

Draft Declaration on Environmental Democracy for Sustainable, Inclusive and Resilient Development¹

Prepared by the Chairs of the Bureaux in consultation with the Bureaux²

v. 21 October 2020

The present document contains an initial draft of a declaration to be considered by the Meetings of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and its Protocol on Pollutant Release and Transfer Registers, at a joint segment (planned for October 2021). It was prepared by the Chairs in consultation with the Bureaux of the two Meetings of the Parties.

The draft declaration constitutes a short and focused policy-oriented document, which strives to communicate the key messages regarding the role of the Aarhus Convention and its Protocol in promoting sustainable, inclusive and resilient development, and the commitment of the Convention's and Protocol's Parties in that regard. It is expected that all the specific substantive issues regarding the work of the Convention and the Protocol will be addressed through the respective decisions of the Meetings of the Parties, and not through the declaration.

The document is being made available to Parties to both treaties and all interested stakeholders for comments. National focal points for the Convention and for the Protocol are kindly requested to coordinate their comments on the document and to submit to the secretariat one consolidated input per Party.

Please send your comments before 15 November 2020 to public.participation@un.org

Thereafter, it is expected that the document will be revised by the Bureaux, taking into consideration the comments received, and submitted to the 8th meeting of the Protocol's Working Group of the Parties (16-18 December 2020), and will be made available to Parties and stakeholders for a second commenting round. The draft document will be then revised for its submission to the 25th meeting of the Convention's Working Group of the Parties (planned for Spring 2021). The document will then be revised again by the two Bureaux, in the light of the comments received, and submitted to the Meetings of the Parties for consideration at their joint high-level segment.

I. Introduction

1. We, the ministers and heads of delegation from Parties and signatories to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and its Protocol on Pollutant Release and Transfer Registers, together with representatives of other States, international, regional and non-governmental organizations (NGOs), parliamentarians and other representatives of civil society throughout the United Nations Economic Commission for Europe (ECE) region and beyond, gathered jointly at the seventh session of the Meeting of the Parties to the Convention and the fourth session of the Meeting of the Parties to the Protocol, affirm the following.

¹ This document was not formally edited.

² See Draft elements of the provisional agenda of the seventh session of the Meeting of the Parties to the Aarhus Convention (ECE/MP.PP/WG.1/2020/10) and Draft outline of the agenda for the fourth session of the Meeting of the Parties to the Protocol on Pollutant Release and Transfer Registers (ECE/MP.PRTR/WG.1/2020/7), forthcoming.

2. We recall our commitment made through the Budva Declaration on Environmental Democracy for Our Sustainable Future, (ECE/MP.PP/2017/16 Add.1-ECE/MP.PRTR/2017/2 Add.1) (Budva Declaration) to promote environmental democracy and its key components, namely, access to environmental information, public participation and access to justice, in the ECE region and beyond, as essential prerequisites for building a sustainable future for current generations and those to come.

3. We acknowledge the critical role of the Aarhus Convention and its Protocol for providing the public with concrete rights on access to information, to participate in decision-making and to have access to justice in environmental matters. In doing so, these treaties have brought tangible positive changes across the ECE region and beyond. These changes have multiple positive effects not only for environmental protection, but also for the social and economic aspects of peoples' lives.

4. The core purpose of the Convention and its Protocol, notably to contribute to the protection of the rights of every person of present and future generations to live in an environment adequate to his or her health and well-being, is proving even more important today. Despite their substantial achievements, serious challenges are still observed in many countries. We observe that some governments have adopted measures limiting civil liberties.

5. Further, given the coronavirus disease (COVID-19) pandemic, many governments have responded by declaring a state of emergency and by adopting numerous measures to combat the spread of the virus, which have often included restrictions on the freedoms of assembly and movement. Consequently, these might impact on the public's rights to have access to information, to participate in decision-making and to have access to justice, including in environmental matters.

