Assessment and **progressive** harmonisation of legislation dealing with (access to) information
- ... and much more!!!



Thank you!

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