

**DRAFT ELEMENTS FOR A LONG-TERM STRATEGIC PLAN  
FOR THE AARHUS CONVENTION**

**Compilation of Responses Received During the Public  
Commenting Period (6 March -31 May 2007)**

## List of Respondents

(Sorted by country)

- NGO Eco-Globe (Armenia)
- Public Research and Regulation Initiative (Belgium)
- Health and Environment Alliance (Belgium)
- BSBA (Black Sea Biotechnology Association) (Bulgaria)
- Juhan Telgmaa, Estonian Society for Nature Conservation (Estonia)
- International Centre for Environmental Research (Georgia)
- Prof. Dr. Christian Schrader (Germany)
- NGO Clean Air Action Group (Hungary)
- Sandor Fulop, Environmental Management and Law Association (Hungary)
- Cinzia Di Fenza, Department Tools and Policies for Environmental Sustainability (Italy)
- Environmental Ambassadors (Republic of Serbia)
- Ms Jelena Pancic, Deputy Public Prosecutor, IV Municipal Public Prosecutor's Office, Belgrade (Republic of Serbia)
- Olga Podosenova, regional NGO «Ural Ecological Union» (Russia)
- Ministry of Environment (Slovak Republic)
- Andriy Andrusevich, Resource and Analysis Centre "Society and Environment" (Ukraine)
- Struan Simpson (UK)
- Dr. Muki Haklay, University College London (UCL) (UK)
- Norine Kennedy, US Council for International Business (USA)
- Prof. Connie de la Vega, University of San Francisco (USA)
- The Council of Europe

*N.B. Some comments have been submitted in the form of "track changes" version of the document. In those cases paragraphs for which no changes have been proposed have been omitted to save spaces. Where the electronic commenting function has been used, the comments have been pasted directly into the text for convenience. Otherwise all comments have been reproduced as submitted, i.e. without editing.*

## NGO “Eco-GLOBE” (Armenia)

*Submitted 12.03.2007*

### **Vision and mission**

...

Our long-term vision is to secure the enjoyment of the rights of access to information, public participation in decision-making, and access to justice in environmental matters throughout the pan-European region and beyond in order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being. This document will be legally binding only for Parties to the Convention. We may mention that all other countries are free to use these provisions whenever and wherever is necessary.

We see it as our mission

- To work towards full implementation of the Convention and Protocol by each Party
- To expand the reach and influence of the Convention and Protocol by increasing the number of Parties within the ECE Region and encouraging States outside the Region to accede to the Convention or implement its principles.
- To further develop and enforce the provisions and principles of the Convention.

### **Focal areas, strategic goals and objectives**

Focal area I: Implementation

*Strategic goal I: Achieve full implementation of the Convention and Protocol by each Party*

The implementation framework and procedures of each Party are adequate not only to ensure application of the Convention in a national context, but also to guarantee its application in actual transboundary situations, regional and worldwide context without discrimination as to citizenship, nationality or domicile.

Each Party, in implementing the Convention, is not only complying with its mandatory provisions, but also making a genuine effort to give effect to its provisions whose application is discretionary to the fullest extent possible under national circumstances text marked as yellow is vague to be an objective and needs clarification or specification, in keeping with the spirit of the Convention.

Public authorities at all levels of government are fully aware of their obligations under the Convention and allocate the necessary human and material resources to

be able to comply with them and report on a regular basis about allocated resources to the Convention and public.

Public participation procedures are regarded by public authorities and prospective developers in the private sector as an integral part of the strategic planning/programming and planning of project activities which may have a significant effect on the environment and implemented in their full scope. Public authorities and developers undertake pro-active efforts to identify and inform the public concerned and enter into discussions with them at an early stage of planning that allows the effective participation of all interested citizens.

15. Efforts of citizen organizations and public in general towards enforcement of the provisions of Convention are recognized by the public authorities and supported by them, at least morally.

#### Focal area II: Expansion

*Strategic goal II: Expand the reach and influence of the Convention and Protocol in the UNECE region and beyond*

This strategic goal will be realized when the following objectives have been reached:

The Parties to the Convention, both in their participation in international policy-making and in their national implementation activities, are promoting achievement of synergies between the Convention and other multilateral environmental agreements.

#### Focal area III: Development

*Strategic goal III: Further develop the provisions and principles of the Convention*

This strategic goal will be realized when the following objectives have been reached:

4. The provisions of the Convention relating to public participation during the preparation of plans, programmes, policies and legislation relating to the environment, as well as executive regulations and other generally applicable legally binding normative instruments that may have a significant effect on the environment, are reviewed and further developed as appropriate to provide stronger guarantees of effective and high-quality participation from an early stage of decision-making, while taking fully into account the specific nature and constraints of such decision-making processes. Mechanism of strong inter-relationships with other Conventions and Protocols having similar objectives and goals, especially SEA Protocol, should have an positive effect and coordination.

#### **Framework for implementation**

<b>Objective</b>	<b>Indicative types of activity</b>	<b>Implementing partners</b>
I.1	Development and review of national framework in consultation with public authorities responsible for implementation and stakeholders Legislative, regulatory and administrative measures	Parties Secretariat to facilitate technical assistance upon request In consultation with Public
I.2	Review of national framework to identify and amend any inconsistent provisions	Parties In consultation with Public
I.3	Consideration of possible measures to give effect to recommendatory provisions Pilot projects followed by broader application	Parties Public as Pilot Project Partner
I.4	Information, training, organisational and budgetary measures  Regional and sub-regional capacity-building activities	Parties All public authorities concerned within Parties Secretariat in cooperation with other agencies With public participation
I.5	Political support at highest level Reward and encourage pro-active officials Exchange of best practices	Parties Method: public responds through the questionnaires.
I.7	Establishment of PRTR Distribution and use of guidance document Regional and sub-regional capacity-building activities	Parties Secretariat to facilitate technical assistance upon request NGOs experienced in regional and sub-regional collaboration
I.8	Information and organisational measures to facilitate public participation procedures Training of officials and executives in communication with general public	All permitting authorities within Parties Private and NGO sector, general public
I.9	Legislative measures Information measures Establishment of assistance mechanisms Removal of financial and other barriers	Parties Secretariat and donors to facilitate advice and assistance NGOs introducing their experience about gaps and problems
I.10	Information and training measures in accordance with Decision II/2	Ministries of Justice or similar national bodies Judicial training centres Law schools Professional organisations, including NGOs, relevant universities, high schools

