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

Working Group of the Parties

Nineteenth meeting

Geneva, 17–19 June 2015

Item 6 of the provisional agenda

**Programme of work and operation of the Convention:
implementation of the work programmes for
2012–2014 and 2015–2017**

Report on the Implementation of the Convention's Work Programmes for 2012–2014 and 2015–2017

Note by the secretariat

Summary

The present report was prepared pursuant to the decision of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters at its fifth session (Maastricht, the Netherlands 30 June–1 July 2014) (see ECE/MP.PP/2014/2/Add.1, decision V/6, annex I, item X). It provides an overview of the implementation of the Convention's work programme for 2012–2014 for the period 1 April to 31 December 2014, and looks at the status of activities under the work programme for 2015–2017, up to 5 March 2015. Information on the implementation of the 2012–2014 work programme up to 31 March 2014 can be found in the implementation progress report submitted to the fifth session of the Meeting of the Parties (ECE/MP.PP/2014/3).



Introduction

1. The present document provides an overview of the implementation of the work programme for the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) for 2012–2014 (ECE/MP.PP/2011/2/Add.1, decision IV/6, annex I) from April to December 2014 and surveys the implementation of the work programme for 2015–2017 (ECE/MP.PP/2014/2/Add.1, decision V/6, annex I) up to 5 March 2015 (the reporting period). The information herein complements information provided in the report on the implementation of the work programme for 2012–2014 (ECE/MP.PP/2014/3) submitted to the Meeting of the Parties to the Convention at its fifth session (Maastricht, the Netherlands, 30 June–1 July 2014). Only some activities related to access to information, capacity-building and awareness-raising regarding the Convention's Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs) are included; a comprehensive report on the implementation of the work programme for the Protocol for 2011–2014 (ECE/MP.PRTR/2014/6) was submitted to the Meeting of the Parties to the Protocol at its second session (Maastricht, 3–4 July 2014).

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

I. Substantive issues

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

3. In the reporting period, numerous activities were focused on improving public access to environmental information, as required by articles 4 and 5 of the Convention, and its active dissemination to the public, including through electronic information tools.

4. At its third meeting (Geneva, 3–5 December 2014),¹ the Task Force on Access to Information discussed a number of issues, including the scope, quality and comparability of information to be provided in accordance with the Convention. It also deliberated on the application of certain restrictions on access to environmental information in accordance with the Convention's provisions and shared recent relevant developments in information and communication technology in relation to environmental information.

5. In the margins of the fifth session of the Meeting of the Parties to the Convention, the secretariat promoted the first pillar of the Convention at a side event on dissemination of environmental information and public participation through electronic information tools organized by the European Environment Agency (Maastricht, 1 July 2014).

¹ Meeting documents and other information on meetings of the Task Force are available from <http://www.unece.org/env/pp/tfai.html>.

6. The secretariat has continued managing the Aarhus Clearinghouse for Environmental Democracy² and the PRTR.net global portal.³ The two portals were used in the reporting period to facilitate the collection, dissemination and exchange of information related to national implementation of the Convention and relevant global and regional developments regarding implementation of Principle 10 of the Rio Declaration on Environment and Development, as well as information regarding pollutant release and transfer registers (PRTRs).

7. The secretariat also continued to maintain and populate a jurisprudence database accessible through the Convention's web page and the Aarhus Clearinghouse. The database promotes the exchange of jurisprudence concerning the Convention and facilitates the work on access to justice. It includes decisions issued by courts of law or other bodies that make reference to the Convention or its principles, and includes summaries in English and decisions in the original language and in English, when available. The database includes case summaries in Russian as well. To date, there are more than 70 cases in the database. Maintaining the jurisprudence database is an ongoing activity. The secretariat also completed development of the Aarhus Good Practice online database.

8. A number of inputs related to the development of the shared environmental information system (SEIS) across the pan-European region were provided, including the participation of the Convention secretariat in the first meeting of the Group of Friends of SEIS (Geneva, 12 May 2014).

9. The secretariat furthermore provided a substantive contribution to the workshop "Improving online information on the implementation of the Birds and Habitats Directives" organized by the European Commission on 24 October 2014.

B. Public participation in decision-making

10. With regard to implementation of activities related to participation in decision-making during the reporting period, the recommendations on improving the implementation of the provisions of the Aarhus Convention on public participation in decision-making were issued in English, French and Russian, as an addendum to the report of the fifth session of the Meeting of the Parties (ECE/MP.PP/2014/2/Add.2).⁴ The secretariat is also planning to issue the recommendations as a publication.

