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Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Working Group of the Parties

Twenty-first meeting

Geneva, 4–6 April 2017

Item 6 of the provisional agenda

**Implementation of work programme for 2015–2017,
including financial matters**

Report on the implementation of the work programme for 2015–2017

Note by the secretariat

Summary

The present report was prepared in accordance with the work programme for 2015–2017 adopted by the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (see ECE/MP.PP/2014/2/Add.1, decision V/6, annex I, item X). It provides an overview of the status of implementation of the Convention's work programme for 2015–2017 for the period 2 March 2016 to 31 December 2016. Information on the implementation of the current work programme up to 1 March 2016 can be found in the implementation progress report (ECE/MP.PP/WG.1/2016/5) submitted to the Working Group of the Parties at its twentieth meeting (Geneva, 15–17 June 2016).

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Introduction

1. The present document provides an overview of the implementation of the work programme for the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) for 2015–2017 (ECE/MP.PP/2014/2/Add.1, decision V/6, annex I) from 2 March 2016 to 31 December 2016 (the reporting period). The information herein complements information provided in the report on the implementation of the work programme for 2015–2017 (ECE/MP.PP/WG.1/2016/5) submitted to the Working Group of the Parties to the Convention at its twentieth meeting (Geneva, 15–17 June 2016). Only some activities related to access to information, capacity-building and awareness-raising regarding the Convention's Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs) are included; a report on the implementation of the Protocol's work programme for 2015–2017 (ECE/MP.PRTR/WG.1/2016/3) was submitted to the fifth meeting of the Working Group of the Parties to the Protocol (Geneva, 23–24 November 2016).

2. In implementing the work programme, the secretariat made strenuous efforts to avoid duplication of work and the inefficient use of resources by pursuing synergies with activities under other United Nations Economic Commission for Europe (ECE) multilateral environmental agreements, United Nations agencies and other partners. This required spending more time on the preparatory phase of activities to ensure proper consultations with the chairs of the respective subsidiary bodies and partner organizations. Furthermore, the secretariat extended, and will continue to extend, the use of electronic tools (e.g., e-mail consultations; web-based, video and phone conferences; online databases; and the clearinghouse mechanism), with a view to rendering its activities more resource and time efficient.

I. Substantive issues

A. Access to information, including electronic information tools, the clearinghouse mechanism and PRTR.net

3. In the reporting period numerous activities were focused on improving public access to environmental information and its active dissemination to the public, including through electronic information tools.

4. At its fifth meeting (Geneva, 10–11 October 2016),¹ the Task Force on Access to Information continued the exchange of information, good practices and recent legislative, policy and practical developments on promoting public access to environmental information. In particular, the Task Force continued to focus on: the scope of environmental information and information on emissions; the application of restrictions to access to environmental information; the use of public registers and other electronic information tools; and the further development of the Aarhus Clearinghouse and national nodes.

5. In consultation with the Chair of the Task Force, in February 2016 the secretariat finalized and distributed a questionnaire to Parties with a view to monitoring their progress in implementing the recommendations on the more effective use of electronic information tools to provide public access to environmental information (ECE/MP.PP/2005/2/Add.4, annex).

¹ Meeting documents and other information on the meeting of the Task Force are available from <http://www.unece.org/index.php?id=41961#/>.