I.11	Formal and non-formal environmental and citizenship education programmes	Educational institutions Media NGOs Local communities
I.12	Establishment of supportive legislative and fiscal framework Provision of financial assistance where possible	Parties In consultation with public
I.13	Public awareness campaigns Financial and other support to public interest environmental law organisations	Parties Civil society organisations Communities Universities Donors
I.14	Review of submissions, communications and referrals Preparation and publication of findings and recommendations Thematic review of generic compliance problems	Compliance Committee MOP Parties Citizens organizations fill in questionnaire for further analyses and integration
II.1	Build public and political support for ratification in non-Parties Bilateral consultations to discuss and overcome obstacles to ratification; provision of assistance upon request	Secretariat Civil society organisations Parties
II.2	Complete national approval procedures	Parties
II.3	Use of bilateral, regional and international cooperation fora to raise interest in Convention Build public and political support for accession Provision of assistance upon request	Parties Secretariat Identified NGOs involved and active in MEAs
II.5	Promotion of application of Almaty Guidelines in international forums where Parties participate Adoption of appropriate practices and procedures in international forums; review of existing practices Consultations with other forums	Parties Task Force PPIF NGOs involved simultaneously in Aarhus and other MEAs
II.6	Coordinated implementation of Convention and provisions on access to information and public participation of other MEAs Organisation of joint activities with other MEAs	Parties, Focal Points (often there are negative examples that FPs do not coordinate their responsibilities) Secretariat Secretariats of other MEAs NGOs, where relevant
III.6	Exchange of experience and best practices on the impact of the instruments of participatory democracy in decisions related to all dimensions of sustainable	Parties NGOs

	development Revision and further development of national strategies for sustainable development or their improvement through participatory procedures Consideration of new norms and instruments	
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## **Public Research and Regulation Initiative (Belgium)**

*Submitted 30.04.2007*

The Public Research and Regulation Initiative (PRRI; [www.pubresreg.org](http://www.pubresreg.org)) offers public researchers involved in modern biotechnology a forum through which they are informed about and can participate in relevant international discussions, such as the discussions on the Aarhus Convention.

In response to the circulation for public comment of the 'Draft elements for a long-term strategic planning for the Aarhus Convention', the PRRI shares the following observations.

With regard to Focal Area III., Development, PRRI is of the opinion that Objective 3 is redundant, unclear, and seems to go beyond the scope of Decision II/1, Article 6bis.

Objective 3 is redundant, because the issue of public participation in decisions related to GMOs has been addressed by the MOP, which after long deliberations resulted in Decision II/1.

Objective 3 is unclear and seems to go beyond the scope of Decision II/1, Article 6bis, with the phrases "beyond site-specific activities and the placing on the market of genetically modified organisms" and "to encompass possibly also product-related and other decision-making".

PRRI therefore believes that Objective 3 should be omitted.

PRRI also believes that there is urgent need to include in the long-term strategic planning a strategic objective to inform the public in an objective manner about the need to intensify research in modern biotechnology to strengthen the sustainable production of food, feed and fibre, to address water shortage, to improve health care and environmental protection. This needs to be explained in the context of the challenges the world community faces in terms of population growth, loss of agricultural land and natural habitats, chemification of the environment, loss of drinking water resources and climate change.

## **Health and Environment Alliance (Belgium)**

*Submitted 30.04.2007*

The Health & Environment Alliance (HEAL) is an international non-governmental organisation that aims to improve health through public policy that promotes a cleaner and safer environment. Our work draws on the findings of the environmental health science revolution, which is revealing the impact of environmental degradation on health in an ever-widening range of diseases and conditions. We represent a diverse network of more than 50 citizens', patients', women's, health professionals' and environmental organisations across Europe with a strong track record in bringing environmental health science and policy to an increasing number of fora. Our vision is that of a healthy planet for healthy people.

In the long-term strategic plan for the Aarhus Convention, we would like to see a **more explicit reference to health information**, which needs to be related to and integrated into environmental information to be consistent with the main goal of the Aarhus Convention "*to contribute to the protection of the right of every person of present and future generations to live in an environment **adequate to his or her health and well-being***".

**BSBA (Black Sea Biotechnology Association, Bulgaria)**

*Submitted 29.05.2007*

Black Sea Biotechnology Association (BSBA <http://www.bsbanet.org>) is a non-profit organization of biotechnology experts providing public forum for the dissemination of professional and public oriented information on biotechnology development.

In response to the circulation for public comment of the “Draft elements for a long-term strategic planning for the Aarhus Convention”, BSBA would like to share the following observations:

Focal Area III, Section 2: “The range of environmental information that is made available to the public is gradually widened, in particular by developing and implementing mechanisms to ensure sufficient availability of product information to enable consumers to make informed environmental choices and by considering measures to ensure access to environmental information held by the private sector.”

This paragraph seems not very clear because it does not take into account property rights and confidentiality of information. Our belief is that for GMO related issues it shall concur with the deliberations of the Cartagena Protocol.

We therefore think the Objective 2 should be formulated in a more precise way.

Focal Area III, Section 3: “The scope of public participation gradually expands beyond sitespecific activities and the placing on the market of genetically modified organisms to encompass possibly also product-related and other decision-making having a significant impact on the environment.”

Our concern is that this open-ended statement, which literally speaks about negative impact of GMOs only might eventually lead to shift from state regulation of GMO related issues to “public” regulation, which will mean no regulation at all just collapse of any activities involving genetic engineering including research, thus hindering many benefits for human health and the environment.

Moreover, Parties to the Aarhus Convention already negotiated and agreed to guidelines for public participation for GMOs and limited the application of these guidelines to “deliberate release into the environment and placing on the market of genetically modified organisms” only.

Expanding the long-term strategic plan to include other activities (which seem likely to include contained use and other research activities) is in direct conflict with this recent decision by the Parties to the Aarhus Convention (Decision II/I, Article 6bis).

Therefore we consider that Objective 3 shall be omitted.

