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Meeting of the Parties to the Convention on
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 3 (a) of the provisional agenda

Substantive issues: access to information

Report of the Task Force on Access to Information on its fifth meeting

Summary

The Task Force on Access to Information under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was established by the Meeting of the Parties to the Convention at its fourth session through decision IV/1 (see ECE/MP.PP/2011/2/Add.1).¹ At its fifth session, the Meeting of the Parties renewed the Task Force's mandate for a further period through decision V/1 (see ECE/MP.PP/2014/2/Add.1).²

The present document, summarizing the discussions and key outcomes of the Task Force's fifth meeting (Geneva, 10–11 October 2016), is being submitted to the Working Group of the Parties for consideration.

¹ Available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

² Available from http://www.unece.org/env/pp/aarhus/mop5_docs.html#.

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Introduction

1. The fifth meeting of the Task Force on Access to Information under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held in Geneva, Switzerland, on 10 and 11 October 2016 under the leadership of the Republic of Moldova.³ The mandate for the Task Force was established by decision IV/1 of the Meeting of the Parties to the Convention (see ECE/MP.PP/2011/2/Add.1),⁴ and renewed through decision V/1 (see ECE/MP.PP/2014/2/Add.1).⁵

2. The meeting was attended by experts designated by the Governments of Albania, Armenia, Austria, Azerbaijan, Belarus, Estonia, France, Georgia, Ireland, Italy, Malta, Montenegro, the Netherlands, Norway, Poland, the Republic of Moldova, Serbia, Slovakia, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Ukraine. A representative of the European Commission attended on behalf of the European Union. A representative from the European Investment Bank was also present.

3. A delegate from Guinea-Bissau attended the meeting.

4. Representatives of the United Nations Environment Programme and the World Intellectual Property Organization also took part in the meeting. Staff from the United Nations Economic Commission for Europe (ECE) representing the Statistical Division and servicing the Joint Task Force on Environmental Indicators and the Working Group on Environmental Monitoring and Assessment participated in the meeting.

5. Representatives of the European Free Trade Association (EFTA) Surveillance Authority also provided input to the meeting by video link.

6. A representative of the Regional Environmental Centre for Central and Eastern Europe also attended the meeting.

7. The following non-governmental organizations (NGOs), many of which coordinated their input within the framework of the European ECO Forum, were represented at the meeting: Article 19 (United Kingdom of Great Britain and Northern Ireland); ECO Forum of NGOs (Kazakhstan); Global Environmental Institute (China); Green Dossier (Ukraine); Iuventum (Switzerland); Justice and Environment (European Network of Environmental Law Organizations); Law Institute (Bosnia and Herzegovina); "Pro environment" (Armenia); and Public Awareness and Monitoring Centre (Armenia).

8. Also present at the meeting were representatives of the Aarhus Centres, organizations representing academia, review bodies, the private sector and others.

I. Opening of the meeting and adoption of the agenda

9. The Task Force Chair, Mr. Alexandru Bostan (Republic of Moldova), opened the meeting.

³ Documents for the Task Force meeting, as well as a list of participants, statements and presentations are available online from [http://www.unece.org/index.php?id=41961#/#/](http://www.unece.org/index.php?id=41961#/).

⁴ See <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

⁵ Available from [http://www.unece.org/env/pp/aarhus/mop5_docs.html#/#/](http://www.unece.org/env/pp/aarhus/mop5_docs.html#/).

10. The Task Force adopted its agenda for the meeting as set out in document AC/TF.AI-5/Inf.1.

II. Environmental information: scope and access

11. Participants shared good practices, identified gaps in public access and addressed challenges related to public access and the scope of information to be provided in accordance with the Convention.

12. Opening the discussion, the Chair stressed that a lack of accountability and environmental expertise among public officials could often lead to the misinterpretation of the scope of environmental information when processing information requests, or even in developing policy or legislation. To overcome that challenge, it remained crucially important to engage experts with environmental expertise in discussions on the interpretation of the scope of environmental information at all levels, so as to ensure its proper and broad interpretation and the effective implementation of the Convention.

13. The representative of Poland presented the outcomes of research commissioned by the Ministry of the Environment on the functioning of the Act on Access to Environmental Information.⁶ The research focused on the availability of the designated personnel responsible for public access to environmental information, registers of information and registers of information enquiries in various public authorities. The methodology included interviews and panel discussions with experts, testing the responsiveness of the authorities to information requests, interviews with civil servants and a survey. The research revealed a considerable increase in the number of public information enquiries since 2009, and the challenges faced in distinguishing environmental information from other types of information and in interpreting and applying the relevant legislation. Based on the findings, a number of measures were suggested to improve public access to environmental information, including continuous awareness-raising, education and training, amendments to the relevant legislation, considering the abolishment of fees and sharing good practices.

14. The representative of the Environmental Law Resource Center of Armenia presented the outline of a research project “Legal Aspects of Environmental Information: Problems and Perspectives of Legislative Regulation in Armenia”. The project would identify the existing gaps in public access to environmental information and develop a draft law on access to environmental information. There were some possible linkages between the future access to environmental information regime and the general regime of public access to information and also sectoral information. There were a number of challenges in classifying information produced in various sectors as environmental information. More awareness-raising and trainings were therefore necessary, and also the sharing of good practices. She suggested a possible draft law structure and principles to ensure the freedom of environmental information. She also explained the exceptions from public access to environmental information, and the types of information that could not be exempted from public disclosure. A number of recent publications aimed to facilitate public access to environmental information.

15. A number of issues were highlighted during the following discussion, including:

(a) The continuous increase in information requests could indicate a rise in public awareness about environmental issues, which could be addressed through the active dissemination of the relevant environmental information and its increasing online accessibility;

⁶ The final report is available from <http://www.ekoportal.gov.pl> (in Polish).

(b) The importance, when providing publicly accessible information, of ensuring that it was user-friendly, in plain language and took into account the need of persons with disabilities, and also of collecting feedback from users;

(c) The need to continue sharing good practices in scoping environmental information, harmonize definitions used in national legislation with the Convention and enhance cooperation with different public authorities on promoting public access to environmental information.

