

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

Fourth session

Chisinau, 29 June - 1 July 2011

General Segment

Item 4 (d):

Substantive issues: access to Justice

Statement by Norway

delivered by the Norwegian head of delegation, Ms Vibeke Ursin-Smith

- Mr. Chairman, distinguished Delegates.
- First, on behalf of Norway, I would like to use this opportunity to thank Moldova for organizing the fourth Meeting of the Parties to the Aarhus Convention in such an excellent manner.
- Second Norway would like to express its gratitude in being asked to give the opening statement on the very important topic - access to justice.
- As we all have recognized through the adoption of the Aarhus Convention, “every person has the right to live in an environment adequate to health and well being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations.”
- The convention establishes 3 pillars that are considered necessary to achieve this right for everyone: Citizens must have the right to information, they must be able to participate in decision-making, and there must be access to justice in environmental matters.
- By establishing the right to access to justice, it is acknowledged that citizens may need assistance, and a legal remedy, in order to exercise their other primary rights – and often this is the case.
- Still this third pillar of the Convention, access to justice, has often shown to be the most difficult for States to fulfill.
- The work that is being done under this part of the Convention is therefore of vital importance.
- In this relation, the Task Force on Access to Justice, under the eminent leadership of Sweden, has since its establishment done, and is still doing, very important work in this field.
- Several very interesting and useful analytic studies have been carried out. In addition the Portal on case studies is up and running. This is of both general interest and of great use to us all, as it allows us to draw on each others experiences and become educated of legal challenges and solutions across different states.
- As evident from the implementation reports submitted by state parties, significant improvements within the field of access to justice has been made since the coming into effect of the Convention. Still, they also show the broad and complex nature of the issue of access to justice and that there are significant issues to be discussed and further improved.
- One such issue is standing. It is vital that non-governmental organizations are given the right to appeal in court violations of environmental legislation, and to bring claims to protect the rights of an indefinite number of persons. NGOs are today one of the key players in

enlightening and solving environmental problems both domestically and at the international level.

- Under Norwegian legislation, environmental organizations would normally have the capacity to be part of a case, as long as the lawsuit deals with a matter that comes within the scope of the organization or of its operations in practice. This has shown very useful in getting important issues assessed and judged by the courts. Especially has this been important in relation to oil activities on the Norwegian continental shelf.
- Further there is still work to be done in relation to the issue of costs. If a case is first brought to the courts it will unfortunately always involve costs, and without special mechanisms to keep costs down they may become very significant.
- A challenge for state parties is therefore to establish mechanisms to limit costs. One such way is the introduction of legal aid. Another alternative is to establish bodies outside the ordinary courts, which can consider environmental disputes in a more time-efficient and less costly manner. In Norway, as in several other state parties, disputes between public administration and private interests can be brought before the Ombudsman for the Public Administration. In all but the fewest cases the Norwegian public administration follows the recommendations of the Ombudsman.

Norwegian law also imposes obligations on private parties to provide environmental information to the public. Disputes in this area are not handled by the Ombudsman, but may instead be submitted to the special Appeals Board of Environmental Information established solely for this purpose. The board consists of a chairman of environmental legal background, with an equal amount of members from NGOs and the press on the one hand, and the industry on the other. The board settles cases in relation to situations where a private undertaking has denied a citizen access to what is considered by the plaintiff to be environmental information. In the majority of cases the undertaking will comply with the decision of the Appeals Board, but if this is not the case, decision may be brought to the ordinary courts.

- A third element that is of particular importance in environmental matters is injunctive relief. As many environmental decisions are of an irreversible nature, it is of the essence that the decision is not carried out until the question has been finally decided. To put it plainly: a right to appeal matters little if the bear has already been shot.
- Lastly and of more general nature it is very important to try to involve all the different stakeholders in the work on access to justice. The importance of and the right to access for all to justice in environmental matters concerns both judges and other legal professionals, public interest lawyers, non-governmental organizations and of course a range of public officials. The work on awareness rising and capacity building, both within the public administration and in general, is of constant importance.
- To sum up: Significant work has been done on giving citizens access to justice in environmental matters, and significant progress has been made since the coming into effect of the Convention. Nevertheless work remains. We therefore look forward to a fruitful discussion on this important topic. Only by discussing, interacting, and learning and inspiring each other, can we together strive towards our common goal of improving citizens' access to justice and the general effectiveness of the Aarhus Convention.