We also believe in the necessity of urgent inclusion in the long-term strategic planning of an objective to inform public about the importance to enhance biotechnology research in order to strengthen capacity of sustainable food, feed, and fiber production, improving human health and environmental safety and reducing threats to climate.

## **Estonian Society for Nature Conservation (Estonia)**

*Submitted 12.03.2007*

### **Vision and mission**

...

This vision and mission are part of our broader aspiration to achieve a more equitable world and a better quality of life for all through sustainable development and democratic governance. ~~We believe the principles of participatory democracy on which the Aarhus Convention is based are relevant to, and should ultimately be applied to, all three pillars of sustainable development.~~ *Sounds nice as a principle, but nevertheless I have some doubts – the AC is only about the environment, not directly about the SD and not about the Soc and Ec pillars.*

### **Focal areas, strategic goals and objectives**

Focal area I: Implementation

*Strategic goal I: Achieve full implementation of the Convention and Protocol by each Party*

~~13...Organised civil society and~~ The general public is aware of its rights under the Convention and *by the means of civil society organisations* effectively assert them to advance both environmental protection and sustainable development including good governance.

## International Centre for Environmental Research (Georgia)

Submitted 26.03.2007

### Vision and mission

...

The serious environmental challenges faced by societies in Europe and worldwide cannot be addressed by public authorities alone, without the involvement and support of individual citizens and civil society organisations. (**Comment:** *Current environmental challenges faced by societies in Europe and worldwide need wider involvement and support of not only public authorities alone, but wider support of individuals and public society organizations*) To strengthen the effectiveness and legitimacy of environmental policies, the Aarhus Convention establishes common international standards for access to information, public participation in decision-making, and access to justice in environmental matters, based on the principles of participatory democracy. (**Comment:** *Based on democratic principles of public participation*)

...Our long-term vision is to secure the enjoyment of the rights (**Comment:** *to secure the rights*) of access to information, public participation in decision-making, and access to justice in environmental matters throughout the pan-European region and beyond in order to contribute to the protection of the right (**Comment:** *the protection of environment and the right*) of every person of present and future generations to live in an environment adequate to his or her health and well-being.

(**Comment:** *and guarantee sustainable background for the development of environment and well-being for future generations*)

We see it as our mission

- To work towards full implementation of the Convention and Protocol by each Party
- To expand the reach and influence of the Convention and Protocol by increasing the number of Parties within the ECE Region and encouraging States outside the Region to accede to the Convention or implement its principles (**Comment:** *wider participation of the states outside the region in the implementation of the principles of Convention*)
- To further develop the provisions and principles of the Convention.

### Focal areas, strategic goals and objectives

Focal area I: Implementation

*Strategic goal I: Achieve full implementation of the Convention and Protocol by each Part*

This strategic goal will be realized when the following objectives have been reached:

3. ...Each Party, in implementing the Convention, is not only complying with its mandatory provisions, but also making a genuine effort to give effect to its provisions whose application is discretionary to the fullest extent possible under national circumstances, in keeping with the spirit of the Convention.

11. ...Environmental education is widely available and promotes active and responsible environmental citizenship, including the use of rights guaranteed by the Convention. **(Comment:***despite the age and nationalities*)

14. ... The Convention's mechanism for compliance review effectively fulfils its role as an instrument of last resort to address problems of non-compliance which cannot be resolved at a national level. The findings and recommendations of the compliance committee are regarded by Parties as an authoritative **(Comment:** Competent)source of advice on the implementation of the Convention and used by them to improve their national practices as best as possible.

#### Focal area II: Expansion

*Strategic goal II: Expand the reach and influence of the Convention and Protocol in the UNECE region and beyond*

This strategic goal will be realized when the following objectives have been reached:

4. ...The Parties to the Convention are actively promoting the application of its principles in international environmental decision-making processes and are successfully influencing the practice of international forums in matters relating to the environment, in particular the policies of other multilateral environmental agreements.**(Comment:***other bilateral and multilateral environmental agreements*)

#### Focal area III: Development

*Strategic goal III: Further develop the provisions and principles of the Convention*

This strategic goal will be realized when the following objectives have been reached:

4. ...The provisions of the Convention relating to public participation during the preparation of plans, programmes and policies relating to the environment, as well as executive regulations and other generally applicable legally binding normative instruments that may have a significant effect on the environment, are reviewed and further developed as appropriate to provide stronger guarantees of effective and high-quality participation from an early stage of decision-making **(Comment:** *from pre-decision-making process* ) while taking fully into account the specific nature and constraints of such decision-making processes.**(Comment:***processes*)

### Framework for implementation

Objective	Indicative types of activity	Implementing partners
I.4	Information, training, organisational and budgetary measures  Regional and sub-regional capacity-building ( <b>Comment:</b> <i>national capacity-building</i> ) activities	Parties All public authorities concerned within Parties Secretariat in cooperation with other agencies
I.6	Establishment of systems to collect environmental information Establishment of public ( <b>Comment:</b> <i>network of public</i> ) registers and information centres Establishment of electronic databases and national nodes in accordance with Decision II/3	Parties All public authorities concerned within Parties Secretariat to facilitate technical assistance upon request
I.7	Establishment of PRTR Distribution ( <b>Comment:</b> <i>dissemination</i> ) and use of guidance document Regional and sub-regional capacity-building activities	Parties Secretariat to facilitate technical assistance upon request
I.8	Information ( <b>Comment:</b> <i>public information procedures</i> ) and organisational measures to facilitate public participation procedures Training ( <b>Comment:</b> <i>raising awareness</i> ) of officials and executives in communication with general public	All permitting authorities within Parties Private sector
II.3	Use of bilateral, regional and international cooperation fora to raise interest in ( <b>Comment:</b> <i>to</i> ) Convention Build public and political support for accession Provision of assistance upon request	Parties Secretariat
II.4	Participation in key regional and international events to publicize Convention Encourage references to Convention ( <b>Comment:</b> <i>the Convention</i> ) in other forums (political and academic) Cooperation with other regional bodies interested in implementation of Principle 10	Secretariat with support of Parties and civil society organisations
II.5	Promotion of application of ( <b>Comment:</b> <i>to</i> ) Almaty Guidelines in international forums where Parties participate	Parties Task Force PPIF

	Adoption of appropriate practices and procedures in international forums; review of existing practices Consultations with other forums	
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**Professor Dr. Christian Schrader (Germany)**

*Submitted 07.03.2007*

Thank you for the draft for a long-term strategic plan.