16. The representative of the Netherlands informed the Task Force about a new vision on public access⁷ developed by the Human Environment and Transport Inspectorate of the Ministry of Infrastructure and the Environment. The change from disclosing inspection information upon request to its active dissemination had been driven by the upcoming adoption of a new Dutch Act on Disclosing of Government Information and the existing Act on the Protection of Whistle-blowers and the increasing disclosure of electronic data as open data. Information of the Inspectorate was published unless there were specific reasons for not doing so. He also underlined that the public disclosure of inspection information should not be considered as a punishment, and highlighted the sensitivity of disclosing certain information, such as personal information and, in some respects, company details, in that regard.

17. The representatives of the EFTA Surveillance Authority talked about the Authority's rules on public access to documents and the functioning of its public documents database. The Authority was mandated to monitor the implementation of the European Economic Area Agreement and its legislation, including legislation aimed at protecting the environment, to investigate national legislation and practices and to enforce competition and State aid rules. The Authority provided public access to all documents unless there were grounds to exempt them from disclosure. Unfinished documents or their drafts were excluded from the definition of a document. The exceptions served to protect other public interests or the privacy and integrity of individuals. In some cases, the application of exceptions required the Authority to demonstrate that there was no overriding public interest in disclosure. With regard to public access to third party documents, the Authority should consult the third party with a view to assessing whether exceptions were applicable, but such consultations were not technically binding. Decisions of the Authority on information requests could be reviewed by the EFTA Court.

18. In the following discussion a number of issues were highlighted, including:

(a) Ways to ensure the correctness and validation of the information on inspections and enforcement in order to prevent potential harm to operators and actions against inspectorates in that regard;

(b) How to streamline communication between public authorities and operators regarding the commercial or industrial information that should be disclosed to the public.

19. Some participants also expressed the view that greater public access to the documentation related to infringement procedures regarding European Union environmental law would contribute to better implementation and enforcement of environmental law in the European Union member States.

20. The representative of the World Intellectual Property Organization (WIPO) explained international and national copyright frameworks and the work undertaken by the organization in that regard. The Berne Convention for the Protection of Literary and

⁷ See under documents relevant to all agenda items from <http://www.unece.org/env/pp/aarhus/tfai5.html#/>.

Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), the WIPO Copyright Treaty and other relevant international agreements provided only a minimum level of copyright protection. Copyright protection was largely governed by national laws. There were no general internationally agreed rules on copyright of official texts or the right to reuse public sector information. In that regard, WIPO had commissioned a study in 2011 on using the copyright framework to promote access to information and creative content. She also explained different possibilities to promote access to information, its sharing and reuse through open access and different licensing options, e.g., using Creative Commons. She highlighted the efforts of WIPO and other international organizations in adopting an open access policy and releasing their publications under Creative Commons licences for intergovernmental organizations.⁸

21. The WIPO representative in the further discussion highlighted that, while the right to publish or not was an exclusive right of the author, article 11 bis, paragraph 2, and article 13, paragraph 1, of the Berne Convention for the Protection of Literary and Artistic Works specified under what conditions Parties to the Berne Convention might determine or impose conditions under which exclusive rights might be exercised, for example, through compulsory licensing.

22. Following the discussion, the Task Force:

(a) Welcomed the initiatives presented by the speakers aimed at further improving domestic frameworks for public access to environmental information in forms and formats meeting the needs of different users;

(b) Encouraged Parties and stakeholders to take further steps to improve public access to environmental information, remove existing barriers and make sure that the scope of environmental information was interpreted broadly, in line with the Convention;

(c) Highlighted the importance of taking measures to address the lack of awareness and environmental expertise in decision-making procedures regarding disclosure of environmental information and in adopting executive regulations, legislative and policy documents relating to access to information;

(d) Encouraged Parties to continue the appropriate training of public officials responsible for public access to environmental information.

III. Restrictions on access to environmental information in the Digital Age

23. Opening a discussion on the application of restrictions on access to environmental information, the Chair highlighted that it was fundamentally important to keep under continuous review the application of such restrictions — especially given the increasing use of environmental information in an electronic form and the rapid development of electronic information tools — to ensure the legitimate and proportionate application of such restrictions. He also stressed the importance of maximum disclosure of information on emissions from all sources, and invited participants to continue the exchange of practice on the interpretation of the scope of such information.

24. The representative of Sweden highlighted some key judgments of the Court of Justice of the European Union regarding public access to environmental information and the principle of transparency. She recalled the restrictions on information disclosure under

⁸ More information is available from <https://creativecommons.org/licenses/by-sa/3.0/igo/>.

the Convention and European Union law, underscoring the exception that information which related to information on emissions into the environment had to be disclosed upon request. There were different approaches to the concept of emissions into the environment, and that concept should not be interpreted restrictively. She recalled the case law confirming that the exceptions to the right of public access to documents of the European Union institutions should be interpreted and applied strictly, and that European institutions were bound to assess in each individual case whether the documents whose disclosure were sought actually fell within those exceptions.

25. The representative of Belarus explained the national legal framework for public access to environmental information, established restrictions and the types of environmental information that were exempted from those restrictions. The latter included information on: the state of the environment or damage to the environment; emissions into the environment exceeding limit values; discharges of chemicals, waste or objects in water bodies; introducing chemical and other substances into the soil that could lead to a deterioration of its quality or the quality of groundwater; and radiation, noise or other physical factors exceeding limit values. The corresponding provision was also adopted in the Law on Commercial Secrets. She highlighted measures taken in the country for the active dissemination of environmental information, especially in electronic form, and for the integration of environmental information resources in the unified portal of e-services.⁹ There should be a further exchange of experience on establishing and funding such portals.