6. The Task Force took note of the “draft summary report on the results of the survey on the implementation of the recommendations on electronic information tools (decision II/3)” (AC/TF.AI-5/Inf.3) and its accompanying document (AC/TF.AI-5/Inf.5/Add.1). The finalized document will be annexed to the report of the Task Force on its fifth meeting.
7. The survey resulted in a collection of case studies on promoting use of electronic information tools. The Task Force invited Parties and stakeholders to continue submitting case studies to the collection, using the template developed for that purpose.
8. The secretariat continues to manage the Aarhus Clearinghouse for Environmental Democracy² and the PRTR.net global portal.³ The two portals were used in the reporting period to facilitate the collection, dissemination and exchange of information related to national implementation of the Convention and relevant global and regional developments regarding implementation of Principle 10 of the Rio Declaration on Environment and Development (Rio Declaration), as well as information regarding pollutant release and transfer registers (PRTRs). In addition, the secretariat has been coordinating the upgrade of these two websites to make them more appealing and user-friendly, by integrating new technologies, web features and search options.
9. The secretariat also continued to maintain and populate a jurisprudence database accessible through the Convention’s web page and the Aarhus Clearinghouse. The database promotes the exchange of jurisprudence concerning the Convention and facilitates the work on access to justice. It includes decisions issued by courts of law or other bodies that make reference to the Convention or its principles, and includes summaries in English and decisions in the original language and in English, when available. The database includes case summaries in Russian as well. To date, there are up to 100 cases in the database. Maintaining the jurisprudence database is an ongoing activity.
10. The secretariat also contributed to the work of other international forums dealing with access to environmental information and electronic information tools. For instance, the secretariat briefed the ECE Joint Task Force on Environmental Statistics and Indicators at its twelfth meeting (Geneva, 17–18 November 2016) on relevant activities under the Convention and the Protocol.
11. The secretariat also continued providing a number of inputs for documents produced by the Conference of European Statisticians, raising awareness about the relevance of the Convention and the Protocol with regard to the production of official statistics in environmental matters.
12. In addition, the secretariat contributed a summary of the activities of the Convention and the Protocol for inclusion in the report on the implementation of the outcomes of the World Summit on the Information Society.

B. Public participation in decision-making

13. With regard to public participation, at its seventh meeting (Geneva, 15–16 December 2016) the Task Force on Public Participation in Decision-Making focused on public participation in decision-making related to sustainable development and discussed good practices and the main challenges to effective public participation with a focus on effective public participation in decision-making (a) related to changes to or extensions of existing activities and (b) in a transboundary context.⁴ The meeting also offered an

² See <http://aarhusclearinghouse.unece.org/>.

³ See <http://www.prtr.net/>.

⁴ Meeting documents and other information on the meeting of the Task Force are available from <http://www.unece.org/index.php?id=42573#/>.

opportunity to share experiences in the use of the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters (ECE/MP.PP/2014/2/Add.2). A survey was organized prior to the meeting in order to facilitate the discussion on this item. A call for case studies on public participation in environmental decision-making is ongoing, and an online compendium of the case studies has been populated.⁵

C. Access to justice

14. At its ninth meeting (Geneva, 14–15 June 2016), the Task Force on Access to Justice considered recent developments and national efforts to remove barriers to access to justice.⁶ The meeting also included a thematic session, which focused on the scope of review. In particular, delegates discussed what decisions, acts or omissions could be the subject of administrative appeal and judicial review in accordance with article 9 of the Convention, what could be the grounds for their review and to what extent both procedural and substantive issues might be reviewed. The Task Force meeting was preceded by a special session for judges dedicated to the promotion of judicial networking in the pan-European region. The tenth meeting of the Task Force is scheduled to take place on 27 and 28 February 2017 in Geneva.⁷

15. For its part, the secretariat continued work on a study on the scope of review in selected countries of South-Eastern and Eastern Europe, the Caucasus and Central Asia, and provided advisory support to a similar study being carried out in other countries of South-Eastern Europe by the Regional Environmental Centre for Central and Eastern Europe with the support by Germany.

16. In the reporting period, the secretariat also updated the study on the possibilities for non-governmental organizations promoting environmental protection to claim damages in relation to the environment, in the light of the comments received.

D. Genetically modified organisms

17. Bilateral collaboration on genetically modified organisms (GMOs) is ongoing between the secretariats of the Aarhus Convention and the Cartagena Protocol on Biosafety to the Convention on Biological Diversity. During the reporting period, the two secretariats organized the second Global Round Table on Awareness-raising, Access to Information and Public Participation in Decision-making Related to Living Modified Organisms/ Genetically Modified Organisms (LMOs/GMOs) (Geneva, 15–17 November 2016).⁸ The meeting was organized under the leadership of the Government of Austria. The event aimed to assist participants to identify challenges in promoting public participation in decision-making on LMOs/GMOs, to build capacity of governmental experts and different stakeholders, and to explore synergies between different countries, regions and organizations to promote transparency and public participation on biosafety.