I have a comment which results from the implementation in Germany.

I am leading a projekt, funded by the Federal Ministry of Environment, concerning about the implementation of the new Aarhus instruments in the daily work of environmental NGOs. But - in Germany there are nearly no substantial impulses from Aarhus.

The new German Environmental Litigation Act (Umwelt-Rechtsbehelfsgesetz) interpreted Art. 9 par. 2 of the Aarhus-Convention in a very restrictive way. Some (very restrictive) environmental NGO can take action against projects according Directives 96/61/EEC and 85/335/EEC. But in this action they can only argue about breaches of legal rules that enclose the protection of individual persons under german law. In the end NGOs can't critise damages of ground water, nature protection or other fields of environmental protection that are ruled in common interest and not also in private interest.

A second aspect: Art. 9 par. 3 of the Aarhus-Convention is interpreted to be already implemented by the very restrictive German litigation law.

Therefore it is, for Germany, necessary to clarify the scope of Art. 9 par 2 or to condemn Germany in the impelemtation process and to enhance the scope of Art. 9 par. 3.

**NGO Clean Air Action Group (Hungary)**

*Submitted 29.04.2007*

On behalf of the Clean Air Action Group (a Hungarian non-governmental organization) may I submit the following proposal to the draft elements for the Long term Strategic Plan for the Convention:

Focal area III of the draft elements should be amended by the following additional point:

*7. The principle of non-retrogression (e.g. in Article 5(1) of the International Covenant on Economic, Social and Cultural Rights) shall be added to the general provisions of the Convention in order to ensure that the Parties shall not create new regulations or take any measures reducing the already existing rights of access to information, public participation and access to justice determined by the operative national and international law.*

## **Sandor Fulop, Environmental Management Law Association (Hungary)**

*Submitted 10.04.2007*

### General Comments

The elements of the Convention additional to the three main pillars, i.e. principles, definitions and capacity building would need greater attention and possibly separate points under focal areas I and III.

#### a) Principles

Integration principle (Recital 16) for instance has enormous practical importance for environmental democracy. Elements of the participation rights should be more and more applicable in branches of administration carrying non-environmental labels (construction permitting and controlling, forestry, fishery, energy etc. administration). Practical environmental problems could be effectively solved only with a holistic approach. If the environmentalists and local communities are faced with impermeable borders of several administrative categories, they work is hindered significantly.

Other principles, not being directly mentioned in the Convention, like precautionary principle might have strong interrelationships with public participation, too.

#### b) Definitions

Practical experiences show that the definition of non-governmental organizations shall be further refined in order to focus the legal tools of the Convention on resolving the problems the Aarhus legislator had kept in its mind. If organizations formally appearing as NGOs but in effect representing business or political interests can use the public participation rights (in addition to the ample rights their economic and political position already ensures to them) it might result in an unjust social situation and also might discredit the institutions of environmental democracy and the Convention itself.

#### c) Capacity Building

Capacity building is in many aspects as important as the three pillars of the Convention: the rights to environmental information, participation and legal remedies can worth nothing if there are no organizations, local communities and individuals who are able and willing to use these legal tools effectively. Within that topic we might pay specific attention to the loss of social prestige of the environmental NGOs in the press and in the general public. Supporting initiatives as nonprofit quality assurance/certification might be one way of tackling this legitimacy deficit.

### Specific Comments

#### I<sup>1</sup>.1) Framework of the implementation

Institutionalization, procedures and budgets – together might form a fuller system of ensuring a proper framework for the implementation of the Convention. Specialized institutions, departments and officers can establish a solid background for continuous

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<sup>1</sup> Comments made in connection with focal area I might be relevant in certain points of focal area III, too.

implementation of the public participation rules, together with their budgets clearly and safely allocated to such purposes. Developing proper operational procedures and mechanisms required for the practical implementation of the Convention can only be effective if the specialised personnel is ensured and is committed to supporting public participation.

I.2) Strengthening national focal points (this can be an addition to Point I.2 but also could be a separate point)

From certain cases of the Compliance Committee (especially the Albanian and the Ukrainian cases) experienced that a weak position of the national focal point (e.g. frequent changes of the persons or even long interim periods with no focal point at all) might seriously hinder the implementation of the Convention as well as the international communication in Aarhus matters. Parties should commit themselves to solidify the position of the national focal points.

I.3) Application of the discretionary rules

We could add that Parties shall be led in that matter by the guidance of the principles in the Preamble and by the clear declaration of the will of the legislators in Article 1 of the Convention.

I.4) Public authorities' tasks in implementation

We could add after "all levels": "and all sectors (e.g. mining, forestry, water management)" in harmony with the general comments in connection with the integration principle.

1.5) Capacity building for officials

Focal Area I addresses capacity building topics in several points (10, 11 and 13), while these do not yet form a system (a matrix of CB in individual cases or generally and also with environmental, procedural and institutional help, together with the prohibition of capacity diminishing). In line with this, we think that the necessity of capacity building for the officials (similarly to point 10 does in respect to judges and prosecutors) should be mentioned in Point 1.5, too.

1.6) Quality of the available information (this can be an addition to Point 1.6 or a separate point)

Need for a coherent system of the available environmental information might be mentioned here. Parallel collection and processing, overburdening the information sources with unnecessary reporting obligations, lack of communication and information exchange between several authorities and state institutions collecting environmental information, poorly developed concept of the ownership of the information – these are some symptoms of the lack of the effectiveness of our environmental information systems that should be addressed.

1.7) PRTR

We should add a reference to that NGOs are to be encouraged to contribute to the effective operation of the national PRTR systems (successful examples exist, like FoE in UK).

II.3) Parties encouraging other countries to accede to the Convention

EU has widespread experiences with twinning (old member states to new ones). This might be an effective tool for helping such countries that consider the possibility of becoming a Party to the Convention.