11. Participants at the fifth meeting of the Task Force on Public Participation in Decision-making (Geneva, 23–24 February 2014)⁵ discussed the main challenges and obstacles to effective public participation with a focus on: (a) identification and notification of the public concerned; (b) early public participation; (c) the role of private actors and project developers; and (d) taking due account of comments and outcomes of public participation. Innovative practices of public participation in decision-making were also discussed. The meeting included a thematic session on public participation in climate change-related decision-making at the domestic level.

12. A call for case studies on public participation in environmental decision-making is ongoing and an online compendium of the case studies is currently being populated.

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

³ See <http://www.prtr.net/>.

⁴ See http://www.unece.org/env/pp/aarhus/mop5_docs.html.

⁵ Meeting documents and other information on meetings of the Task Force are available from <http://www.unece.org/env/pp/ppdm.html>.

C. Access to justice

13. With respect to access to justice activities in the reporting period, on 1 July 2014 members of the Compliance Committee and the secretariat promoted the Convention at the workshop on access to justice organized by the University of Maastricht in the margins of the fifth session of the Meeting of the Parties. Two studies— one on standing in selected countries of Eastern Europe, the Caucasus and Central Asia, and another on standing, remedies and costs in countries of South-Eastern Europe — were finalized and made available online.⁶

14. The secretariat, in consultation with the Chair of the Task Force on Access to Justice, continued preparations for the eighth meeting of the Task Force (Geneva, 15–16 June 2015).⁷ Pursuant to outcomes of the sixth meeting of the Task Force (Geneva, 17–18 June 2013) and in accordance with decision V/3 of Meeting of the Parties, the secretariat has started the preparations for a new study on the possibility of non-governmental organizations to claim for damages on behalf of the environment.

15. In close cooperation with the Organization for Security and Cooperation in Europe (OSCE), the secretariat also provided substantive support to the workshop on access to justice in environmental matters for South Caucasus and Eastern Europe in Tbilisi on 19 and 20 February 2015.

D. Genetically modified organisms

16. Bilateral collaboration with the secretariat of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity (CBD) dedicated to genetically modified organisms (GMOs) is ongoing. At the invitation of CBD, the secretariat provided input to an online forum on public participation in decision-making on GMOs, which ran from 28 April to 8 May 2014. Pursuant to the conclusions of the joint Aarhus Convention/CBD round table on GMOs (Geneva, 16–17 October 2013) the Aarhus Convention and CBD secretariats jointly prepared a draft checklist of key measures required for ratification and implementation of the Aarhus Convention and the Cartagena Protocol on Biosafety in the context of LMOs/GMOs.⁸ The checklist was circulated to national focal points of the two treaties and stakeholders for comments by 31 September 2014 and is currently being revised. Furthermore, the two secretariats are preparing a joint note describing sources of available technical assistance, tools and materials with regard to the two legal instruments and their LMO/GMO requirements.

17. During the reporting period, Parties whose ratification of the GMO amendment would count towards its entry into force — i.e., Albania, Armenia, Azerbaijan, Belarus, France, Georgia, Kazakhstan, Kyrgyzstan, Malta, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Ukraine — were repeatedly called upon to take serious steps towards ratification and to provide the secretariat with a written explanation on the status of ratification. Following the mandate of the Meeting of the Parties, the Working Group of the Parties is expected to monitor closely the progress towards entry into force of

⁶ The studies are available from http://www.unece.org/env/pp/tfaj/analytical_studies.html.

⁷ Meeting documents and other information on meetings of the Task Force are available from <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpftfwg/envppatoj/meetings.html>.

⁸ Meeting documents and other information on this work area are available from <http://www.unece.org/env/pp/gmos.html>.

the GMO amendment and Parties and partner organisations are called upon to offer assistance in ratifying the amendment.

18. The secretariat, in cooperation with partner organizations, is also exploring opportunities to pursue a proposed project aimed at strengthening public participation in decisions on the deliberate release into the environment and the placing on the market of GMOs within the Environment and Security Initiative (ENVSEC).

