

Economic Commission for Europe

Meeting of the Parties to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Working Group of the Parties

Twenty-third meeting

Geneva, 26–28 June 2019

Item 10 of the provisional agenda:

Adoption of outcomes

**LIST OF DECISIONS AND MAJOR OUTCOMES OF THE MEETING
as adopted by the Working Group at its twenty-third meeting¹**

Item 1. Opening and adoption of the agenda

- i. The Working Group of the Parties paid tribute to Mr. Laurent Mermet and to his great contribution to the Aarhus Convention. He served as a member of the Convention's Compliance Committee and the Chair of the Task Force on Public Participation in International Forums;
- ii. Took note of the information provided by the Chair;
- iii. Adopted the provisional agenda of the meeting.

Item 2. Status of ratification of the Convention and the amendment to the Convention

The Working Group of the Parties:

- i. Took note of the information on the status of ratification of the Convention, its amendment and the Protocol on PRTRs, provided by the secretariat.

Item 3. Substantive issues

(a) Access to information

The Working Group of the Parties:

- i. Took note of the information provided by the Republic of Moldova, on behalf of the Chair of the Task Force on Access to Information, and by

¹ This document was not formally edited.

- delegations on recent developments related to access to information; and thanked the Task Force for the work done;
- ii. Reiterated that effective access to environmental information supports the achievement of Sustainable Development Goals and targets, and in particular target 16.10 of Sustainable Development Goal 16;
 - iii. Encouraged Parties and stakeholders to participate actively in consultation on the update of the recommendations on electronic information tools set out in decision II/3 of the Meeting of the Parties to the Aarhus Convention launched in June this year;
 - iv. Encouraged Parties, that have not done so, to establish a national web node for the Aarhus Convention and to provide resources for the Aarhus Clearinghouse.

(b) Thematic session on public participation in decision-making

The Working Group of the Parties:

- i. Expressed its appreciation to Mr. Attila Tanzi, for moderating this important session, and to Mr. Jerzy Jendrośka, the Chair of the Aarhus Convention Compliance Committee, the UN Special Rapporteur on the situation of human rights defenders, and the representatives of Georgia, Kyrgyzstan, Norway, Romania, United Kingdom, and European ECO Forum for their presentations;
- ii. Took note of the report on the eighth meeting of the Task Force on Public Participation in Decision-making presented by Italy, on behalf of the Chair of the Task Force, and thanked the Task Force for the work done.
- iii. Welcomed the exchange of information, experiences, challenges and good practices provided by the representatives of Parties, and stakeholders regarding public participation in decision-making within the scope of articles 6, 7 and 8 of the Convention; public participation in a transboundary context; and protection of persons exercising their rights in conformity with the provisions of the Convention;
- iv. Reiterated that effective public participation supports the achievement of target 16.7 (responsive, inclusive, participatory and representative decision-making at all levels) and target 16.10 (protection of fundamental freedoms) and underpins the implementation of other relevant Sustainable Development Goals and targets;

Articles 6, 7 and 8 and a transboundary context

Systemic challenges

- v. Noted **common systemic challenges** identified through presentations with regard to articles 6, 7 and 8 as well as for public participation in a

transboundary context, notably lack of sufficient and reasonable time-frames; lack of effective notification of the public; involvement of vulnerable and marginalised groups;

- vi. Noted additional **systemic challenges** with regard to:
- (i) **article 6**, such as (i) a narrow approach to defining public concerned and to ensuring public participation with regard to changes and extensions of specific activities; (ii) lack of systematic approach to implementing article 6.1 (b) regarding the application of article 6 to decisions on proposed activities not listed in annex I which may have a significant effect on the environment; and (iii) in some countries, limiting public participation only to EIA procedures; and assigning developers with full responsibility to carry out the public participation procedure;
 - (ii) **article 7**, such as (i) an insufficient framework and lack of public participation procedures as not all plans and programmes might be identified and covered; (ii) no systemic approach to identifying the public which may participate and (iii) insufficient public access to „all relevant information“;
 - (iii) **article 8**, such as (i) identification of scope of executive regulations and other generally applicable legally binding rules „that may have a significant effect on the environment“; and (ii) whether these legal instruments should be commented directly by the public or through representative consultative bodies;
 - (iv) **for public participation in a transboundary context**, such as (i) identification of „transboundary context“ and the procedures that should apply. In this context, it was noted that Parties to the Aarhus Convention are required to implement provisions of the Aarhus Convention regardless whether or not they apply the procedure of the Espoo Convention.; and (ii) different legal administrative traditions in the countries concerned and practical problems (e.g., translation);