6. We note that spatial planning and large-scale infrastructure projects, including those initiated as potential recovery measures, are having a substantial impact on the lives of thousands of people across countries and regions. Such projects create new opportunities for employment, travel and economic growth. At the same time, they may have immense impact on ecosystems and people's health and well-being. They often result in considerable environmental pressures through e.g. the generation of greenhouse gases, waste and other forms of pollution. Furthermore, they can intensively modify natural habitats and agricultural land and impact on biodiversity. These projects are frequently opposed by people concerned about such projects' potential environmental impacts. This may result in social conflict and political unrest that can lead to people living under the threat of harassment or even in fear of their life. It is therefore critical to ensure that environmental and social concerns are fully considered and addressed from the outset in spatial planning and in the conception of projects, as well as in connection with lifetime extensions and reconsideration and updates of the operating conditions of existing activities.

II. The Aarhus Convention, its Protocol and the Infrastructure Development and Spatial Planning

7. We note that large scale infrastructure projects, such as motorways, railways, logistic centres, power stations and pipelines are enabling access to services and economic opportunities; they can help to improve livelihoods and the wellbeing of people, and enhance social inclusion and connectivity to different services. They thereby play an important role in supporting the realization of the public's rights and fundamental freedoms.

8. At the same time, we acknowledge that such projects, and spatial planning more generally, have complex environmental impacts related to the different components of the Earth's systems: atmosphere, hydrosphere, geosphere and biosphere. They also influence a number of social issues linked to the public's rights, such as displacement, land ownership, cultural heritage, indigenous peoples, gender equality, employment, public health, safety and

security. Rights-based social safeguards should therefore be applied to infrastructure development and spatial planning to guarantee that they benefit all, leave no one behind, and respect human rights. Paramount among these is the assurance of transparency and the rule of law, inclusive, transparent and effective public participation in decision-making, and adequate and effective remedies throughout the planning and development process.

9. We further acknowledge that spatial planning is more than a technical tool. It is an integrated and participatory decision-making process that addresses competing interests and is linked to a shared vision, an overall development strategy and national, regional and local development policies. It moreover represents a core component of the renewed territorial governance paradigm, which promotes democracy, participation and inclusion, transparency and accountability, with a view to ensuring sustainable development and spatial equality³.

10. In this regard, we stress the important role of the Convention and the Protocol for promoting transparency and effective and inclusive public participation in decision-making on policies, plans and projects related to large infrastructure and spatial planning, including in the transboundary context, and for safeguarding the rule of law in this complex setting. We call on Parties to encourage the use of pollutant release and transfer registers as a tool to assist sustainable planning and health policies through, for example, the map-based visualization of registered sources of pollutant releases, which can help to identify the most suitable location for infrastructure projects, as well as the need and potential for strengthening the operating conditions of such projects, with a view to preventing or, at least, minimizing the potential risks for the environment and health.

Supporting regional and global commitments

11. We acknowledge that the challenge of developing and delivering sustainable infrastructure, at scale, is central to the global sustainability quest. Many major international instruments, such as the 2030 Agenda for Sustainable Development and the Paris Climate Agreement, identify infrastructure as a key means to achieving inclusive, green and sustainable economy.

12. We recognise that the effective implementation of the Convention and of the Protocol underpin the achievement of a number of regional and global initiatives and commitments, in particular: the 2030 Agenda for Sustainable Development (A/RES/70/1); United Nations Environment Assembly resolution 4/5 on sustainable infrastructure (UNEP/EA.4/Res.5), which recognizes infrastructure's centrality to the 2030 Agenda for Sustainable Development; United Nations Environment Assembly resolution 4/19 on mineral resource governance (UNEP/EA.4/Res.19), which addresses such issues as environmental, human rights- and conflict-related risks in mining; the Europeans Union's new European Green Deal, which recognizes the importance of "smart infrastructure" and "zero pollution" within a circular economy; decisions taken under the auspices of the Convention on Biological Diversity calling for urgent action to, amongst other things, secure and conserve the planet's variety of life; pledges regarding climate resilient infrastructure made under the United Nations Framework Convention on Climate Change; the New Urban Agenda (A/RES/71/256; A/CONF.226/4);⁴ and commitments to enhance disaster preparedness and strengthen disaster risk governance under the Sendai Framework for Disaster Risk Reduction 2015-2030. Furthermore, these initiatives and commitments help to promote the implementation of Human Rights Council resolutions 37/8 on human rights and the environment (A/HRC/RES/37/8), 40/11 recognizing the contribution of environmental

³ Urban Policy and Governance Principles - International Guidelines on Urban and Territorial Planning: <https://unhabitat.org/international-guidelines-on-urban-and-territorial-planning>

⁴ <http://habitat3.org/the-new-urban-agenda/>

human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (A/HRC/RES/40/11) and 42/21 on protection of the rights of workers exposed to hazardous substances and wastes (A/HRC/RES/42/21) which have direct relevance to the above-mentioned subjects.