II. Procedures and mechanisms

A. Compliance mechanism

19. Turning to implementation of compliance-related tasks, since 1 April 2014, the Compliance Committee has held its forty-fifth, forty-sixth and forty-seventh meetings.⁹ It adopted findings on one communication from the public and agreed draft findings concerning three others. The Committee worked very hard to complete all its findings before the fifth session of the Meeting of the Parties, when the composition of the Committee would change, so as to be able to start its caseload afresh with the new Committee members. Hence not many new findings have yet been adopted. Between 1 April 2014 and 1 March 2015 the Compliance Committee received 28 new communications (as compared with the previous period, during which it received only 9). In addition, the Meeting of the Parties made one request to the Committee to review a Party's compliance. No submissions were made to the Committee by individual Parties and the secretariat made no referrals during this period. Of the 28 new communications received, the Committee determined 10 to be preliminarily admissible, 4 to be preliminarily inadmissible, and 14 are currently awaiting a determination of preliminary admissibility. The Committee currently has 35 pending cases, consisting of 34 pending communications and 1 pending request.

20. The Compliance Committee has recently adopted a new stricter format for communications, with a greater emphasis on describing the use of available domestic remedies and a maximum page limit and number of attachments. It is currently also revising the guide to the Aarhus Convention Compliance Committee.¹⁰

21. In addition, since the fifth session of the Meeting of the Parties, the Committee has followed up on the implementation of decisions V/9a-n concerning compliance by Armenia, Austria, Belarus, Bulgaria, Croatia, the Czech Republic, the European Union, Germany, Kazakhstan, Romania, Spain, Turkmenistan, Ukraine and the United Kingdom of Great Britain and Northern Ireland. As indicated in its report to the fifth session, in the 2015–2017 intersessional period the Committee is taking a more structured approach to its follow-up on decisions of the Meeting of the Parties on compliance by individual Parties. Following the submission in late 2014 by the Parties concerned of their first progress reports on the implementation of decisions V/9a-n, the Committee is preparing its draft first progress reviews of those progress reports, taking into account any comments received from communicants and observers. The Committee will discuss the progress made in implementing decisions V/9a-n in open and closed session at its forty-eighth meeting (Geneva, 24–27 March 2015), after which time the Committee's first progress reviews will be sent to the Parties concerned, communicants and registered observers. Any comments

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

¹⁰ The guide is available online from the Committee web page <http://www.unece.org/env/pp/cc.html>.

received on the first progress reviews will be taken into account by the Committee in the preparation of its second progress reviews in early 2016.

22. On 1 July 2014, members of the Compliance Committee and the secretariat also attended a side event at the on strengthening the impact of the Aarhus compliance mechanism, organized by the European ECO Forum in the margins of the fifth session of the Meeting of the Parties.

B. Capacity-building activities

23. In addition to capacity-building activities mentioned under other areas of work to build synergies and enhance coordination with partners, the secretariat continuously maintained close cooperation with United Nations partner agencies and other international organizations, including the Organization for Economic Cooperation and Development (OECD), OSCE, the Regional Environmental Centre for Central and Eastern Europe and the United Nations Institute for Training and Research (UNITAR).¹¹ The secretariat also serviced the ninth Aarhus Convention Capacity-building Coordination meeting (Geneva, 25 February 2015). The meeting focused on work areas in the Convention's current strategic plan (ECE/MP.PP/2014/2/Add.1, decision V/5, annex) and programme of work that require special attention by capacity-building partners, as well as specific aspects of projects and activities, such as their geographical scope, target groups, available and required funding, cooperation with partner organizations and challenges encountered in the implementation of activities.¹²

24. The secretariat attended a side event organized by OSCE in the margins of the fifth session of the Meeting of the Parties to highlight achievements, identify possible challenges and discuss the future role of Aarhus Centres in developing the necessary actions and synergies to support Parties in building their capacities to implement the Convention.

25. The secretariat also continued providing substantive support to the implementation of the project under the ENVSEC umbrella on the promotion of the Convention and its Protocol in Belarus.

C. Reporting mechanism

26. Following the failure of Portugal, the former Yugoslav Republic of Macedonia and Turkmenistan to submit their national implementation reports for the 2014 reporting cycle within the deadlines set by the Meeting of the Parties, these Parties were invited to do so by 1 October 2014. As of 5 March 2015, only Portugal has submitted its report; the former Yugoslav Republic of Macedonia and Turkmenistan have not submitted their reports. The former Yugoslav Republic of Macedonia is the only Party that failed to submit a national implementation report for both the 2011 and 2014 reporting cycles.¹³

¹¹ Additional information on this area of work is available from <http://www.unece.org/env/pp/oa.html>

¹² See [http://www.unece.org/index.php?id=38025#/#/](http://www.unece.org/index.php?id=38025#/).

¹³ For more information, see synthesis report on the status of implementation of the Convention, available from http://www.unece.org/env/pp/aarhus/mop5_docs.html ("category II" documents).