26. The representative of the European Commission presented approaches to and views on balancing copyright, the protection of data, including environmental information, and the promotion of the reuse of public sector information. Open access to the vast amount of data generated in the public sector could provide further opportunities to create new products and new jobs. The European Commission therefore supported and maintained several portals for the active dissemination of information, such as the European Data Portal,¹⁰ the European Union INSPIRE Portal¹¹ and the European Union Open Data Portal,¹² targeting different user audiences, offering tailored content and containing specific privacy statements. For example, information from the Open Data Portal could be reused free of charge, provided the source was acknowledged. In limited cases, the reuse of data from the portal could be subject to specific conditions related mostly to the protection of third party intellectual property rights. Such an approach was in line with the Commission's "Guidelines on recommended standard licences, datasets and charging for the reuse of documents".¹³ The European Union judicial bodies followed the same liberal approach for the reuse of documents uploaded on the Curia¹⁴ portal, allowing the reproduction of documents provided the source was acknowledged. He further explained the Commission's approaches to clarify to the applicants the terms of possible reuse of documents provided in response to information requests. For example, when access to draft documents was provided, the response would underscore their preliminary nature and would not allow their reuse without prior consent from the Commission.

27. The representatives from Slovakia presented the national legal framework for and the practice in providing public access to environmental information, including in electronic form, and the applicable restrictions to such access. Such restrictions were

⁹ Available from portal.gov.by.

¹⁰ Available from <https://www.europeandataportal.eu/>.

¹¹ Available from <http://inspire.ec.europa.eu/>.

¹² Available from <http://data.europa.eu/euodp/en/data/>.

¹³ Commission Notice, 2014 O.J. (C 240) 1, available from http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2014.240.01.0001.01.ENG.

¹⁴ See http://curia.europa.eu/jcms/jcms/T5_5135/en/.

imposed on access to classified data, personal data, trade secrets and some other sensitive information. Nevertheless, making information regarding significant impacts on human health or environmental pollution available would not constitute a breach or a threat to trade secret. In that case, access to information should neither be refused, nor limited, even if all the formal requirements for protecting a trade secret were met. While deciding to restrict access to certain information, officials also should take into consideration whether it would not be possible to achieve the objective by different means, or in another way which would limit the right to access less. The implementation of the legal framework in the country was exemplified through online access to documents on environmental impact assessment and integrated pollution prevention and control, and online access to spatial data.

28. The representative of the ECO Forum of Kazakhstan presented recent developments in public access to environmental information in electronic form, its copyright protection and the application of certain restrictions. More active promotion of e-government services and effective passive access to information had been achieved in the country, but active access to information remained limited in content. Using digital signatures could speed up access to environmental information in electronic form, but in that case the requests could not be anonymous. Access to primary statistical data on emissions and access to information on activities with foreign or international investments remained challenging. The lack of clarity on the scope of copyright and ways to enforce it should also be addressed. Documentation on environmental impact assessment was accessible upon request or online, mainly on the websites of the local authorities. Such publicly accessible documentation should not contain confidential information, but there were no explicit legal provisions that information could be kept confidential on the basis of the protection of copyright or how confidential information could be separated from the rest of the document. Free public access was also granted to the texts of legislation and policy documents, court decisions and documents and materials published on the websites of public authorities, but their terms of use differed depending on document type or the public authorities releasing them.

29. Following the discussion, the Task Force:

(a) Took note of the positive developments, lessons learned and challenges shared by the speakers;

(b) Welcomed the initiatives of the Parties and stakeholders to widen open access to environmental information, including through electronic public registers and other electronic information tools, and to allow the reuse of such information, whenever possible free of charge;

(c) Called on Parties to encourage public authorities and other information providers to review, as appropriate, their copyright policies and procedures with regard to environmental information in order to promote the reuse of such information, and to continue the exchange of experience on that matter.

IV. Effective dissemination of environmental information

30. Participants were invited to discuss the effective use of electronic information tools with a view to sharing good practices in the implementation of the recommendations contained in decision II/3, linking the dissemination of environmental information, shared environmental information systems, e-government and Open Government Data initiatives and maintaining publicly accessible lists, registers or files.

31. The representative of France presented recent legal, institutional and technical developments in disseminating environmental information underpinned by the country's participation in the Open Government Partnership. Those developments were specifically related to the digital and energy sectors. He also presented the French open data portal¹⁵ and the specialized one-stop portal for environmental information "*Tout sur l'environnement*",¹⁶ which collected information from 185 public contributors through a single window and contained more than 130,000 documents. Some innovative approaches, such as supporting start-ups, organizing hackathons and establishing incubators, were increasingly used across the country to facilitate reuse of environmental information and create new environmental services. The environmental, energy and digital transition should imply not only open access to data, but also setting up qualitative support for its evaluation and drawing all the intelligence from the data that could improve services to the public and provide for the more efficient functioning of democracy.

32. The representative of Norway presented recent developments in the functioning of Electronic Public Records (OEP) portal,¹⁷ which was publicly accessible online. OEP served as a collaborative tool, providing records from the Prime Minister's office, ministries, county governors and all central agencies that could be accessed online by the public. Once a document was listed in the public records, the public could search it easily in one place and use OEP to send information requests to the responsible public authority. The responsible public authority would consider the request within two to three days and send the requested information by e-mail or by regular mail free of charge. A user feedback survey had been carried out and further improvements would be implemented as a result, including automatic harvesting of data, direct document access online and the provision of enriched and validated data.

33. The representative of Austria briefed participants on new steps taken within the national e-government and Open Government Data initiatives to share environmental information. The 2016 state-of-the-environment report,¹⁸ describing the environmental situation in the country in the period 2013–2016, had been published. The ongoing implementation of the Digital Road Map would allow all governmental services to be provided electronically. Public authorities ensured the increasing availability of environmental data sets on the National Open Government Data Portal.¹⁹ He also highlighted the benefits of open science data, and informed the Task Force about the resources available within the European Long-term Ecosystem Research Network and the Repository for Research Sites and Datasets (DEIMS).²⁰ PegelAlarm, an application collecting information on water levels in Central Europe,²¹ was mentioned as an example of public open data use. Nevertheless, there could still be better synergies between different information regimes, such as freedom of information, use and reuse of public sector information, Open Government Data, freedom of environmental information and the management of geospatial information.