18. In the reporting period, France ratified the amendment to the Aarhus Convention regarding public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms (GMO amendment). Three

⁵ See Aarhus Good Practice, <https://www2.unece.org/aarhus-good-practices/>.

⁶ Meeting documents and other information on the meeting of the Task Force are available from http://www.unece.org/index.php?id=41958#.

⁷ See http://www.unece.org/index.php?id=44080#.

⁸ Meeting documents and other information on the Global Round Table are available from http://www.unece.org/index.php?id=42179#.

more Parties from among the following list must ratify the amendment for it to enter into force: Albania, Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Malta, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Ukraine. These Parties were repeatedly called upon to take serious steps towards ratification and to provide the secretariat with a written explanation regarding the status of the ratification process in their countries. Following its mandate from the Meeting of the Parties, the Working Group is expected to monitor closely progress on the GMO amendment, and to enlist the assistance of Parties and partner organizations towards the amendment's entry into force.

II. Procedures and mechanisms

A. Compliance mechanism

19. Since 2 March 2016 the Compliance Committee has held its fifty-second, fifty-third, fifty-fourth and fifty-fifth meetings.⁹ In that period, it adopted findings on four communications from the public and completed draft findings on another four communications. Between 2 March 2016 and 31 December 2016, the Compliance Committee received five new communications. In addition, the Committee received one submission by a Party concerning its own compliance. The secretariat made no referrals during the reporting period. Of the five communications considered for preliminary admissibility between 2 March 2016 and 31 December 2016, the Committee determined all five to be preliminarily admissible. The Committee currently has 49 pending cases, consisting of 45 pending communications, one pending request from the Meeting of the Parties, one pending request from a Party for advice or assistance and two pending submissions.

20. In addition, since the fifth session of the Meeting of the Parties, the Committee has followed up on the implementation of decisions V/9a-n concerning compliance by Armenia, Austria, Belarus, Bulgaria, Croatia, Czechia, the European Union, Germany, Kazakhstan, Romania, Spain, Turkmenistan, Ukraine and the United Kingdom of Great Britain and Northern Ireland. As indicated in its report to the fifth session of the Meeting of the Parties (ECE/MP.PP/2014/9), in the 2015–2017 intersessional period the Committee is taking a more structured approach to its follow-up on decisions of the Meeting of the Parties on compliance by individual Parties.

21. The Compliance Committee is also continuing its work on revising the guide to the Aarhus Convention Compliance Committee.

B. Capacity-building activities

22. In addition to capacity-building activities mentioned under other areas of work to build synergies and enhance coordination with partners, during the reporting period the secretariat continuously maintained close cooperation with United Nations partner agencies and other international organizations, including the Organization for Economic Cooperation and Development (OECD), the Organization for Security and Cooperation in Europe (OSCE), the Regional Environmental Centre for Central and Eastern Europe and the United Nations Institute for Training and Research (UNITAR).¹⁰ The secretariat also continued its preparations for the tenth Aarhus Convention Capacity-building Coordination meeting

⁹ Meeting documents and other information on the work of the Compliance Committee are available from <http://www.unece.org/env/pp/ccmeetings.html>.

¹⁰ Additional information on this area of work is available from <http://www.unece.org/env/pp/oa.html>.

scheduled for February 2017, back to back with the meeting of the Task Force on Access to Justice. In particular, the secretariat distributed a questionnaire on capacity-building strengths and challenges among national focal points for the Convention in South-Eastern and Eastern Europe, the Caucasus and Central Asia with a view to identifying the needs for future activities.

23. The secretariat took part in the Aarhus Centres annual meeting (Vienna 21–22 November 2016), highlighting the main focus of the activities under the Convention in the context of transition to green economy and implementing 2030 Agenda for Sustainable Development, and also delivered a presentation on the project “Strengthening the capacities of Aarhus Centres in disaster risk reduction (DRR) in order to enhance awareness of local communities”.

24. The secretariat also organized and serviced the second subregional workshop on the Protocol for countries in Eastern Europe, the Caucasus and Central Asia, “Get Your Right to A Healthy Community”, held from 19 to 21 September 2016 in Minsk. The workshop aimed to promote ratification and future implementation of the Protocol and discuss synergies with the ECE Convention on Long-range Transboundary Air Pollution (Air Convention) in data collecting and reporting. It was the first opportunity for national experts from both instruments from Eastern Europe, the Caucasus and Central Asia to discuss and share their experience at the international level, and was organized in cooperation with the Air Convention and the Ministry of Natural Resources and Environmental Protection of Belarus and its scientific and research centre.