### III.2) Widening the range of environmental information

Environmental information held by private sector shall be accessible to the public especially in such cases where they handle wholly or partly public money (state subsidies, loans, concessions etc.). Some countries might have some legislative experiences in that matter (as the Hungarian “glass pocket” law).

### III.5 New forms and tools of public participation

More specifically, we could mention here the cases where the members or organizations of the public not only participate in cases that were initiated by others (authorities, developers etc.) but themselves initiate cases or try to solve environmental problems (e.g. certain local initiatives for maintaining local water courses). In this matter the close interrelationship of Article 6 and Article 9(3) deserves a special attention.

**Cinzia Di Fenza, Department Tools and Policies for Environmental Sustainability, FORMEZ (Italy)**  
*Submitted 13.04.2007*

Besides the increasing number of innovative and successful participation experiences – namely, in Italy, several LA21 processes – environmental information is still lagging behind and the general perception is that these issues remain mostly confined to conferences and scientific debates and discussions between experts. Citizens and civil society organisations are still not fully aware of the rights of access to information. Adequate **information processes** on environmental issues are still not well established and diffused as they should be to promote and stimulate an effective and structured participation to policies. Information provided should give priority to the interrelations between economic development and the environment, as well as the social impacts of individual choices. The integration between global and local issues and impacts should be addressed as well. Overall, to make information more interesting to the citizens, it should concern concrete problems experienced in the everyday life. This is important also to promote information on “access to environmental justice” issues, which are almost unknown.

Public participation should be made more effective by means of **systematic actions** to involve lay citizens, as for instance **Citizen’s Conferences** aiming to raise awareness of environmental themes and stimulate sustainable changes of the citizens’ behaviour. These initiatives should also let the citizens to contribute actively to **policy assessment**. Finally, it is important to establish **evaluation systems** of information and participation practices.

## Environmental Ambassadors (Republic of Serbia)

Submitted 13.04.2007

### Focal areas, strategic goals and objectives

Focal area I: Implementation

*Strategic goal I: Achieve full implementation of the Convention and Protocol by each Party*

...

6. This strategic goal will be realized when the following objectives have been reached: Public authorities at all levels of government have well-established information policies under which (real, true ) environmental[a20] (**Comment:** *May be some better verdict ; the point is that in some countries the quality of environmental information is not taken in account (and « no information, no measurements » is considered under « positive » dissemination of « existing environmental information ») information is routinely provided and pro-actively disseminated to the public, making full use of electronic tools where available.*

Environmental education is widely available, respectable[a21] (**Comment:** *In some cases education is available but not respectable (fo examle when announcing job openings) and promotes active and responsible environmental citizenship, including the use of rights guaranteed by the Convention.*

Each Party recognises and supports[a22] (**Comment:** *It will be nice to develop tool for support CSO) the role of civil society organisations promoting environmental protection as important actors in advancing democratic debate on environmental policies, raising public awareness and mobilising and assisting citizens in exercising their rights under the Convention.*

### Framework for implementation

Objective	Indicative types of activity	Implementing partners
I.10	Information and training measures in accordance with Decision II/2	Ministries of Justice or similar national bodies ("special environmental courts" where appropriate[a23]) ( <b>Comment:</b> <i>I am promoting idea to have as the « educational tool » in transition countries "environmental court")</i> Judicial training centres

		Law schools Professional organisations, including NGOs
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**J. Pancic, Deputy Public Prosecutor, IV Municipal Public Prosecutor's Office  
(Republic of Serbia)  
*Submitted 30.04.2007***

Having considered the material I had received in relation to the implementation of the Aarhus convention and its incorporation into national legislature, first of all, I think that the goals set on a long term basis are logical and justified, especially having in mind the fact of the human environment being endangered in the present time.

From the aspect of the representative of Judicature of the Republic of Serbia and considering the problems we have been facing in practice in similar situations, I would like to emphasize the following:

It is necessary to hold ad hoc meetings in the territory of our Republic, if that is possible, before the official implementation of the Convention. The meetings would be attended by representatives of judicature, that is judges and prosecutors, as well as representatives of the Police of the Republic of Serbia. This is very important having in mind the fact that the above mentioned categories are the representatives of the government bodies that encounter the relevant problem first and are being charged with duty to solve it in a legitimate way, which is why they have to be well acquainted with the basic principles and possible mechanisms of implementation of the Convention. These meetings could be held in the form of round table discussions to exchange relevant experience between representatives of the government bodies from different countries. Also, I am of the opinion that this- along with printing fliers and brochures- could be one of the best ways to get the Aarhus convention closer to government bodies, even before its practical implementation, the bodies that will eventually be in charge of direct supervision of its practical implementation.

During the period following my attendance on the meeting of the work group in Geneva in the UN Palace in Geneva in November 2003, the Criminal Code of the Republic of Serbia has been altered. In case you are interested in this matter, I can send you some decisions of the new Criminal Code and also some specific experience of the Court within this sphere of work, including the list of procedures run within the field of protection of the human environment, including their outcome.

**Olga Podosenova, Regional NGO «Ural Ecological Union» (Russia)**

*Submitted 18.03.2007*

I have read the text long-term strategic plan for the Aarhus Convention.

It is the good complete document!

I think in the further discussion it is necessary to concentrate on discussion of lobbying ("of pushing") of signing of the convention to the "not signed countries".

Also large urgency has education (real understanding) about benefit of use and progress of the Aarhus Convention at all levels - national, regional, local.

**Janka Krocianová, Ministry of Environment ( the Slovak Republic)**  
*Submitted 24.05.2007*

After studying the whole document draft elements for a long-term strategic plan for the Aarhus Convention we would like to inform you that Slovakia has no comments concerning the above mentioned draft.

**Andriy Andrusevich, Resource and Analysis Centre "Society and Environment"  
(Ukraine)**

*Submitted 30.05.2007*

I have the following comments regarding draft elements for a LTSP for the Aarhus Convention. These are not ECO Forum's coordinated view, though.

For the purpose of consistency, I am attaching ECO Forums intervention on this issue at the WG meeting in November, 2004. Some of the proposed ideas have been taken into account (such as reflecting the wording of Article 1 in the mission statement). However, I would like to focus on human rights element more, as well as protecting defenders issue.