34. The representative of Italy highlighted the country's efforts in the active dissemination of environmental information and presented the national web page on Green Public Procurement (GPP web page).²² Italy, following the recent adoption of Law

¹⁵ Available from <https://www.data.gouv.fr/fr/> (in French).

¹⁶ Available from <https://www.toutsurlenvironnement.fr/> (in French).

¹⁷ Available from <https://oep.no/content/about-oep?lang=en>.

¹⁸ More information is available from http://www.umweltbundesamt.at/news_20161006 (in German).

¹⁹ Available from <https://www.data.gv.at/> (in German).

²⁰ Available from <https://data.lter-europe.net/deims/>.

²¹ Available from <http://www.pegelalarm.at/> (in German).

²² Available from www.minambiente.it/pagina/gpp-acquisti-verdi (in Italian).

221/2015 and the new Code on Public Procurement, had taken the lead in setting out the mandatory use of the “Minimum Environmental Criteria” in public procurement. Linking the expenditures of public procurement to environmental criteria had become an important driver for leveraging the national green economy. The GPP web page implemented an innovative approach, where electronic communication was not only used for raising awareness, but also as a tool for implementing the law itself. The GPP web page facilitated participation processes and therefore contributed to the further adoption of those normative aspects that required public consultation (e.g., in revising and adopting Minimum Environmental Criteria and preparing a technical regulation to implement the new Code on Public Procurement). The web page was also instrumental in supporting the establishment of a multi-level network that accompanied regions and local authorities in green public procurement through the promotion of technical meetings, training and exchange of good practices and by ensuring a constant flow of information. Information on green public procurement was also actively disseminated through a quarterly in-depth magazine and a monthly newsletter on the topic.

35. A representative of the Consultation Institute (United Kingdom) shared views on the effective dissemination of environmental information, especially within environmental decision-making procedure. Effective public consultation depended on access to all the information regarding the decision-making, sufficient to allow a person to develop a counter proposal. While access to some information could be restricted on legitimate grounds, the public interest test should be applicable and the information that could be disclosed should be separated. There had been an increase in the provision of digital information by default and in connectivity through the Internet of Things. There was a need for greater collaboration between public authorities and the private sector, and for the greater transparency of the latter in the provision of environmental information. He also drew attention to the Aarhus Convention Check Tool,²³ developed by the Institute, which provided a means of self-assessment on the implementation of the Aarhus Convention requirements during the development of the projects on specific activities.

36. The Task Force also took note of the preliminary summary report on the results of the survey on the implementation of the recommendations of the Meeting of the Parties on electronic information tools (decision II/3, annex) (AC/TF.AI-5/Inf.3), its accompanying document (AC/TF.AI-5/Inf.3/Add.1) and the collection of case studies promoting the use of electronic information tools²⁴ presented by the secretariat. The Task Force agreed to provide comments on the report by 10 November 2016 (see annex for a revised summary report).

37. In the subsequent discussion, participants welcomed the continuous progress in improving public accessibility to the Internet without neglecting the importance of traditional means of communication to satisfy the information needs of the members of the public living in different conditions and regions.

38. Some participants suggested to further promote the use of mobile applications, different messaging services with applications for computers and mobile phones and developing games to promote public awareness and accessibility to environmental information, especially among youth.

39. The participants highlighted the importance of capacity-building and the sharing of experience between the Parties in implementing Open Government, open data,

²³ Available from <http://tcitoolbox.com/aarhus-check/>.

²⁴ Available from http://www.unece.org/env/pp/aarhus/tfai/case_studies.html.

e-government and other similar initiatives, and called for the further sharing of experience and technical assistance in that regard.

40. The Chair also informed that the Task Force might prepare an updated version of the recommendations on electronic information tools to provide public access to environmental information, adopted through decision II/3, subject to the decision by the Meeting of the Parties at its sixth session (Budva, Montenegro, 11–13 September 2017).

41. The Task Force also took note of the presentation by the secretariat on the upgrade of the Aarhus Clearinghouse for Environmental Democracy and its increased search functionalities. Parties, signatories, other interested States and stakeholders were encouraged to maintain a national website with information related to the nationwide implementation of the Convention and to designate it as the national node, to subscribe to the new content alerts, to contribute to the Clearinghouse's jurisprudence database and the database of good practice, and to take other actions suggested by the secretariat.

42. The participants also discussed the suggestion of the Chair to streamline the communication of the Convention's national focal point with the public, other stakeholders and the secretariat by establishing a generic e-mail account.²⁵

43. The Task Force:

(a) Took note of the innovative practices, lessons learned and challenges highlighted by the speakers;

(b) Noted the increasing public use of environmental information in electronic form, and suggest strengthening capacity-building and other measures to ensure an enabling environment for the public to access such information;

(c) Welcomed further steps taken by the Parties and stakeholders in advancing Open Government Data, open data, e-government and other similar initiatives;

(d) Highlighted the importance of capacity-building and other measures that could assist Parties in joining the above-mentioned initiatives and called on Parties, international organizations and other stakeholders to support such measures;

(e) Invited Parties and stakeholders to continue submitting case studies on promoting the use of electronic information tools;

(f) Welcomed the suggestion by the Chair to prepare an update of the recommendations on electronic information tools in the next intersessional period;

(g) Took note of the information on the upgrade of the Aarhus Clearinghouse for Environmental Democracy;

(h) Urged Parties to establish national nodes for the Aarhus Clearinghouse and to introduce Rich Site Summary (RSS) or other Application Programming Interface (APIs) feeds for news or other resources of the national nodes that were compatible with the requirements of the Aarhus Clearinghouse, so as to be able to be harvested for the Clearinghouse;

(i) Invited national focal points to use a generic e-mail account to facilitate the correspondence with the public, other stakeholders and the secretariat.

²⁵ For example, aarhusNFP.[country name][at]...

V. Activities under other international forums dealing with access to environmental information

44. In a discussion on activities undertaken by other international forums, participants shared information about recent activities of other international forums regarding access to environmental information and explored opportunities for building synergies.