Positive trends

- vii. Welcomed the **identified common positive trends** regarding public participation within the scope of articles 6, 7 and 8, namely easier accessibility of documents through electronic means;
- viii. Welcomed **additional identified common positive trends** with regard to:
- (i) **articles 6, and 7**, namely (i) increased participation in screening and scoping procedures; (ii) setting clear minimum time-frames for separate phases; and (iii) having elaborated requirements for notifying the public in place;

- (ii) **article 6**, including (i) a liberal approach to “having an interest” is usually taken when defining public concerned by relation to health and quality of life; and (ii) public participation is mandatory in pollution permitting; biodiversity assessments; and industrial accidents permitting;
- (iii) **article 7**, including (i) ensuring public participation in the screening and scoping phases of SEA procedures; and (ii) mandatory public participation for plans and programmes not requiring SEA;
- (iv) **article 8**, including (i) the possibility for commenting for everyone; and (ii) the requirements for recording all comments and clearly addressing each comment are also increasingly met;
- (v) **public participation in a transboundary context**, such as (i) in general an appreciation of transboundary context, including clear non-discrimination provisions are in place; and (ii) means exist to assure effective notification, they need to be applied broadly;

Actions to improve the situation

- ix. Called on Parties to implement the following key actions identified to improve the situation regarding public participation within the scope of articles 6, 7 and 8 and in a transboundary context, including introduction of mechanisms to assure reasonable and sufficient time-frames; enhancing access to „all relevant information”; providing effective means of notification; and allocating sufficient funding for public participation procedures. For public participation in transboundary context, these actions should be taken as regards the foreign public too;
- x. As regards particularly:
 - (i) **article 6**: reconsider the approach to the scope of „public concerned” as to widen it to cover also those affected by accidents (e.g. non-routine impact); improve means to assure „effective” notification; and elaborate and ensure a systemic approach to implementing article 6.1 (b);
 - (ii) **article 7**: assure possibilities for public participation in case of all plans and programmes „relating to the environment”; and elaborate and ensure a systemic approach to „identification of the public which may participate”;
 - (iii) **article 8**: assure possibilities for public participation in case of all executive regulations and other generally applicable legally binding rules „that may have a significant effect on the environment”;

- (iv) **public participation in a transboundary context:** provide effective means of notification also for foreign public; assuring public participation procedures as provided by the Aarhus Convention regardless of whether or not applying procedures under the Espoo Convention;

Environmental rights defenders

- i. Took note of issues addressed by speakers and participants, including
 - (i) On serious situation regarding environmental rights defenders, and even their killing;
 - (ii) On existing challenges, such as fear to report such cases, impunity and difficulty to uncover who are behind of ordering and conducting such acts;
 - (iii) The crucial importance of establishing and maintaining safe and enabling environment that empowers members of the public to exercise their rights in conformity with the Convention;
 - (iv) Mechanisms and instruments dealing with such cases established under the Office of the United Nations High Commissioner for Human Rights, including newly adopted resolution on environmental human rights defenders;
 - (v) The suggestion to consider establishing an arrangement under the Aarhus Convention that would allow for rapid reaction in such cases; and
 - (vi) Experience on “shelter cities for human rights defenders” which also cover environmental rights defenders;
- ii. Called on Parties to review their legal frameworks and practical arrangements in line with the obligation of the Convention and to address systemic challenges as reported by speakers to ensure that persons exercising their rights in conformity with the Convention’s provisions are not penalized, persecuted or harassed in any way for their involvement;
- iii. Noted concerns expressed by NGOs regarding shrinking space for civil society to exercise their environmental rights and called on Parties to continue efforts in raising awareness about the obligations under article 3, paragraph 8, of the Aarhus Convention among, in particular, officials of public authorities, law enforcement agencies, prosecutors, members of judiciary, providers of private security services and developers.
- iv. Welcomed initiatives by Parties, Aarhus Centres, non-governmental organizations, international organizations and other stakeholders to promote safe, inclusive and effective participation of the public in decision-making without persecution and harassments, as reported by speakers, and invited them to conduct trainings and other capacity building activities for relevant target groups.

(c) Access to justice

The Working Group of the Parties:

- i. Took note of the report by the Chair of the Task Force on Access to Justice on the twelfth meeting of the Task Force and by delegations on recent developments related to access to justice; and thanked the Task Force for the work done;
- ii. Reiterated that effective access to justice in environmental matters supports the achievement of target 16.3 of Sustainable Development Goal 16 and underpins the implementation of other relevant Sustainable Development Goals and targets;
- iii. Welcomed the work undertaken to promote judicial cooperation on environmental matters in the pan-European region and expressed appreciation to partner organizations for supporting this work;
- iv. Called on Parties and stakeholders to continue implementing measures set out in decision VI/3.