25. The secretariat promoted the Protocol on PRTRs at a UNITAR inception workshop for its “Global Project on the Implementation of Pollutant Release and Transfer Registers (PRTR) as a tool for Persistent Organic Pollutants (POP) reporting, dissemination and awareness raising”, which was held on 22 September 2016 in Minsk, back to back with the ECE workshop, and at the regional experience-sharing workshop “Successes, challenges and best practices in developing and operating PRTRs in the Western Balkans and in the Republic of Moldova” (Skopje, 8 and 9 November 2016), organized by the Regional Environmental Centre for Central and Eastern Europe.

26. The secretariat also continued providing substantive support to the implementation of the Environment and Security Initiative project on the promotion of the Aarhus Convention and its Protocol in Belarus. In that connection, against the backdrop of public hearings on a new green economy national action plan being held in the capital, a workshop was organized on ensuring effective public participation in environmental decision-making in Belarus (Minsk, 2–3 November 2016). The workshop was co-organized by the secretariat with OSCE, in close cooperation with the Ministry of Natural Resources and Environmental Protection of Belarus and its scientific and research centre.

C. Reporting mechanism

27. As of 31 December 2016, the former Yugoslav Republic of Macedonia remains the only Party to the Convention that has not yet submitted its report for the 2014 reporting cycle.

III. Promotional activities

A. Awareness-raising and promotion of the Convention and the Protocol on Pollutant Release and Transfer Registers

28. The secretariat, or relevant experts invited by the secretariat to do so, participated in conferences, seminars, workshops and other events in various countries to promote and raise awareness about the Convention and its Protocol at the international level.

29. The secretariat also provided input regarding the right to access information throughout the life cycle of hazardous substances and wastes to the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, for his annual report to the Human Rights Council. Furthermore, the secretariat provided input to the thematic report on human rights and biodiversity of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment in October this year.¹¹ The secretariat also participated in the panel discussion “How can human rights contribute to the protection of the environment?”, organized by the Geneva Environment Network (22 September 2016).

30. The Aarhus Convention was promoted at the OECD Nuclear Energy Agency Nuclear Law Committee meeting (Paris, 24 March 2016), at the Aarhus Convention and Nuclear European Roundtable on Nuclear Emergency Preparedness and Response (29–30 November 2016, Luxembourg) and at a workshop on civil society activities for environmentally sound socioeconomic development implemented in the Western Balkans and Turkey (Tirana, 8–9 December 2016).

31. The French and Russian versions of the *Aarhus Convention: An Implementation Guide*¹² are currently being finalized. The Chinese version of the promotional brochure “Protecting your environment: The power is in your hands”, addressing the general public interested in the Aarhus Convention and its provisions, is also currently being finalized. After the finalization of the Chinese version, this brochure will be available in all six official languages of the United Nations.¹³

32. Following a formal expression of interest in acceding to the Aarhus Convention by Guinea Bissau, the secretariat is providing advisory support to the country in its efforts to accede to the Convention.

33. The secretariat also promoted the Convention and the Protocol through various reports and articles prepared under the auspices of ECE and partner organizations. In addition, the secretariat continued an enhanced outreach exercise, distributing materials about the Convention and the Protocol on PRTRs to national focal points, Aarhus Centres, non-governmental organizations and academic institutions in the ECE region and beyond.

¹¹ See <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Biodiversity.aspx>

¹² United Nations publication, Sales No. E.00.II.E.3. The Implementation Guide is available from http://www.unece.org/env/pp/implementation_guide.html.

¹³ The brochure is also available from http://www.unece.org/env/pp/publications/the_power_is_in_your_hands.html.