45. The representative of the ECE Statistical Division presented the preliminary outcomes of the seminar on the System of Environmental-Economic Accounting, organized together with the Organization for Economic Cooperation and Development, and the Expert Forum on Climate Change-related statistics, both held in Geneva in October 2016. The meetings had focused on improving the collection and update of and public access to environmental-economic and climate change-related information, including the 39 proposed climate change-related indicators. He also highlighted the Sustainable Development Goal targets addressing access to information, and the work of national statistical offices in that regard. He further explained the Fundamental Principles of Official Statistics, including on confidentiality of individual data, and different solutions used by national statistical offices to serve specific information requests. Several countries in the ECE region had adopted open data policies at either their statistical office or for the Government as a whole.

46. The ECE secretariat provided information on the work undertaken under the ECE Monitoring and Assessment Programme within the framework of the Joint Task Force on Environmental Indicators and the Working Group on Environmental Monitoring and Assessment. At the Eighth Environment for Europe Ministerial Conference (Batumi, Georgia, 8–10 June 2016), the Working Group had reported on progress in establishing the Shared Environmental Information System (SEIS) in the pan-European region (ECE/BATUMI.CONF/2016/8), highlighting performance gaps and areas in need of improvements. The Batumi Ministerial Declaration (ECE/BATUMI.CONF/2016/2/Add.1) called for SEIS to be in place in the countries of Europe and Central Asia by 2021. The Working Group had recently launched a quarterly newsletter to disseminate information on its activities. Next steps for the Working Group included improving the availability and accessibility of SEIS data sets and related information, piloting an approach that integrated quality considerations as an inherent part of the SEIS self-assessment and updating the review criteria used in the SEIS progress report as part of the reporting mechanism.

47. The representative of UNEP presented a package of UNEP services, including the UNEP Live knowledge management portal,²⁶ the UNEP Live Sustainable Development Goals and Multilateral Environmental Agreement Synergies Portal and the Indicator Reporting Information System (IRIS). UNEP Live provided access to global, regional and national environmental data and knowledge. A further update of the portal would include the development of a UNEP Live mobile application, new thematic pages and the upload new or updated content. For its part, IRIS could help public authorities responsible for reporting on national, regional and global obligations to collect, analyse and publish quality assured environmental information in a timely manner.

48. Some participants also mentioned recent relevant developments in Latin America and the Caribbean with regard to a regional instrument on Principle 10 of the Rio Declaration on Environment and Development.

²⁶ Available from <https://uneplive.unep.org/>.

49. The participants also highlighted the lack of public access to information on genetically modified organisms and called for such access to be further promoted across different international forums.

50. The Task Force:

(a) Took note of the information provided by the representatives of the international forums at the meeting;

(b) Welcomed the efforts of international forums dealing with access to information and promoting the use of electronic information tools to widen public access to environmental information, and called for further cooperation in supporting Parties' efforts to improve public access to environmental information;

(c) Reiterated its call upon national focal points of different international forums dealing with access to environmental information and promoting use of electronic information tools to facilitate information sharing and effective cooperation at the national level.

VI. Approval of conclusions and closing of the meeting

51. The Task Force agreed the meeting's key outcomes as presented by the Chair at the meeting (AC/TF.AI-5/Inf.4) and requested the secretariat, in consultation with the Chair, to finalize the report and to incorporate the agreed outcomes. The Chair thanked the speakers, the participants, the secretariat and the interpreters, and closed the meeting.

Annex

Summary report on the results of the survey on the implementation of the recommendations on electronic information tools

1. The present summary report on the implementation of the recommendations of the Meeting of the Parties on electronic information tools to provide public access to environmental information (recommendations) and its accompanying document (AC/WGP-21/Inf.2)^a were prepared under the auspices of the Task Force on access to information for its fifth meeting.
2. The 2013 questionnaire was updated under the auspices of the Task Force, taking into consideration comments received from Parties and stakeholders, and circulated to the national focal points on 15 February 2016 with a submission deadline of 1 May 2016.
3. The following Parties responded to the questionnaire: Albania, Armenia, Austria, Belarus, Bulgaria, Croatia, Denmark, Estonia, European Commission on behalf of the European Union, France, Georgia, Greece, Ireland, Italy, Kazakhstan, Kyrgyzstan, Lithuania, Malta, Montenegro, Romania, Serbia, Slovakia, Switzerland, Spain, Sweden, Tajikistan, the former Yugoslav Republic of Macedonia and Ukraine. The Aarhus Centre of Turkmenistan also submitted a completed questionnaire. The 28 responses received were grouped for the purpose of this report into three subregions as follows: (a) Eastern Europe, the Caucasus and Central Asia (7 responses); (b) South-Eastern Europe (4 responses); (c) Switzerland (1 response), European Union member States (15 responses) and the European Commission on behalf of the European Union (1 response).
4. In addition, several NGOs provided additional perspectives on this matter.
5. The 2007 and 2013 summary reports on the implementation of the recommendations (summary reports 2007 and 2013) were also considered for the analysis of the survey results. However, it should be taken into account that the respondents to the survey in 2007 and 2013 were different from the respondents to the current survey.

I. Access to information and communication technologies

6. Background information on access to information and communication technologies (ICTs) in this chapter is based on the statistics collected by the International Telecommunication Union,^b the United Nations specialized agency for ICTs and the official source for global ICTs statistics.
7. The number of households that have Internet at home and the number of individuals who used computers and mobile phones varies between the Parties to the Convention across all three subregions (see accompanying document, graph 1.1).
8. Notwithstanding subregional differences, the data clearly indicates an increasing share of individuals having access to the Internet in all three subregions over the past 15 years (see accompanying document, graph 1.2). The share of fixed (wired) broadband subscriptions across the Parties has also increased in all three subregions, although the member States of the European Union, Iceland, Liechtenstein, Monaco, Norway and

^a Available from <http://www.unece.org/env/pp/aarhus/wgp21.html#/>.

^b Data available from <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

Switzerland, with almost 33 subscriptions per 100 inhabitants in 2015, is still far above the “subregions average” for 2015, which is 21 subscriptions per 100 inhabitants (accompanying document, graph 1.3). In addition, in many countries, the share of men using the Internet still slightly exceeds the share of women doing so. The data from some other countries (e.g., Denmark, Finland, Ireland, Lithuania, the Netherlands and Sweden) demonstrate an opposite trend (see accompanying document, graph 1.4).