(d) Genetically modified organisms

The Working Group of the Parties:

- i. Took note of the information provided by delegations on recent developments related to the subject area;
- ii. Reiterated its serious concern that although objective II/2 of the Strategic Plan 2015-2020 (ECE/MP.PP/2014/2/Add.1) envisaged that the GMO amendment of the Convention was to be approved by a sufficient number of Parties to enter into force by 2015, the objective had not been achieved;
- iii. Reiterated its call upon the following Parties, whose ratification of the GMO amendment would count towards its entry into force: Albania, Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, North Macedonia, Tajikistan, Turkmenistan and Ukraine, to take serious steps towards ratification and requested the above Parties to report at the next meeting of the Working Group on the progress achieved.

Item 4. Procedures and mechanisms

(a) Compliance mechanism

The Working Group of the Parties took note of the information provided by the Chair of the Compliance Committee on the outcomes of the Compliance Committee sixty-first, sixty-second and sixty-third meetings (ECE/MP.PP/C.1/2018/4, ECE/MP.PP/C.1/2018/6 and

ECE/MP.PP/C.1/2019/2) and by delegations on recent developments and other matters related to the subject area.

(b) Reporting mechanism

The Working Group of the Parties:

- i. Took note of the information provided by the secretariat and delegations;
- ii. Expressed its serious concern over the continuing failure of Armenia, and Republic of Moldova to submit a report on the implementation of the Convention;
- iii. Urged these Parties to submit their reports without any further delay.

(c) Capacity-building and awareness-raising

The Working Group of the Parties:

- i. Took note of the information provided by the secretariat and delegations;
- ii. Welcomed the interest of Uzbekistan in learning from the experience in implementing the Aarhus Convention and expressed its support for promoting the Aarhus Convention in Uzbekistan;
- iii. Expressed its appreciation to the Parties, partner organizations, Aarhus Centres and stakeholders for the continuing cooperation with the secretariat on capacity building activities at the regional, national and local levels;
- iv. Recognized once again the important role that Aarhus Centres played for providing a neutral platform for authorities, NGOs and other stakeholders to support the Convention's implementation in countries with economies in transition and to promote multi-stakeholder dialogue on Sustainable Development Goals. In this regard, ensuring the sustainability of these Centres remains crucially important;
- v. Encouraged national focal points to reach out to authorities responsible for development assistance and technical cooperation to explore the possibility of integrating the Aarhus Convention in these programmes as cross-cutting instrument supporting attainment of Sustainable Development Goals.

Item 5. Thematic session on the promotion of the principles of the Convention in international forums

The Working Group of the Parties:

- i. Thanked Parties and stakeholders that participated in the session's survey on the promotion of the principles of the Convention in international forums;

- ii. Expressed its appreciation to the representatives of Bosnia and Herzegovina, AIIB, EBRD, EIB, the World Bank, and European ECO Forum for their presentations;
- iii. Took note of the information provided by the representatives of the AIIB, EBRD, EIB, the World Bank, Parties, and other stakeholders regarding updates on the current status and plans regarding policies on access to information and stakeholders' engagement by the international financial institutions (IFIs); practical material and capacity building activities to promote such policies; and main challenges and potential support identified;
- iv. Expressed its appreciation to the representatives of Malta and European ECO Forum for their presentations;
- v. Took note of the information provided by participants regarding cross-cutting issues to enhance access to information and public participation in international forums;
- vi. Took note of the concerns expressed by NGOs regarding challenges they are facing in relation to attendance of some international events related to environmental matters and called on Parties, hosting international events, to ensure full implementation of article 3.7 in this regard;
- vii. Expressed its appreciation to the UNFCCC secretariat for its continuous cooperation and for the comprehensive written update on stakeholder engagement in the lead up to the twenty-fourth session of the Conference of the Parties of UNFCCC and during the meeting itself;
- viii. Took note of the information provided by the representatives of NGOs on lessons learnt from COP-24 to the UNFCCC and preparations for COP-25;
- ix. Took note of the background note and the letter prepared by International Coalition for Sustainable Aviation (ICSA) and of the concerns expressed by the representative of ICSA regarding lack of the promotion of the Convention principles in the International Civil Aviation Organization processes;
- x. Expressed its appreciation to the UNEP secretariat for the detailed update on stakeholder engagement, in particular during the fourth United Nations Environment Assembly and the UNEP access to information policies;
- xi. Expressed its appreciation to the ECE secretariat for the update on the promotion of the principles of the Aarhus Convention throughout developing, implementing and monitoring implementation of SDGs;

- xii. Encouraged Parties to continue promoting the Convention's principles in ICAO, UNEP and IFI-related processes, climate-related negotiations, and when implementing the Sustainable Development Goals;
- xiii. Welcomed the progress made in promoting the Convention's principles in international forums but recognized that still more efforts should be done to further transparency and effective public participation in international environment-related decision-making, including in ICAO related processes;
- xiv. Encouraged Parties to continue fulfilling their obligations under article 3, paragraph 7, of the Convention and to consider the results achieved at the next meeting of the Working Group;
- xv. Reiterated that promotion of transparency and effective public participation in international decision-making on environmental matters is key for achievement of Sustainable Development Goals, in particular Goals 16 and 17.