It seems current version of the LTSP lacks reflecting the ultimate vision/goals as to Convention's beneficiaries (citizens and NGOs). E.g. the implementation section (not to mention expansion section) primarily focuses on how parties should behave. It is my opinion that one of the ultimate goals of the implementation is effective use of the tools (and rights) provided by the citizens/NGOs. This is rather usual approach in all human rights instruments despite the fact they are binding on countries only. The use of term "beneficiaries" in the current practice and theory of international law reflects this concept.

One of the ways to deal with aspirations towards citizens' ability to improve their well being by using the Convention (i.e. recognizing their role of direct beneficiaries of the Convention) is to incorporate human rights elements into the LTSP. This may be done in several ways: including statement that citizens' effective use of the rights is one of the strategic goals. It would therefore be logical then that this flows into special activities to be mentioned in the operative part, such as developing contacts/cooperation with human rights bodies (forums), constitutional or other recognition of the rights provided by the Convention (since many countries are still of the position that the Convention provides just formal mechanisms of AtoI, PP, and AtoJ, but not the rights), other activities.

I am well aware of the conservatism that most human rights forums show. However, a close cooperation with Aarhus Convention may well break the ice and encourage further developments in those forums (while maybe having a rather freezing effect back on Aarhus process because of their conservatism).

Another issue is protecting the defenders. It seems that some countries are facing serious internal efforts to block effective use of the rights under the Convention, such as defamation suits. I would encourage including protection of defenders as one of the aims to achieve (or prevention of the suppression of their work) - this is an absolutely required element for a "strategic" vision for the Convention.

Having said the above, I should also congratulate the secretariat for a great work done to ensure the LTSP is developed, discussed, as well as for a current draft itself.

## **Struan Simpson (UK)**

*Submitted 25.04.2007*

### **Vision and mission**

...

The serious environmental challenges faced by societies in Europe and worldwide cannot be addressed by legislation alone, without a committed judiciary, the involvement of civil society organisations and support of individual citizens. Based on the principles of participatory democracy, the Aarhus Convention has established common international standards for access to information, public participation in decision-making, and access to justice in environmental matters in order to strengthen the effectiveness and legitimacy of environmental policies.

Our long-term vision is to secure common rights of access to information, to public participation in decision-making and access to justice in environmental matters throughout the pan-European region and beyond, in order to contribute to protecting the rights of every person of present and future generations to live in an environment adequate to his or her health and well-being.

We see it as our mission to

- Work towards full implementation of the Convention and Protocol by each Party
- Expand the reach and influence of the Convention and Protocol by increasing the number of Parties within the ECE Region and encouraging States outside the Region to accede to the Convention or implement its principles
- Further develop the provisions and principles of the Convention.

### **Focal areas, strategic goals and objectives**

Focal area I: Implementation

*Strategic goal I: Achieve full implementation of the Convention and Protocol by each Party*

This strategic goal will be realized when the following objectives have been reached:

1. Each Party has a clear, transparent and consistent framework for national implementation of all provisions of the Convention, comprising not only the necessary legislative and regulatory provisions, but also the operational procedures and mechanisms required for their practical application.
2. Each Party's implementation framework and procedures are adequate not only to ensure application of the Convention in a national context, but also to

guarantee its application in actual transboundary situations without discrimination as to citizenship, nationality or domicile.

3. In implementing the Convention, each Party not only complies with mandatory provisions, but also makes a genuine effort to apply discretionary provisions to the fullest extent possible according to national circumstances, in keeping with the spirit of the Convention.
4. At all levels of government official authorities are fully aware of their obligations under the Convention and allocate the necessary human and material resources to be able to comply with them.
5. The Convention fosters the culture of a transparent administration which supports , and values public participation as a positive contribution to democratic, effective and legitimate governance, encouraging government officials to provide assistance and guidance to facilitate the exercise of public rights.
6. Official authorities at all levels of government establish information policies through which environmental information is routinely provided and pro-actively disseminated to the public, making full use of electronic tools where available.
7. Within the framework of an overall environmental information policy, each Party to the Protocol has established a coherent, integrated, nationwide pollutant release and transfer register (PRTR) designed for maximum ease of public access through electronic means, which facilitates the exercise of the rights guaranteed by the Convention and provides incentives to industry to prevent and reduce pollution.
8. Procedures for public participation are regarded by official authorities and private sector developers as an integral part of project planning activities that may have a significant effect on the environment, making pro-active efforts to identify and inform the public concerned, entering into discussions with them at an early stage and allowing effective participation of all interested citizens.
9. Each Party has administrative and judicial review procedures accessible to the public which can provide effective remedies where public rights under the Convention have not been respected, empowering members of the public to challenge acts and omissions which contravene provisions of national environmental law. Each Party undertakes genuine efforts to reduce and where possible, eliminate any financial or other obstacles which may prevent recourse to such review procedures and establish appropriate assistance mechanisms.
10. Judges, public prosecutors and other legal professionals are familiar with the rights guaranteed by the Convention and ready to exercise their respective responsibilities to uphold them.

11. Environmental education is widely available and promotes active and responsible environmental citizenship, including the exercise of rights guaranteed by the Convention.
12. Each Party recognises civil society organisations promoting environmental protection as important actors and supports their role in advancing democratic debate on environmental policies, raising public awareness and mobilising and assisting citizens in exercising their rights under the Convention.
13. Civil society organisations and the general public are aware of their rights under the Convention and effectively assert them to advance both environmental protection and sustainable development including good governance.
14. The Convention's mechanism for compliance review fulfils the role of an effective instrument of last resort to address problems of non-compliance which cannot be resolved at the national level. Findings and recommendations of the Compliance Committee are regarded by Parties as the authoritative source of advice on the implementation of the Convention and used by them to improve their national practices in the best way possible.