9. Regarding mobile phone penetration, the number of individuals having mobile-cellular subscriptions remains high in all three subregions, with around 110–120 subscriptions per 100 inhabitants, and has stabilized over the past four years. The percentage of individuals using mobile phones is also quite high, and amounts to over 85 per cent in the countries of Eastern Europe, the Caucasus and Central Asia, and to almost 100 per cent in the countries of the European Union, Iceland, Monaco, Liechtenstein, Norway, and Switzerland (see accompanying document, graphs 1.1 and 1.5).

10. The share of people using mobile phones clearly exceeds the share of Internet users in many Parties to the Convention. This can be taken into account when deciding on the best ways to disseminate certain types of environmental information.

II. Availability of priority categories of environmental information through the Internet

11. Table 2.1 of the accompanying document shows the information per subregion regarding the availability of specific types of environmental information through the Internet. It also shows whether such information was legally required to be available through the Internet and, if it was not generally available, whether plans to progressively improve access to the information were in place.

12. The survey results demonstrate the higher rate of general or partial availability through the Internet of data such as:

(a) Reports on the state of the environment (Convention, article 5, para. 3 (a); recommendations, para. 9 (c) (i));

(b) Texts of legislation, regulations, rules and other legally binding instruments on or relating to the environment (Convention, article 5, para. 3 (b); recommendations, para. 9 (c) (ii));

(c) Texts of policies, plans and programmes on or relating to the environment and environmental agreements (Convention, article 5, para. 3 (c); recommendations, para. 9 (c) (iii));

(d) Data on environmentally significant releases and transfers of pollutants, within the scope of the Protocol on Pollutant Release and Transfer Registers (Convention, article 5, paras. 3 (d) and 9; recommendations, para. 9 (c) (v));

(e) Environmental monitoring data held by or on behalf of public authorities (Convention, article 5, para. 9; recommendations, para. 9 (d) (i));

(f) Information on matters related to access to justice within the scope of the Convention (Convention, article 9, para. 5; recommendations, para. 9 (c) (vii)).

13. The responses show the increasing availability of environmental impact assessment (EIA) documentation (Convention, articles 6 and 5, para. 3 (d); recommendations, para. 9 (c) (iv)) and strategic environmental assessment (SEA) documentation (Convention, articles 7 and 5, para. 3 (d); recommendations, para. 9 (c) (iv)), although the public

accessibility of SEA documentation, public notice about the SEA procedure and the references to where EIA and SEA documentation can be accessed remained lower.

14. In accordance with articles 6 and 5, paragraph 3 (d), of the Convention, the accessibility of the conclusions of the state environmental *expertiza*,^c or at least the references to where this documentation can be accessed at the national, regional and local levels, should also be ensured by the Parties that apply this instrument. The responses showed that access to this documentation for projects subject to EIA or other projects subject to article 6 of the Convention was provided either at the national or local level, but its online accessibility was not always legally required.

15. The open public accessibility of documentation that forms a part of any licensing or permitting processes (Convention, articles 6 and 5, para. 3 (d); recommendations, para. 9 (c) (vi)) is often still not provided. Many Parties in all three subregions have indicated the lack of a legislative framework for setting up Internet access to documents relevant to licensing and permitting processes. The responses show that, while public accessibility of applications for individual licences or permits and final, individual licences and attached conditions has been increasingly granted by the Parties, access to comments of third parties and draft individual licences still remains limited. Only a small number of Parties demonstrated the full availability of this documentation through the Internet. While in some Parties (e.g., Estonia) the information is made available by the national authorities only, in others (e.g., Austria and Romania) it is provided by the national and local authorities. The accessibility of the comments of third parties is lower in comparison (almost half of the respondents indicated that the comments are not available).

16. Half of respondents reported the use of the Internet for public notices about all environmental decision-making procedures subject to article 6. These notices can be published on the websites of the national and local public authorities and also those of developers. Public notice about SEA procedures through the Internet was also reported by only half of the respondents. Such notices can be found on the websites of the national and local authorities preparing plans and programmes.

17. Public access to decisions of courts and, whenever possible, of other review bodies, held in electronic form (Convention, article 9, para. 4; recommendations, para. 9 (c) (vii)) was fully ensured through the Internet in only half of the respondent Parties.

18. No Parties impose charges for supplying the priority categories of information provided in the recommendations. Nevertheless, the charges for Internet access as such may constitute a barrier to access to information for vulnerable groups.

19. The collection of a particular type of environmental information in electronic and digital forms and its progressive public accessibility online are largely guided by domestic legal frameworks. Some types of information retained limited accessibility when certain instruments (e.g., SEAs or pollutant release and transfer registers) were not adopted.

20. The majority of respondents highlighted that (a) reports on the state of the environment, (b) texts of legislation, regulations, rules and other legally binding instruments on or relating to the environment, (c) texts of policies, plans and programmes on or relating to the environment and environmental agreements, and (d) environmental monitoring data held by or on behalf of public authorities are legally required to be accessible through the Internet. Less than half of the respondents, mainly from the member

^c *Editor's note:* The OVOS/*expertiza* system is a development control mechanism followed in many countries of Eastern Europe, the Caucasus and Central Asia. The Committee has held that the OVOS and the *expertiza* should be considered jointly as the decision-making process constituting a form of environmental impact assessment procedure (see ECE/MP.PP/C.1/2013/9, para. 44).

States of the European Union, Switzerland and some South-Eastern European countries, reported the same regarding: (a) SEA documentation; (b) public notices about all environmental decision-making procedures subject to SEA; (c) data on environmentally significant releases and transfers of pollutants within the scope of the Protocol on Pollutant Release and Transfer Registers; (d) final licences and permits and their attached conditions; and (d) product information that enables consumers to make informed environmental choices.