13. In this regard, we reaffirm our pledge to promote the Aarhus Convention, its Protocol and their principles throughout the implementation of the 2030 Agenda and other regional and global commitments in cooperation with Governments, international and non-governmental organizations, Aarhus Centres, the private sector, academia and other stakeholders.

Agenda 2030

14. We acknowledge that sustainable and resilient infrastructure and spatial planning influence, directly or indirectly, the attainment of all the Sustainable Development Goals, in particular Goal 9 (Industry, innovation and infrastructure) and Goal 11 (Sustainable cities and communities). Other relevant Goals include: Goal 3 (Good health and wellbeing), Goal 13 (Climate action) and Goal 15 (Life on land). We stress that Goal 16 (Peace Justice and Strong Institutions)⁵ is key for the access of implementation of all Goals.

15. We reaffirm that the Aarhus Convention and its Protocol provide solid frameworks to assist countries in achieving the Sustainable Development Goals by implementing commitments on access to information, public participation and access to justice regarding a wide range of issues that affect the environment, including human health. This includes workers' health and safety as well as the health and safety of nearby communities and end users.

Climate and biodiversity

16. We stress that infrastructure and spatial planning should embrace solutions favourable to the environment which provide opportunities to limit and mitigate climate impacts and biodiversity loss, while at the same time increasing the resilience of the infrastructure itself, improving service provision and benefitting the economy and communities in the long-term. Since infrastructure in every sector has implications for climate and biodiversity, it involves a broad array of stakeholders throughout the entire infrastructure planning and development cycle. Institutions and governance mechanisms that support multi-disciplinary cooperation and coordination across various policy levels (sub-national, national, regional, international) are necessary to enhance cross-sectoral linkages and implement a "system-of-systems" approach. Public participation and multi-stakeholder consultation should be incorporated at different stages of the process to ensure that infrastructure is delivering services of genuine public benefit, in an inclusive manner.

Belt and Road Initiative

17. We note that a vast majority of the Parties to the Aarhus Convention and to the Protocol are involved in the Belt and Road Initiative⁶, the transcontinental long-term policy and investment programme which aims at infrastructure development and acceleration of the economic integration of countries along the route of the historic Silk Road. Putting safeguards in place through national legislation, international agreements and financial and compliance instruments is critical. We call on Parties to ensure that the obligations under these treaties are fully adhered to in implementing the Belt and Road Initiative.

⁵ Namely targets 16.3, 16.7 16.10 <https://sdgs.un.org/goals/goal16>

⁶ <https://www.beltroad-initiative.com/info/>

III. The path for the future

18. We acknowledge that in striving for a quick economic turnaround, infrastructure decisions should not bypass transparency, inclusive processes, undermine environmental safeguards, or generate unsustainable debt.

19. At the same time, any physical construction should not compromise ecosystems and biodiversity or erode human rights. To reduce risk of supply chain disruption, infrastructure systems should provide culturally appropriate solutions, embrace nature conservation norms and principles⁷ and use sustainable technologies and local, green materials to enhance resource efficiency and create local jobs.

20. We commit to provide enabling legal and institutional frameworks that: ensure effective access to information, public participation in decision-making and access to justice as key pillars for infrastructure development and spatial planning; ensure that developers and planners play supportive roles in the implementation of these pillars; and encourage partnerships, consultative mechanisms and forums to enhance policy dialogue on development issues.

21. We acknowledge solid outcomes of the analytical work related to the development of the Protocol on PRTRs during the latest intersessional period. We will strive to keep the Protocol and its implementation aligned with ongoing developments related to PRTRs in order to respond to increased demand for easy-to-access integrated information.

