

Proposal by the European Union for the amendment of Article 9

General explanations (not part of the proposal)

- Text in bold indicates additions to the current text
- Stroked-out text indicates deletions compared to the current text
- Text in square brackets indicates optional versions of text
- Whether or not to use the term "public concerned" would depend on the parallel discussion on the inclusion of a relevant definition. The use of the term in this proposal shall not pre-judge the outcome of that discussion.

Proposal:

1. The Parties [**of origin**] shall ensure that adequate information is given to the public [in the areas capable of being affected by an industrial accident arising out of a hazardous activity][**concerned**] **according to the relevant principles outlined in Article 5 of the Aarhus Convention**. This information shall:

- (a) be transmitted through such channels as the Parties deem appropriate, ~~shall~~
- (b) include the elements contained in Annex VIII hereto ~~and should~~
- (c) take into account matters set out in Annex V, paragraph 2, subparagraphs (1) to ~~(4)~~ and (9).
- (d) **without prejudice to Article 22 be easily accessible**[**and preferably also be made available online**].
- (e) **be periodically reviewed and updated as necessary.**

2. In the event of an industrial accident or imminent threat thereof, the Parties shall provide without delay information to the public [in the areas capable of being affected][concerned], [including in affected Parties,] which enables the public to take measures to prevent or mitigate harm arising from the threat.

Article 9bis Public consultation and participation in decision making

~~2.1.~~ The Party of origin shall, in accordance with the provisions of this Convention ~~and whenever possible and appropriate~~ **and the principles outlined in Article 6 of the Aarhus Convention**, give the public [in the areas capable of being affected][**concerned**] an **early, adequate and effective** opportunity to participate in relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures.

2. Parties shall ensure consultation and participation as outlined in paragraph 1 at least in decision making procedures concerning

- a) the measures taken for the prevention of industrial accidents to reduce the risk of industrial accidents in accordance with Article 6**

- b) siting in accordance with Article 7, including decisions on significant modification to existing hazardous activities,**
- c) the development or significant modification of off-site contingency plans referred to in Article 8,**

and shall ensure that the opportunity given to the public of the affected Party is equivalent to that given to the public of the Party of origin.

3. During the consultation, Parties shall provide at least the information outlined in Article 9(1) in accordance with the principles outlined in Article 9.

Article 9ter Access to justice

3. The Parties shall, in accordance with their legal systems and, if desired, on a reciprocal basis provide ~~natural or legal persons~~ **the public [concerned]** ~~who are~~ [being or ~~are~~ capable of being adversely affected by the transboundary effects of an industrial accident] in the territory of a Party, with access to, and treatment in the relevant administrative and judicial proceedings, including the possibilities of starting a legal action and appealing a decision affecting their rights, equivalent to those available to persons within their own jurisdiction.

Proposal by the European Union on mutual assistance

Considering the definitions of "industrial accidents" and "hazardous activities", as outlined in Article 1 of the Convention,

Considering the overall scope of the Convention, as outlined in its Article 2, to cover industrial accidents capable of causing transboundary effects,

Acknowledging the extensive practice on assistance for disasters and humanitarian situations as a result of other Conventions and multilateral actions such as under the United Nations' Office for the Coordination of Humanitarian Affairs,

Mindful of the need to avoid administrative burden and potential confusion by double regulation in the area of mutual assistance,

The Conference of the Parties decides:

[*To clarify* that Article 12 on mutual assistance only applies to accidents with transboundary effects. For accidents without transboundary effects there is extensive practice on assistance for disasters and humanitarian situations, hence there would be need to duplicate this in the Convention.]

[*To amend* Article 12(1) by including "with transboundary effects" after "in the event of an industrial accident".]