21. A number of Parties (e.g., Italy, Greece, Lithuania (only for EIA), Malta, Romania, Spain and Sweden) provide public access to various types of environmental information through the Internet by default. Most Parties required “risk assessment” in relation to restrictions from disclosure to be carried out for all or certain thematic data prior to its release online.

22. The majority of the responding Parties applied the restrictions to disclosure of specific environmental information through the Internet in accordance with article 4, paragraphs 3 and 4, of the Convention. Some Parties excluded the application of these restrictions for any information relating to emissions of harmful substances into the environment. Others reported on various approaches to define the overriding public interest in disclosure of environmental information. Some Parties (e.g., Sweden) provided certain environmental information in accordance with the Creative Commons CC0 standard.^d

23. An increased number of respondents indicated that data on environmentally significant releases and transfers of pollutants within the scope of the Protocol on Pollutant Release and Transfer Registers and some types of environmental monitoring data held by or on behalf of public authorities were provided by fully or partially using geo-spatial or geo-referenced technologies. Several Parties have collected and released these data in various machine-readable formats (i.e., comma-separated values (CSV), Extensible Markup Language (XML), or Resource Description Framework (RDF)). A number of Parties (e.g., Croatia, Estonia, Lithuania, Malta, Sweden and the former Yugoslav Republic of Macedonia) also reported initiatives to release real-time or near real-time monitoring data on air quality.

24. While on average about third of the respondents indicated plans for improvements for priority categories of information, less attention was given to the improvement of access to EIA and SEA documentation and other documentation related to articles 6 and 7 of the Convention, information on matters related to access to justice and court decisions, environment-related product information and information on good practices for better environmental management.

25. A number of Parties indicated steps undertaken to improve public accessibility of the environmental data sets within the framework of the initiative to establish a Shared Environmental Information System in the pan-European region.

26. Some Parties (e.g., Albania, Austria and Ireland) reported on initiatives to involve the public in collecting environmental information or to report on violations with respect to environmental law through location-enabling mobile applications. NGOs in Belarus and Malta have also developed mobile applications to involve the public in environmental protection.

^d More information is available from <https://creativecommons.org/>.

III. Types of electronic information tools to collect and provide public access to environmental information and facilitate public participation in environmental decision-making

27. In all Parties environmental information is generally disseminated on the websites of the national environmental authorities, general governmental portals and the websites of local authorities and other key providers of environmental information. Half of the respondents have established or plan to establish a specialized portal dedicated to access to environmental information. Short Message Service (SMS) messages, e-mail alerts and telephone hotlines are also often used to disseminate environmental information, and the websites of some public authorities allow subscriptions for e-mail alerts.

28. Websites of national and local authorities, planning authorities and developers in some countries provided documentation relevant to environmental decision-making procedures subject to article 6 of the Convention, and also for strategic decision-making relating to the environment.

29. Several social media tools were used or are planned to be used by the majority of respondents in all subregions (see accompanying document, graph 3.1). Twitter, Facebook and Youtube are mostly used.

30. Mobile applications are increasingly used to provide access to environmental information in six member States of the European Union, Switzerland and one country in South-Eastern Europe, while three European Union member States, four countries in Eastern Europe, the Caucasus and Central Asia and one country in South-Eastern Europe plan to develop such applications.

31. Use of public electronic information kiosks or plans for their development were only occasionally reported by the respondents. Widgets, electronic data accessible through barcode scanning and electronic data accessible through touch-tone dialling were also not widely used for dissemination of environmental information in all three subregions.

32. The following electronic information tools are reported to be commonly used or are planned to be used in the event of any imminent threat to human health or the environment, whether caused by human activities or owing to natural causes (Convention, article 5, para. 1 (c); see accompanying document, graph 3.2):

- (a) General governmental portals;
- (b) Websites of local authorities;
- (c) Websites of national and local authorities dealing with environmental matters;
- (d) Social media;
- (e) Mobile applications;
- (f) SMS services and e-mail alerts;
- (g) Telephone hotlines or faxes;
- (h) Television teletext.

33. Parties undertake various measures to ensure the availability of environmental information electronically and the interoperability of different sets of information. Some Parties (e.g., Austria, Bulgaria and Spain) have developed national interoperability

frameworks. In some Parties, the interoperability of the geospatial and environmental information was ensured in accordance with the INSPIRE^e requirements. Some Parties have also undertaken steps to ensure interoperability between environmental and statistical information systems.

34. Remote sensing (e.g., high-resolution or high-frequency satellites, remote-operated aircraft and drones) and location enabling (e.g., local observation by the public through mobile phones) technologies to collect environmental information have been occasionally used by some Parties (e.g., within the European Union INSPIRE, Copernicus and Galileo initiatives). Motion-sensor cameras and drones are occasionally used as well (e.g., in hotspots or remote areas).

35. There is almost no experience reported in using big data, except for scientific research and project purposes (i.e., in Lithuania and Malta).

36. Many respondents from all subregions indicated that their Governments continue to implement national e-government strategies and/or Open Government Data initiatives, as well as a broader digital agenda to facilitate the use of information and communication technologies. An increasing number of Parties (e.g., Austria, Croatia, the European Union, France, Slovakia and Switzerland) have established open data portals and published environmental data there. Some respondents referred to the cooperation within the international Open Government Partnership initiative.

37. Many respondents also mentioned work carried out within relevant forums serviced by ECE and UNEP and forums and platforms working, inter alia, to promote the development and more effective use of electronic information tools, such as SEIS,^f INSPIRE, the European Earth Observation Programme (Copernicus, previously known as Global Monitoring for Environment and Security),^g the European Environment Information and Observation Network (Eionet)^h and the Group on Earth Observations portal.ⁱ

38. Electronic information tools are increasingly used to support public participation in various types of environmental decision-making (in the context of articles 6, 7 and 8 of the Convention). Internet discussion forums, public e-consultation platforms, web meetings and webinars are increasingly used or are planned to be used by the Parties.

39. Many respondents highlighted that electronic tools are mostly used for posting public notices and documentation within decision-making procedures and draft legal acts or strategies, plans, programmes and policies relating to the environment, and also for collecting public comments on the drafts posted.