Item 6. Promotion of the Convention and other relevant developments and interlinkages

The Working Group of the Parties:

- i. Took note of the information provided by the secretariat on the Round Table on environmental dimension of SDG 16 held at the Regional Forum on Sustainable Development and expressed its appreciation to Speakers, Moderator and the Rapporteur;
- ii. Encouraged national focal points, Aarhus Centres and other stakeholders to promote the Aarhus Convention as cross-cutting instrument supporting attainment of environmental dimension of SDG 16 and other relevant goals and contribute to voluntary national reviews on SDGs with the relevant information; and promote the Convention in this regard at the upcoming High-level Political Forum;
- iii. Welcomed initiatives undertaken by the secretariat, Parties or stakeholders to promote the Convention beyond the ECE region and in other relevant processes. It called upon the secretariat and other relevant organizations to continue cooperation on promoting the Convention;
- iv. Reiterated its encouragement to the States from outside the UNECE region to become Parties to the Convention;
- v. Reiterated its support for promoting ratification and implementation of the Escazú Agreement;
- vi. Reiterated the important role that the Aarhus Convention is playing in the promotion and protection of human rights and a healthy environment;

- vii. Expressed its appreciation to the Office of the High Commissioner for Human Rights and UNEP secretariat for continuing cooperation on the issue of environmental defenders;
- viii. Called on Parties, secretariat, relevant organisations and stakeholders to promote synergy between the work under the Human Rights Council, UNEP and the Aarhus Convention in this area as to also support implementation of SDGs, in particular SDG 16.

Item 7. Implementation of the work programmes for 2015–2017 and 2018–2021, including financial matters

The Working Group of the Parties:

- i. Took note of the Report on the implementation of the work programme for 2018–2021 (ECE/MP.PP/WG.1/2019/5); and the information provided by the secretariat on financial resource situation of the secretariat, and the Report on contributions and expenditures in relation to the implementation of the Convention’s work programme for 2018–2021 (ECE/MP.PP/WG.1/2019/6);
- ii. Welcomed the synergies with partner organizations that helped to effective implementation of the work programme, and welcomed the wide use of electronic tools by the secretariat;
- iii. Took note of information on the pledges provided by the secretariat and delegations on expected financial contributions; called upon the Parties to proceed with making financial contributions as soon as possible and expressed its concern over the fact that contributions are still arriving late in the year;
- iv. Expressed appreciation for the work done by the secretariat and recognized the difficulties posed by limited and unpredictable funding.

Item 8. Preparations for the seventh session of the Meeting of the Parties

The Working Group of the Parties:

- i. Agreed on the proposal for developing the Strategic Plan (ECE/MP.PP/WG.1/2019/7), took note of the comments provided by delegations and requested the Bureau with the support of the secretariat to proceed with the preparation of the Strategic Plan in accordance with the proposal, taking into consideration the comments provided at and after the meeting;

- ii. Requested Parties and stakeholders to provide the secretariat with their comments in writing well in advance prior to their consideration and to request the secretariat to make comments available online;
- iii. Took note of possible dates for the seventh ordinary session of the Meeting of the Parties – 2nd/3d week of October 2021;
- iv. Welcomed a preliminary interest expressed by Georgia regarding the hosting of the next session of the Meeting of the Parties and asked Georgia to provide the secretariat as soon as possible with the final decision as to ensure timely preparations;
- v. Noted in this regard that the session will be organized back to back with the fourth session of the Meeting of the Parties to the Protocol on PRTRs, and requested the secretariat to liaise with Georgia on the hosting matter and to report to the next meeting of the Working Group accordingly;
- vi. Took note of the need expressed by NGOs to ensure adequate funding for their preparatory processes for and participation at the next session of the Meeting of the Parties.

Item 9. Any other business

No issues were discussed.

Item 10. Adoption of outcomes

The Working Group adopted the major outcomes and decisions presented by the Chair at the meeting (as contained in this document) and requested the secretariat, in consultation with the Chair, to finalize the report and incorporate these adopted outcomes and decisions.
