

**Aarhus Convention Task Force on Access to Information  
Third meeting, 3-5 December 2014**

**Statement by Norway**

Agenda item 2 – Environmental information: Minding the gap

(a) Scope of environmental information

- The right of access to environmental information is stated in the Norwegian Constitution, Section 112. Public authorities are obligated by the provision to adopt measures to implement the right.
- Access to information in Norway is governed by three acts.
- The revised Freedom of information Act (FIA) from 2006 regulates access to documents held by public authorities and some specifically defined legal persons, regardless of type of information. The scope of entities required to provide access has been extended beyond public authorities due to increased delegation of tasks from public authorities to independent legal entities.
- The Environmental Information Act (EIA) from 2003 implements the Aarhus Convention (and the EU Directive 2003/4/EC as a consequence of the EEA Agreement) and regulates access to environmental information. It does however go further than the Convention and the Directive as it also provides right to request environmental information from public and private undertakings concerning factors related to the undertaking, including inputs and products, which may have an appreciable effect on the environment.
- The Product Control Act (PCA) of 1976 regulates as of 2004 access to information from producer, importer, processor, distributor or user about detrimental effects on health and environment of products, including their components or characteristics, and their production and distribution.
- The EIA and PCA thus give right of access to a different and in some aspects wider scope of information and from more entities than the FIA. The scope and nature of the exemptions also differ. One of the main differences is that information on pollution that is harmful to health or may cause serious environmental damage shall always be disclosed (EIA), and that the duty of confidentiality inter alia for commercial and industrial information does not preclude access to information on detrimental effects on health and environment of products (PCA).
- The appeals processes also differ, as refusals of requests for information from public and private undertakings pursuant to the EIA or producers pursuant to the PCA must be appealed to the Appeals Board for Environmental Information and not the immediately superior authority as is the case for refusals from public authorities and some specifically defined legal persons.
- It is therefore important both for public authorities, other legal persons and undertakings to understand the content and limits of the different notions of information in order to handle requests for information correctly.
- The definition in the EIA is less detailed than in the Aarhus Convention and intended to have at least the same coverage. It follows from the preparatory work of the EIA that is intended to be interpreted broadly. A broad interpretation serves the objective and purpose of the Convention and the Act implementing it.

- Although interpretation and application may be challenging in some cases and there may be differences of opinion between different authorities and undertakings, there is little domestic case-law on the matter.
- Requests may differ and have to be decided on a case-by-case basis. Norway has chosen to go further than the Convention and also to interpret the notion of environmental information broadly. Other Parties' implementation, application and case-law, findings of the Compliance Committee and the Court of Justice of the European Union are however relevant and helpful in ensuring that interpretation and application in Norway maintains the level of ambition chosen when implementing the Convention.
- The main challenge in Norway may not so much be the amount of requests and interpretation issues as limited knowledge of rights and obligations of the EIA & PCA. This could result in requests concerning environmental information being handled under the FIA.
- Measures have been undertaken and further measures are being considered to increase knowledge of these acts.
- Possibility to discuss these issues in the Task Force useful and appreciated.

Environmental information is also easily accessible free of charge inter alia through the following websites:

*Information on state and development of the environment*

- <http://www.environment.no/>

*Statistical information*

- [Natural Resources and the Environment](#)
- [Air emissions inventory](#)

Agenda item 4 – Access to environmental information on products

- As stated previously, the EIA obliges undertakings to provide information on request on products which may have an appreciable effect on the environment.
- The PCA obliges the producer, importer, processor, distributor or user to provide access to information on request on detrimental effects on health and environment of products, including their components or characteristics, and their production and distribution.
- This also includes information about effects on the environment resulting from production or distribution of a product outside of Norway, insofar as such information is available. If not available, such information shall be requested from the previous link in the supply chain.
- A request for such information may be refused inter alia if it concerns specific types of commercial or industrial information that needs to be kept confidential.
- However, information on pollution that is harmful to health or may cause serious environmental damage shall always be disclosed (EIA), and the exception for commercial and industrial information in the PCA does not preclude access to information on detrimental effects on health and environment of products.
- Although these provisions were subject to some controversy during the process of preparation and adoption of the EIA, they do not seem to be very controversial at present.
- Refusals of requests for information have in some cases been subject to appeals to the Appeals Board for Environmental Information (requests to and refusals by undertakings) and complaint to the Parliamentary Ombudsman for Public Administration (requests for

information from public authorities). In some, but not all cases the Appeals Board or the Ombudsman has decided in favour of the complaining part. In one case the Ombudsman found that the authorities had provided information that should have been kept confidential.

- Information concerning contents and effects of products can also be found at the website <http://www.erdetfarlig.no/> (is it dangerous.no), run by the Environment Agency.