#### Focal area II: Expansion

*Strategic goal II: Expand the reach and influence of the Convention and Protocol in the UNECE region and beyond*

This strategic goal will be realized when the following objectives have been reached:

1. ...
2. The amendment to the Convention on public participation in decisions on deliberate release into the environment and placing on the market of genetically modified organisms, to enter into force by 2009, is approved by a sufficient number of Parties..
3. States outside the UNECE region accede to the Convention. That such accessions are actively encouraged by the Parties, with the aim of having at least five Parties, not Member States of the UNECE, by 2011.
4. The Convention becomes widely regarded as setting a universal standard for access to information, public participation in decision-making and access to justice in environmental matters and inspires the development of similar instruments in other regions of the world.
5. Parties to the Convention actively promote the application of its principles in international environmental decision-making and successfully influence i the policies of international forums in matters relating to the environment, in particular with regard to other multilateral environmental agreements.

6. Parties to the Convention achieve synergies between the Convention and other multilateral environmental agreements in their participation both in international policy-making and in their national implementation activities..

### Focal area III: Development

#### *Strategic goal III: Further develop the provisions and principles of the Convention*

This strategic goal will be realized when the following objectives have been reached:

1. The provisions of the Convention are interpreted in a dynamic way, enabling practice to adapt to experience acquired in the course of implementation, to new developments in society and to new environmental challenges.
2. The range of environmental information that is made available to the public is gradually widened, in particular by developing and implementing mechanisms to ensure sufficient availability of product information and by considering measures to ensure access to environmental information held by the private sector, enabling consumers to make informed environmental choices.
3. The scope of public participation gradually expands beyond site-specific activities and the placing on the market of genetically modified organisms to encompass possibly also product-related issues and other decision-making processes having a significant impact on the environment.
4. The provisions of the Convention relating to public participation in the preparation of plans, programmes and policies relating to the environment, as well as executive regulations and other generally applicable legally binding normative instruments that may have a significant effect on the environment, are reviewed and further developed to afford stronger guarantees of effective and high-quality participation in the early stages of decision-making, while taking fully into account the specific nature and constraints of such decision-making processes.
5. New forms and tools beyond traditional consultation procedures are encouraged and developed to enhance the effectiveness of public participation..

The experience of the Parties in implementing the Convention serves as a basis for fostering participatory democracy in sustainable development policy formulation and implementation across all three dimensions of sustainable development. It inspires the development of new norms or instruments to ensure public participation in the elaboration and adoption of sustainable development strategies and policies as well as in the decision-making relating to their implementation, in accordance with the aims of the Johannesburg Plan of Implementation.

## **Vision and mission**

...

This vision and mission are part of our broader aspiration to achieve a more equitable world and a better quality of life for all through sustainable development and democratic governance. We believe the principles of participatory democracy on which the Aarhus Convention is based are relevant to, and should ultimately be applied to, all three pillars of sustainable development[ME24]. (**Comment:** *This is an empty statement[0]. The meaning of it is that the Aarhus secretariat expect access to information, public participation and justice in all economic and social decision making as these are the other two pillars of SD.*

*Principle 10 and the Aarhus convention are promoting a very specific form of participatory democracy, which is not necessarily adequate for the other pillars . Is there an expectation that governments will involve the public in setting the annual budget? Set interest rates? Decide on social welfare policy?*

*By making Aarhus the panacea for democracy, there is a real risk of undermining its legitimacy. )*

## **Focal areas, strategic goals and objectives**

### Focal area I: Implementation

*Strategic goal I: Achieve full implementation of the Convention and Protocol by each Party*

This strategic goal will be realized when the following objectives have been reached:

...

5. The Convention fosters the development of an open administrative culture which supports public participation and transparency, values them as positive contributions to democratic, effective and legitimate governance and encourages public officials to provide assistance and guidance to the public to facilitate the exercise of its rights.[ME25] (**Comment:** *This should be made specific to environmental matters. One of the most troubling aspects of the development of the Aarhus convention is the change from a tool that is dedicated to environmental decision making to a catch all claims about the importance of the convention in promoting democracy. As noted, the convention encapsulates a very particular view of participatory democracy, which while relevant in the environmental domain, is not necessarily the right model for other areas of human activities. In many countries, representative*

*democracy is better suited for certain types of decision, and this should not be ignored. The secretariat is effectively promoting an ‘imperialist’ approach in which a convention on environmental matters is used as a stealth instrument to promote specific form of democracy in other areas of policy. The remit of Aarhus is the environment – and it should stick to it, or the whole project will be undermined.)*

6 Public authorities at all levels of government have well-established information policies under which environmental information is routinely provided and pro-actively disseminated to the public in a form that is usable, accessible and understandable, making full use of electronic tools where available[ME26]. **(Comment:** *My research has shown that most of the environmental information which is disseminated to the public is in forms that are not easily understandable to lay members of the public. While the release of information is the top priority, we should aim that in the future the information will be user-centred and relevant to each members of the public. Otherwise, we are undermining the justice principles)*

8 Public participation procedures are regarded by public authorities and prospective developers in the private sector as an integral part of the planning of project activities which may have a significant effect on the environment and implemented in their full scope. Developers undertake pro-active efforts to identify and inform the public concerned and enter into discussions with them at an early stage of planning that allows the effective participation of all interested citizens and stakeholders[ME27]. **(Comment:** *In the spirit of the convention, it is important to allow NGOs and other parties to be involved)*

## Focal area II: Expansion

*Strategic goal II: Expand the reach and influence of the Convention and Protocol in the UNECE region and beyond*

This strategic goal will be realized when the following objectives have been reached:

...

2.The amendment to the Convention on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms is approved by a sufficient number of Parties to enter into force by 2009. [ME28]**(Comment:** *In 1998, when the convention was written, GMO was an important issue, but in terms of expansion, the secretariat should aim to extend the convention to nanotechnology, as this could have far reaching impacts on the environment)*

6.The Parties to the Convention, both in their participation in international policy-making and in their national implementation activities, are achieving synergies between the Convention and other multilateral environmental agreements, and in particular, in mechanisms to deal with climate change.[ME29] **(Comment:** *Due to the urgency of climate change, there is a real risk of actions and activities that will be carried out by companies, organisation and governments in a non-*

*inclusive manner under the justification that it must be done to avert the risks of climate change and therefore public participation, access to information and access to justice will be sidelined. Therefore, special attention should be paid to these activities)*

Focal area III: Development

*Strategic goal III: Further develop the provisions and principles of the Convention*

This strategic goal will be realized when the following objectives have been reached:

...

