

**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 the Chair of the Task Force on Access to Justice
Report from the Task Force on Access to Justice to MoP4**

The mandate

Summarizing the mandate from 2005 and 2008 and recalling the decision from 2002:

- Examine, consider and analyse materials on the implementation of the Convention, especially with regard to costs, remedies, criteria on standing, delay and other obstacles to access to justice, assistance mechanisms, scientific and technical expertise in the decision-making and Alternative Dispute Resolutions (ADR),
- Develop training materials, training of trainers,
- Continue to perform strategic capacity-building activities – that is workshops – particularly for senior members of the judiciary on sub-regional level,

What we have done so far

The **3rd meeting of the Task Force** took place on 14-15 October 2009 in Geneva. The meeting started with a half-day mini-conference, “Hot Topics and Case Law Related to the Implementation of the Aarhus Convention: National and Regional Experiences” with invited speakers from the academia.

The **fourth meeting** of the Task Force on Access to Justice took place from 7 to 8 February 2011 in Geneva, back to back with WGP13. The meeting was preceded by an informal seminar of experts from the EECCA countries, discussing the progress of the study on remedies and costs in that region.

In cooperation with OSCE, we organized a **workshop** for senior members of the judiciary, which took place in November 2008 in Tirana (Albania). The workshop brought together senior judges from the subregion, as well as several senior judges from the EU countries and international environmental law experts.

During the intersessional period, we have initiated four **analytic studies**. They have all been posted on the Convention’s website and comments have been submitted from NFPs, NGOs and other stakeholders. Parts of the studies have also been discussed in an open network that the Chair has established, involving a number of NFPs, NGOs, judges in the EUFJE and law professors. Furthermore, the first-mentioned three studies were discussed on the 4th meeting of the task force in 2011 and the conclusions are reflected in the report from that meeting.

1. In close cooperation with the Chair, an expert – Ms. Yaffa Epstein – in 2010 carried out a study on remedies in legal systems in member states of EU and other countries in Western and Central Europe. This study – “Access to Justice: Remedies - Article 9.4 of the Aarhus Convention and the requirement for adequate and effective remedies, including injunctive relief” – was based on secondary sources available in the English language. An advance copy of the study was distributed to all participants at TF4 2011, discussed on the meeting and finalized thereafter.

2. In the beginning of 2011, the Chair wrote a memorandum “On costs in the environmental procedure”, covering non-EECCA parties to the Convention. The memorandum highlights some main concerns about costs and proposes some key issues for further studies.
3. The expert Ms Epstein also – still in close cooperation with the Chair – made a study in 2011 on “good examples” in relation to costs and remedies in the environmental procedure. The work, “Approaches to Access - Ideas and Practices for Facilitating Access to Justice in Environmental Matters in the Areas of the Loser Pays Principle, Legal Aid, and Criteria for Injunctions” will be taken into account in the continuing work of the Task Force.
4. Two experts, Ms. Elena Laevskaya and Mr. Dmytro Skrylnikov, have undertaken a study on costs and remedies in the countries in the EECCA region. The two consultants were coordinating with 12 experts identified in each country of the region. Questionnaires had been disseminated to the experts to fill out and an informal meeting of all experts took place before the TF4 meeting in 2011 to discuss the progress of the project. The study – “Access to Justice in Environmental Matters: Available Remedies, Timeliness and Costs” – was presented as an advance copy to the MOP-4 and will be finalized in the course of the coming summer.

We have started with the development of a **case law data base**, which is included in the Clearing House for Environmental Democracy website. The database today contains about 50 cases from different national and regional courts on issues related to the third pillar of the Convention.

What we are planning

Under the condition that the MOP4 decides to continue the assignment for the Task Force on Access to Justice, I would like to – recalling Decision III/3, para 17, where the MOP3 stressed the importance of prioritizing the activities of our work – high-light the following issues to proceed with in our work during the next intersessional period:

- Continue the analytic studies on barriers to access to justice and ways to overcome them (identifying “good examples”). The Task Force meetings have pinpointed “criteria for individual’s standing in environmental cases” as a priority issue for these studies.
- Perform one work-shop on sub-regional level, learning from the experiences we made from the ones held in Kiev 2007 and Tirana 2008. The workshop is planned to be performed in Central Asia in spring of 2012 and will address not only judges, but also other legal professions and public officials.
- Develop and improve the training material for workshops and education on national and regional basis. Develop and improve the training material from the workshops and make it available for others to use.
- Improve the accessibility of the case law data base and to include more cases.