III. Promotional activities

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

27. The secretariat has participated in conferences, seminars, workshops and other events in various countries to promote and raise awareness about the Convention and its Protocol at the international level, and has arranged for other representatives of the Convention and Protocol bodies to participate. Meetings and events at which promotional and awareness-raising activities were carried out include: meeting with journalists from Kazakhstan, the Russian Federation and Ukraine (Geneva, 3 April 2014); the Twelfth Annual Conference for Environmental Professionals (Cork, Ireland, 3 April 2014); a symposium on the practice of independent accountability mechanisms held at the European Bank of Reconstruction and Development (London, 17 September 2014); and the E-TRACK Open Seminar on the role of public participation in radioactive waste management and other sectors, organized by the European Commission Directorate-General Energy (Amsterdam, 23 October 2014).

28. The Vice-Chair of the Convention, the secretariat and one expert attended a meeting with Chinese governmental officials organized by the European Union-China Environmental Governance Project and the German Agency for International Cooperation (Beijing, 15–16 October 2014).

29. The Chair of the Meeting of the Parties to the Convention promoted the Convention and its Protocol on PRTRs at the symposium of the Commission Nationale du Débat Publique (Paris, 16–17 June 2014).

30. On 1 July 2014, the secretariat promoted the Convention at a side event organized by the United Nations Quaker Office in the margins of the fifth session of the Meeting of the Parties. The event addressed peace-building and preventing conflict around water, land and food through access rights.

31. The secretariat also promoted the Convention and the Protocol through various reports and articles prepared under the auspices of ECE and partner organizations.

32. In 2014, the secretariat reported on progress made in the implementation of the outcomes of the World Summit on the Information Society, through the use of electronic tools for the promotion of the Aarhus Convention and its Protocol on PRTRs

33. The interactive English version of the *Aarhus Convention: An Implementation Guide*¹⁴ was made available online in April 2014 and printed copies were distributed to national focal points and relevant stakeholders. Russian, French and Chinese¹⁵ versions of the publication are currently being prepared. The new promotional brochure “Protecting your environment: The power is in your hands”, addressing the general public interested in the Aarhus Convention and its provisions, was also published in English, French, Spanish and Russian and was widely distributed.¹⁶ In 2015 Arabic and Chinese versions of the brochure are planned.

¹⁴ United Nations publication, Sales No. E.00.II.E.3. The Implementation Guide is available from http://www.unece.org/env/pp/implementation_guide.html.

¹⁵ Translation in Chinese to be provided within the framework of the EU-China Environmental Governance Project.

¹⁶ The brochure is also available from http://www.unece.org/env/pp/publications/the_power_is_in_your_hands.html.

34. In addition, the secretariat continued an enhanced outreach exercise, distributing materials about the Convention and the Protocol on PRTRs to national focal points, Aarhus Centres, non-governmental organizations and academic institutions in the ECE region.

35. At the invitation of the *Environmental Policy and Law* journal, a column dedicated to the deliberations of the Compliance Committee and summarizing the outcomes of the Committee's most recent meetings, was written by a journal reporter in cooperation with the secretariat in 2014.

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

36. In connection with work programme items on implementing the Almaty Guidelines on Promoting the Application of the Aarhus Convention in International Forums (Almaty Guidelines), the June 2015 meeting of the Working Group of the Parties includes a thematic segment focusing primarily on promoting the Convention's principles within the framework of the United Nations Framework Convention for Climate Change. This thematic segment will also address the promotion of the principles of the Convention through developing, implementing and monitoring implementation of the future sustainable development goals. Participants are also expected to discuss the application of the principles in trade negotiations and stakeholder engagement in the framework of the United Nations Environment Assembly.¹⁷

37. During the reporting period the secretariat continued supporting efforts to promote the principles of the Convention in various international forums, working with other United Nations bodies, in particular, the United Nations Environment Programme (UNEP), UNITAR, the United Nations Department of Economic and Social Affairs and the United Nations Development Programme; other environmental treaty bodies, such as CBD and its Protocol on Biosafety; and other international organizations, inter alia, OSCE, OECD, the World Bank, the European Investment Bank and the European Bank for Reconstruction and Development. Among others, the secretariat informed all national focal points and stakeholders about a UNEP proposal for a new access to information policy and the World Bank's new Environmental and Social Framework, and invited them to comment. Requests by other international forums for advisory support from the secretariat are noticeably increasing, though the secretariat is not always able to respond fully due to its limited capacity.