The range of environmental information that is made available to the public is gradually widened, in particular by developing and implementing mechanisms to ensure sufficient availability of product information to enable consumers to make informed environmental choices and by considering measures to ensure access to environmental information held by the private sector. The information should be provided in an accessible, clear and useful manner.

The scope of public participation gradually expands beyond site-specific activities and the placing on the market of genetically modified organisms to encompass possibly also product-related and other decision-making having a significant impact on the environment, such as nano-technology.

5. To enhance the effectiveness of public participation, the development of new forms and tools of public participation beyond traditional consultation procedures is encouraged[ME30]. (**Comment:** *There are many tools that have been already tested within the research community, but have not been implemented within policy. The wording here should indicate that it is not just about new tools, but implementation of existing tools and knowledge transfer from the research community to the policy arena.*)

**Norine Kennedy, US Council for International Business (USA)**

*Submitted 01.05.2007*

I am writing on behalf of the United States Council for International Business (USCIB) to offer general comments and reactions to the on-line consultation concerning the Draft Elements for a Long-Term Strategic Plan for the Aarhus Convention. As we learned of the opportunity to comment only recently, time does not permit us to offer detailed changes in line-in/line-out format. Still, we wish to call certain broad principles to your attention in light of the importance of these matters to international environmental policy, and our long experience therein. We hope that these considerations could be a basis for dialogue on how to include business and other stakeholder groups, and would also be taken into account as this process goes forward.

We welcome the international community's progress over the last 15 years to increase openness and engagement of non-governmental organizations in international policy discussions of environment and sustainable development, beginning with the definition of "major groups" at the Rio Earth Summit. Since then, USCIB has been involved directly and through the International Chamber of Commerce (ICC) in numerous environmental treaties, the U.N. Environment Programme, the U.N. Commission on Sustainable Development, the Organization for Economic Cooperation and Development, the North American Free Trade Agreement Commission for Environmental Cooperation and the International Finance Corporation, among others.

We believe consideration of next steps for the Aarhus Convention is timely. A great deal has happened in the 3 thematic areas of the treaty since its inception, and there are valuable learnings, perspectives and alliances to explore. We would encourage the Aarhus Experts Group to zero in on 2 areas for strengthening the convention:

**ASSESSMENT OF CURRENT STRUCTURES FOR STAKEHOLDER INTERACTION**

In light of the many developments in stakeholder involvement in environmental policymaking and increased access to environmental information, we would strongly suggest that the Aarhus Experts Group should assess and reflect the many developments in environmental information and disclosure through regulatory, financial and voluntary avenues. Understanding the current state of play and discussion will ensure synergy, provide value-added and eliminate redundancy in whatever next steps Aarhus might take. In particular, Aarhus would benefit from an understanding of structures and arrangements that are not based on a "regulatory" framework, but that are rather intended to promote implementation and partnership.

**BROADEN INVOLVEMENT OF UNDER-REPRESENTED MAJOR GROUPS**

We believe another priority area is that of broadening involvement and consultation in Aarhus via a vis under-represented groups, notably business. Given the central role of business in environmental policy implementation, environmental management and technological solutions to environmental challenges, a much stronger presence and involvement of business would seem to be desirable, indeed overdue. As we understand, the same under-involvement is also true for other important major groups as well..

The Draft Elements proposed 2 possible areas for further work that seem premature for discussion at this stage, absent the two recommendations above:

**PRODUCT INFORMATION** - The proposal to expand Aarhus's scope to products is quite ambitious. Many regulations, voluntary initiatives, partnerships, supply-chain alliances and standards already exist in this area. Aarhus would also need to face numerous issues relating to CBI, innovation, competitiveness and innovation that would be associated with this direction.

**SUSTAINABILITY** - The proposal to expand Aarhus's scope from "environmental" information, reporting, policymaking and access to justice to "sustainability" is quite ambitious. In our view, a truly integrated and balanced reflection of environment, economic and social aspects would likely require extensive revisiting of the convention, predicated originally on environment. Expanding to a sustainability orientation would require broader expertise, inclusion and engagement of a much wider range of governmental entities, institutions and groups. It would also inevitably raise resource issues.

Clearly, all stakeholders in society are needed to support better environmental governance, and to improve implementation and effectiveness of environmental rules. Yet engaging them in all their diversity, substantively and with due process and legitimacy is a challenge. Aarhus can play an important role to improve practices so that they are inclusive, effective and bring key players to the table to support governmental action.

These general suggestions are intended to ensure Aarhus develops in sync with other established processes and procedures, and that it can better draw and build on the expertise and experience of the diverse and extensive range of stakeholder interactive structures and channels for environmental information. We believe this is necessary for Aarhus to achieve its objectives most effectively.

**Professor of Law Connie de la Vega, University of San-Francisco (USA)**

*Submitted 09.05.2007*

We appreciate your efforts at getting the participation of NGOs on this project. The one area of comments that I would have on behalf of Human Rights Advocates and the Frank C. Newman International Human Rights Law Clinic at the University of San Francisco would be that there is talk of participatory democracy but not human rights. The Commission on Human Rights had passed various resolutions acknowledging that the illicit transfer of toxics can affect human rights such as those involving the rights to health, food, water and work. Topics covered by the Aarhus Convention could likewise touch on those topics. We could send a copy of the written statement we submitted to the Human Rights Council in March if this would be useful for developing the long-term strategic plan for the Convention.

**The Council of Europe**  
*Submitted 14.03.2007*

**Focal areas, strategic goals and objectives**

Focal area I: Implementation

*Strategic goal I: Achieve full implementation of the Convention and Protocol by each Party*

This strategic goal will be realized when the following objectives have been reached:

Each Party has accessible administrative and judicial review procedures which can provide effective remedies, within an optimal and foreseeable time limit, to members of the public whose rights under the Convention have not been respected, and empower members of the public to challenge acts and omissions which contravene provisions of national environmental law. Each Party undertakes genuine efforts to reduce and, where possible, eliminate any financial or other obstacles which may prevent recourse to such review procedures and establish appropriate assistance mechanisms, including legal aid.

Judges, public prosecutors, lawyers and other legal professionals are familiar with the rights guaranteed by the Convention and ready to exercise their respective responsibilities to uphold them.