B. Promotion of the Almaty Guidelines and other interlinkages with relevant international bodies and processes

34. In connection with work programme items on implementing the Almaty Guidelines on Promoting the Application of the Aarhus Convention in International Forums (Almaty Guidelines), the twentieth meeting of the Working Group of the Parties in June 2016 featured a thematic session on promoting the application of the Convention's principles in international forums.¹⁴ The session focused on recent developments related to international financial institutions, feedback from the promotion of public participation in the lead up to and at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (Paris, 30 November–11 December 2015) and an update on stakeholder engagement in the United Nations Environment Assembly and the high-level political forum on sustainable development processes.

35. During the reporting period the secretariat continued supporting efforts to promote the principles of the Convention in various international forums. To that end, the secretariat worked with other United Nations bodies, in particular, the United Nations Environment Programme (UNEP), the United Nations Department of Economic and Social Affairs and the United Nations Development Programme; other environmental treaty bodies, such as the Convention on Biological Diversity and its Cartagena Protocol on Biosafety; and other international organizations, *inter alia*, the European Bank for Reconstruction and Development, the European Investment Bank, OECD, OSCE and the World Bank.

36. In accordance with paragraph 7 (a) of decision V/4 on promoting the application of the principles of the Convention in international forums, the secretariat took part in the consultation processes regarding the UNEP access-to-information policy and the World Bank's proposed new environmental and social framework. Requests by international forums for advisory support from the Aarhus secretariat are noticeably increasing, though it is not always able to respond fully due to its limited capacity.

37. Also in an advisory capacity, the secretariat continued to support ongoing initiatives to implement principle 10 of the Rio Declaration, namely: (a) the Advisory Group on International Environmental Governance for the project on the promotion of the Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), led by UNEP; and (b) the "Access for All" initiative, launched at the Eye on Earth Summit in December 2011 and led by the World Resources Institute, which seeks to provide a platform for global promotion of Principle 10. In addition, the secretariat provides ongoing advice to various professional, academic or non-governmental institutions and associations upon request.

38. Upon request, the secretariat provided ongoing advisory support, including by engaging relevant experts, to assist the Economic Commission for Latin America and the Caribbean in developing a regional convention on access rights.

39. In the light of the ongoing discussion by Parties to the ECE Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) to strengthen the Convention's public participation provisions, the Aarhus Convention secretariat has been closely cooperating with the Industrial Accidents Convention secretariat in its work on this issue.

40. The secretariat also provided ongoing substantive support to the preparations for the Eighth Environment for Europe Ministerial Conference (Batumi, Georgia, 8–10 June 2016).

¹⁴ Meeting documents and other information on the meeting are available from <http://www.unece.org/env/pp/aarhus/wgp20#/>. Additional information regarding public participation in international forums is available from <http://www.unece.org/env/pp/ppif.html>.

C. Coordination and oversight of intersessional activities

41. Coordination and oversight of intersessional activities during the reporting period was mainly conducted by the governing body and its subsidiary bodies during regular meetings of those bodies.

42. At its twentieth meeting, the Working Group of the Parties reviewed implementation of the current work programme and discussed a number of items in preparation for the next session of the Meeting of the Parties. The Bureau held its thirty-eighth meeting and its thirty-ninth meeting in Geneva, on 17 June 2016 and on 13 and 14 December 2016, respectively.

43. Representatives of the ECE Committee on Environmental Policy and the governing bodies of the ECE multilateral environmental agreements continued to liaise to exchange information on priorities under the agreements and to identify and discuss possible areas of cooperation and synergy in the light of recent and future key developments in the area of the environment. The next informal meeting of the representatives of the ECE Committee on Environmental Policy and the governing bodies of ECE conventions and protocols is scheduled to take place on 24 January 2017 in Geneva.

44. The Aarhus Convention and the Protocol on PRTRs and their relevance to the implementation of the Sustainable Development Goals were promoted at the Eighth Environment for Europe Ministerial Conference.

45. During the reporting period the status of the Convention with regard to accession, ratification or approval has remained unchanged: as of 31 December 2016, the Convention has 47 Parties. After the ratification of France, the GMO amendment to the Aarhus Convention now has 30 Parties. The Protocol on PRTRs has 35 Parties.

46. The secretariat in close cooperation with the host country started preparations for the sixth session of the Meeting of the Parties to the Convention, which will take place in Budva, Montenegro, during the week of 11–14 September 2017. A preparatory mission was carried out by the secretariat in September 2016.