IV. Identifying public needs and developing capacities to provide access to environmental information and facilitate public participation in environmental decision-making

40. Respondents indicated several methods to identify users' needs. Most common are identifying the subjects of information requests; feedback sections; the outcomes of meetings, seminars, website surveys, questionnaires and interviews; the monitoring of

^e See Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).

^f See <http://ec.europa.eu/environment/seis/>.

^g See <http://www.copernicus.eu/>.

^h See <http://www.eionet.europa.eu/>.

ⁱ See <http://www.geoportal.org/>.

social media posts and forums; expert opinions; cooperation with relevant public authorities; and different public and expert networks.

41. Progress in improving electronic access to environmental information was continuously being communicated to the public through a variety of media at the national and local level, including the Internet, electronic bulletins and newsletters, webinars, the press and press conferences, specialized environmental magazines, CD-ROMs and other publications, as well as through meetings and conferences.

42. Half of the respondents reported having comprehensive environment-related programmes, including specific training programmes linking the use of information technology applications to the promotion of good environmental governance. The majority of such training efforts had been financed by the public and private sector, but also through international assistance.

43. Among others, some Parties indicated a lack of information technology specialists and a lack of information technology skills among the public as challenges and obstacles to the wider use of electronic information tools for the effective implementation of the Convention.

44. Establishing the Aarhus Clearinghouse national node web portals, designating a national node administrator responsible for collecting, managing and updating the information contained in the national node, and providing the necessary information for the central node of the Aarhus Clearinghouse (recommendations, paras. 19-21) had been not yet fully implemented in many Parties.

V. Challenges and obstacles to the use of electronic information tools to provide access to environmental information and facilitate public participation in environmental decision-making

45. There was a digital divide between the three subregions and among the Parties, with more or less opportunities and skills enabling them to benefit from digital resources, especially the Internet (see accompanying document, graphs 1.1–1.5). Parties should continue their efforts to create an enabling environment for the public to access environmental information.

46. Several institutional, economic and legal challenges and obstacles to the use of electronic tools to implement the recommendations were identified as important (see accompanying document, graphs 4.1–4.3). Among the institutional challenges mentioned were:

- (a) Limited standardization of data sets, especially in the countries of Eastern and South-Eastern Europe, the Caucasus and Central Asia;
- (b) Poor cooperation with other agencies collecting environmental data;
- (c) The limited scope or extent of the environmental data collected.

47. Lack of access to the Internet itself was cited as a barrier by some respondents from countries of Eastern Europe, the Caucasus and Central Asia, including a lack of financial resources, the high cost of online access and the cost and limited availability of equipment. Respondents from the European Union and countries of Eastern Europe, the Caucasus and Central Asia also mentioned a lack of technical support and professional networks. In the responses, there was no mention of experience in involving public-private partnerships to

address these challenges and obstacles. In some cases, the poor state of the national telecommunications infrastructure was mentioned.

48. The lack of clear legislation on public access to environmental information remains a challenge to various extents among Parties to the Convention, especially for Parties in Eastern Europe, the Caucasus and Central Asia.

VI. Conclusions

49. The responses to the questionnaire demonstrated a broad scope of activities at the national level, not only in implementing the recommendations contained in decision II/3, but also with regard to catching up with new information and communication technology developments. Trends in the accessibility of environmental information in electronic and digital forms continue to be headed in a positive direction in all subregions. Legal frameworks for providing public access to environmental information through the Internet have been strengthened and have paved the way for further progressive accessibility of information through the Internet. No costs for information access were reported; nevertheless, a digital divide and high Internet costs might hamper access to environmental information in electronic form and the use of e-participation tools.

50. Electronic access to the types of environmental information set out in the Convention is progressively increasing, as reflected by, for example, the nearly universal practice of publishing state-of-the-environment reports and the text of legislation, regulations, rules and other legally binding instruments on or relating to the environment online. Also, the increasing availability of a range of reference documents and data is a positive development. This includes the texts of policies, plans and programmes on or relating to the environment and environmental agreements; data on environmentally significant releases and transfers of pollutants within the scope of the Protocol on Pollutant Release and Transfer Registers; and environmental monitoring data held by or on behalf of public authorities. The increasing use of geo-spatial technologies, machine-readable formats and real-time data when providing access to environmental information might facilitate better decision-making in environmental matters, better satisfaction of users' needs and reuse of environmental information.

51. The dissemination of environmental information through the websites of national and local environmental authorities and local authorities, the increasing use of general governmental portals for this purpose and the establishment of open data portals and national specialized web portals dedicated to environmental information remains a relatively strong area of national performance.

52. Further improvement is needed in access to documentation forming an integral part of environmental decision-making procedures regarding specific activities, including environmental impact assessment, State environmental *expertiza*, as applicable, licences and permits, and strategic decision-making, including strategic environmental assessment, as applicable.

53. Implementation of electronic public participation is still under development. Electronic tools are mostly used for posting public notices about decision-making procedures and draft legal and policy documents relating to the environment, and for collecting public comments on the drafts. Internet discussion forums, public e-consultation platforms, web meetings and webinars are increasingly used or are planned to be used by the Parties.

54. Many Parties reported plans to improve the use of and to develop social media channels, mobile applications and e-participation tools and platforms. In that regard,

fostering the continuous exchange of experiences could be beneficial for Parties. It would also facilitate the use of new electronic information technologies in collecting and disseminating environmental information.

55. Most countries reported that they provided electronic information on mechanisms related to access to justice. At the same time, the responses demonstrated that decisions of courts and, whenever possible, of other review bodies held in electronic form were only partly available through the Internet.

56. Resource constraints continue to hamper implementation across the region. Countries of Eastern Europe, the Caucasus and Central Asia cited resources as a challenge more frequently than did European Union countries, but they were by no means alone in raising concerns about the cost of implementing electronic access. Some countries of Eastern Europe, the Caucasus and Central Asia also reported institutional and economic constraints.

57. In many countries, the implementation of national e-government strategies and Open Government Data initiatives have supported widening accessibility of environmental information online and the development of modern electronic tools to support the effective implementation of the Convention.