22. We commit to promote digitalization and modernization of environmental information systems, making best use of Open Data and pollutant release and transfer registers, and to harness best available digital technologies to ensure effective access to information, public participation in decision-making and access to justice in environmental matters.

23. We commit to safeguarding the public's rights under the Convention and its Protocol from the beginning of, and throughout, the infrastructure development and planning cycle (planning, design, financing, construction, operation, and decommissioning) and to ensure that it meets the needs of end-users (incorporating the needs of gender, disabled, youth, indigenous peoples, and other disadvantaged and vulnerable groups). Identifying environmental and social risks and corresponding mitigation measures is most effective at the earliest stages when the consideration, and reconsideration, of options is most cost-effective and technically and politically feasible. Early-stage public participation helps to capture as many potential risks and impacts as possible and to avoid conflict during later phases of the development cycle.

24. We are alarmed by the serious situation regarding the persecution and harassment of environmental defenders in the region, and beyond, which is often linked to infrastructure development. We recognise existing challenges, such as the fear of reporting such cases, impunity and difficulty in uncovering the identity of those behind the ordering and conducting of such acts. We commit to establish and maintain a safe and enabling environment that empowers members of the public to fully exercise their rights in conformity with the Aarhus Convention and the Protocol.

25. We recognise that the coronavirus disease (COVID-19) pandemic has posed serious tests for the exercise of the public's rights. We stress that it is critical that the implementation of the rights enshrined in the Aarhus Convention and its Protocol not only be maintained, but also strengthened, in such circumstances. These rights are the cornerstones of environmental democracy and are crucial for the protection of the right of every person of present and future

⁷ Nature-based solutions as defined by IUCN as actions to protect, sustainably manage and restore natural or modified ecosystems, which address societal challenges providing human well-being and biodiversity benefits: <https://www.iucn.org/theme/nature-based-solutions>

generations to live in an environment adequate to his or her health and well-being. They support governance and accountability and contribute to more effective decision-making in environmental matters. They encourage innovative solutions and facilitate the capturing of key local knowledge. In addition, they build public consensus around environmental issues and public ownership of solutions and decisions, which also leads to increased social cohesion and strengthened communities. Moreover, they foster a sense of trust in authorities' decisions. Further, upholding strong environmental democracy and integrating environmental concerns into recovery measures will help us pave the way for economic development that is sustainable, environmentally viable, socially acceptable and healthy.

26. We reaffirm our commitment to support the training and capacity-building of authorities, communities and the public in order to enhance their ability to fully realize the rights under the Convention and the Protocol. Where capacities are limited, we commit to strengthen local government institutions and to ensure that persons and groups in vulnerable situations and communities are able to participate in decision-making that impact their lives and well-being. We acknowledge the importance of partner organizations in capacity-building for the implementation of the Convention and its Protocol at the national and local levels and in promoting sub-regional cooperation. The effective engagement of civil society, including NGOs, academia and other stakeholders, greatly reinforces and complements the ability of governments to address these problems. Such stakeholders also play a key role in holding governments to account. Access to information and dialogue with stakeholders remains essential. All existing instruments to promote partnerships and leverage the necessary action from all stakeholders, including the innovative science community and the private sector, should also be used to the fullest extent.

27. We encourage the integration of the Aarhus Convention and its Protocol into development assistance and technical cooperation programmes, supporting their implementation through the United Nations Sustainable Development Cooperation Framework and the strengthening of the nexus approach to the environment, human rights and good governance.

28. We acknowledge with satisfaction that the Aarhus Convention and its Protocol continue to lead and inspire actions to promote democracy and the rule of law in environmental matters across the globe. They offer solid legal frameworks for promoting human rights relating to the enjoyment of a safe, clean, healthy and sustainable environment and drive the development of national legislation and practice to a common set of international standards, bringing about positive changes that would otherwise not occur. In this regard, the effective provision of product information to help consumers to make informed choices for their health and the environment, including with a view to the lifecycle of products and sustainability, is critical. Further, given the prevalence of global production and supply chains, adherence to such standards for PRTRs is the key to the reduction of releases and transfers across the globe.

29. We reiterate our invitation to interested States to accede to the Convention and its Protocol, and to apply their provisions in the meanwhile, and we stand ready to offer our experience and knowledge in these regards.