38. Public participation in international forums was also discussed at the ninth Capacity-building Coordination meeting (Geneva, 25 February 2015). Partner organizations at the meeting addressed, inter alia, ways to support Parties in implementing the Almaty Guidelines through assisting them in organizing input from the public to national contributions to international forums, and the need to apply the Guidelines in their own activities.

39. The secretariat promoted the the Aarhus Convention principles, in particular in relation to its national and international obligations on public access to environmental information, at a workshop organized by the Intergovernmental Panel on Climate Change in Geneva on 28 and 29 January 2015.

¹⁷ Meeting documents and other information on the nineteenth meeting of the Working Group of the Parties will be made available from <http://www.unece.org/env/pp/aarhus/wgp19#/>. Additional information regarding this area of work is available from <http://www.unece.org/env/pp/ppif.html>.

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

41. The secretariat has provided ongoing advisory support upon request to the Economic Commission for Latin America and the Caribbean (ECLAC) and designated focal points for the initiative on a possible regional convention on access rights in Latin America and the Caribbean. On 2 July 2014, the secretariat also promoted the Convention at a side event — “Building bridges between regions with a focus on Principle 10 and Aarhus Convention” — organized by the Regional Environmental Centre for Central and Eastern Europe in the margins of the fifth session of the Meeting of the Parties. In addition, the Chair of the Compliance Committee participated in the fourth meeting of the focal points of the 10 signatory countries of the Declaration on the Application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean (Santiago, 4–6 November 2014) in order to share the main achievements of and challenges facing the Aarhus Convention compliance mechanism.

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

43. The secretariat made a joint presentation with the secretariat of the Water and Health Protocol at the WaterLex conference and workshop, “WASH Indicators: Measuring Progress in the Realisation of the Human Right to Water and Sanitation,” (Geneva, 21–22 November 2014) on using the Aarhus Convention and the Protocol on Water and Health to ensure access to water and sanitation for all.

44. On the occasion of the United Nations World Conference on Disaster Risk Reduction held in Sendai, Japan, from 14 to 18 March 2015, the secretariat prepared input on the role of the Aarhus Convention and its Protocol on PRTRs in relation to disaster risk prevention and management. The input was also included in the ECE brochure prepared for the event.

45. Cooperation between the secretariat and the special procedures of the Human Rights Council was further enhanced in the reporting period through, inter alia, the provision of input on the value added of the Aarhus Convention and its Protocol on PRTRs to: (a) a study by the Office of the High Commissioner for Human Rights on “best practices, experiences and challenges and ways to overcome them with regard to the promotion, protection and implementation of the right to participate in public affairs in the context of existing human rights law”; and (b) the annual report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

46. The secretariat provided an ongoing substantive support to the preparations for the Eighth Environment for Europe Ministerial Conference.

C. Coordination and oversight of intersessional activities

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

48. The fifth session of the Meeting of the Parties to the Convention and the Joint High-level Segment with the second session of the Meeting of the Parties to the Protocol on PRTRs were held in Maastricht, the Netherlands from 30 June to 2 July 2014. The Bureau held its thirty-fourth meeting in Maastricht on 29 June 2014 and its thirty-fifth meeting in Geneva on 3 March 2015. The Bureau also held regular electronic consultations on different subjects.

49. At its eighteenth meeting in Maastricht on 29 June 2014, the Working Group of the Parties conducted the final preparatory negotiations regarding the documents that would be discussed during the fifth session of the Meeting of the Parties.

50. Representatives of the ECE Committee on Environmental Policy and the governing bodies of the ECE MEAs continued to liaise at informal meetings to exchange information on priorities under the agreements and identify and discuss possible areas of cooperation and synergy in the light of recent and future key developments in the area of the environment. At the last meeting (Geneva, 27 October 2014), held back to back with the twentieth session of the Committee on Environmental Policy (Geneva, 28–31 October 2014), the Vice-Chairs of the Aarhus Convention and the Chair of the Protocol on PRTRs participated, as well as the secretariat.¹⁸

51. Activities under the Aarhus Convention and the Protocol on PRTRs were presented at the twentieth session of the Committee on Environmental Policy by the Vice-Chairs of the Convention and the Chair of the Protocol on PRTRs.

52. During the reporting period the status of the Convention, its GMO amendment and the Protocol on PRTRs with regard to accession, ratification or approval has remained unchanged: as of 5 March 2015, the Convention has 47 Parties, the GMO amendment has 28 Parties and the Protocol on PRTRs has 33 Parties.

¹⁸ Chair's summaries of the meetings, which include a list of participants, are available from <http://www.unece.org/environmental-policy/conventions/informal-networks.html>.