

Draft Decision on promoting effective access to justice

Preliminary EU+MS comments.

EU+MS reserve their right to elaborate further their position on this document in due course

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Summary

The present document sets out a draft decision on promoting effective access to justice. The document was prepared on the basis of decision IV/2 on the same subject matter, adopted by the Meeting of the Parties at its fourth session and the outcome of the work undertaken by the Task Force on Access to Justice in the current intersession period. The document takes into consideration the note by the Chair of the Task Force on Access to Justice submitted to the sixteenth meeting of the Working Group of the Parties (Geneva, 19-21 June 2013) and also addresses comments by delegations made at the meeting¹. The Working Group requested the Bureau to prepare a draft decision on promoting effective access to justice for consideration, revision and approval and subsequent submission to the Meeting of the Parties for consideration at its fourth session (June/July 2014). The draft decision will be circulated to Parties and stakeholders for comments prior to its finalisation for the seventeenth meeting of the Working Group.

The Meeting of the Parties,

Recalling the provisions of article 9 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters,

Recalling also the eighth and ninth preambular paragraphs of the Convention,

Recalling further its decisions I/5, II/2, III/3 and IV/2 on promoting effective access to justice,

Noting the relevant objectives I.1, II.4, II.6, III.2 and III.7 of the Strategic Plan 2015–2020 as adopted through decision V/..., and the relevant sections of the Work Programme 2015-2017 as adopted through decision V/...

Having reviewed the reports of the Task Force on Access to Justice (*symbols.*)

1. *Recognizes* the slow progress in implementing the third pillar of the Convention (article 9) and the need to further effective access to justice;
2. *Notes with appreciation* the work undertaken by the Task Force on Access to Justice;
3. *Expresses its gratitude* to Sweden for its leadership of the Task Force;
4. *Welcomes* capacity-building initiatives by Parties, Signatories and international organizations and other stakeholders aimed at promoting more effective

Comment [r1]: It is more coherent to refer to the whole Strategic Plan 2015-2020 without specifying on individual objectives. Otherwise some of the references are not sufficiently clear, e.g. why a quotation of II.6 in this regard?

Comment [r2]: We find this wording very negative, and would suggest a wording like: Recognizes the efforts made so far in implementing the third pillar of the Convention (article 9) and that work still remains to be done"

Or we could use the wording from decision IV/2:

"Recognizes the difficulties in promoting the third pillar of the Convention and the need to further support activities to enhance effective access to justice."

¹ Comments are available from <http://www.unece.org/env/pp/aarhus/wgp16.html>

implementation of article 9 of the Convention and encourages them, as appropriate, to undertake such initiatives in the next intersessional period;

Comment [r3]: Not every Party might be able to do so, even if it might be willing.

5. *Expresses its appreciation* to the Parties, Signatories and other stakeholders for contributing material to the on-line jurisprudence database concerning the Convention, and *encourages* Parties, Signatories and other stakeholders, including judges, legal professionals and academics, to use and promote the database and to further contribute to its expansion and improvement;

6. *Encourages* Governments to provide the public with information on access to administrative and judicial review procedures, including through electronic information tools, to ensure public access to relevant decisions of courts and other bodies, and to share the experiences in implementing e-justice initiatives²;

7. *Stresses* the significant role of national and international associations of judges and other legal professionals, and in particular of judicial training institutions, as well as the substantial role of public interest lawyers and non-governmental organizations with regard to information exchange and capacity-building and calls on Governments to support their activities;

Comment [r4]: The previous text of decision IV/2, p. 6 is sufficient. It is up to the Parties to decide about their support. Therefore we suggest either delete this part of sentence or introduce "invites" instead of "calls".

8. *Encourage* Governments to stimulate a multi-stakeholder dialogue aiming at removing barriers to access to justice, involving different ministries and agencies responsible, inter alia, for national policies on environment, justice, education, judiciary, constitutional courts, ombudsmen, bar associations, public interest lawyers and non-governmental organizations, and to share these experiences within the activities of the Task Force;

9. ~~*Calls-Encourages on*~~ Parties to integrate to the extent appropriate the issue of access to justice in environment matters into the curriculum of law faculties, public administration and judicial training institutions and other relevant institutions supporting the implementation of the Convention;

Comment [r5]: The possible influence by Parties is limited in so far as Universities have a broad independence.

10. *Invites* therefore Parties, Signatories and international and national organizations to cooperate and avoid duplication of activities in information exchange, the organization of training events and other capacity-building activities for the judiciary and other legal professionals at the national and international levels;

11. *Decides* to extend in time the mandate of the Task Force on Access to Justice, under the authority of the Working Group of the Parties to the Convention, to carry out further work, in relation to the implementation of the Convention, taking into consideration the relevant activities being undertaken by Parties, Signatories and other stakeholders;

12. *Welcomes* the offer of [...] to [continue to] [lead] the work of the Task Force;

13. *Requests* the Task Force, subject to availability of resources, to undertake the following work:

(a) To promote the exchange of information, experiences, challenges and good practices relating to the implementation of the third pillar of the Convention, on such issues as costs, remedies, scope of review, timeliness, protection against persecution and harassment;

² The E-Justice initiatives include the use of information and communication technologies (ICTs) to improve public access to justice and other types of activities involving the resolution of disputes.

(b) To identify priority needs with respect to public access to justice in environmental matters, to take stock of capacity-building initiatives taken place in the region and beyond, and to promote the involvement of associations of judges and other legal professionals in these initiatives;

(c) As resources allow, to prepare analytical, guidance and training materials to support the work in the above subparagraphs (a) and (b);

14. *Entrusts* the secretariat, subject to availability of resources, to undertake the following work:

(a) To participate in, plan and implement, as appropriate, capacity-building activities, including workshops and trainings related to access to justice, to be organized in cooperation with relevant partner organizations;

(b) To expand, in cooperation with the Task Force, the portal for the exchange of jurisprudence concerning the Convention;

15. *Invites* therefore the Parties, Signatories and international and other organizations to participate in the Convention's activities on access to justice, and to allocate funds for this matter;

16. *Requests* the Parties, Signatories and other interested States to facilitate the involvement of the representatives of ministries of justice, judiciary, judicial training institutions and other organizations having strong profile in access to justice in the relevant Convention's activities.
