

**Meeting of the Parties to the Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters**

Task Force on Access to Information

Fourth meeting

Geneva, 8 - 10 December 2015

Intervention at point 3 d) of the agenda: The environment to which information relates

According to Article 4(4)h) of the Aarhus Convention, a request for environmental information may be refused if the disclosure would adversely affect... *'h) the environment to which the information relates, such as the breeding sites of rare species'*.

Directive 2003/4/EC recognises as possible ground for refusal *'h) the protection of the environment to which the information relates, such as the location of rare species'*. This legislative instrument does not add substantial clarification to the Convention itself and, to a large extent, uses the same words.

Moreover, if we look at the Implementation Guide, in its second edition of 2014, all the comments dealing with this letter are reduced to four lines (see page 90).

These remarks are aimed at showing how difficult it is to identify the scope of this exception. Of course, all agree on the location of rare species but what other possible situations are covered by the exception? I consider that this exception could also be applied for environmental inspections or monitoring actions before they are carried out. In fact, it might be essential that no information is released before in order to have the exact picture of the environmental situation to be checked.

In the practical application of access to environmental information upon request in the European Commission, at least in the last two years, this exception was never been used.

However, in the area of active dissemination, this exception has played an important role. In fact, in close co-operation with the EEA, the Commission has set up a European map viewer (called the "Natura 2000 Viewer") in which all sites relating to Natura 2000 and Birds Directive are indicated. This map is elaborated on the basis of information from each Member State and is updated once per year. There are two versions of the underlying dataset: one for which access is restricted and another one that is available to the public. The first one, accessible only to duly authorised Commission officials and EEA staff, contains information about location of sensitive species that have been identified as such by the Member State authorities. The other one does not contain this sensitive information. However, it constitutes a graphic tool giving extensive information on Natura areas and is consulted hundreds of times every day by different actors.

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