

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

Task Force on Access to Justice

Thirteenth meeting

Geneva (Hybrid), 15 and 16 February 2021

Key outcomes¹

as agreed by the Task Force on Access to Justice at its thirteenth meeting²

I. Opening and adoption of the agenda

1. The Task Force adopted the agenda as set out in the document AC/TF.AJ-13/Inf.1.

II. Thematic focus: Promoting public interest litigation in environmental matters

2. The Task Force:

- (a) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges related to the promotion of public interest litigation in various environmental matters;
- (b) Noted the increase of public interest litigation cases related to climate change, biodiversity protection, environmental assessments and other matters;
- (c) Encouraged Parties to promote enabling conditions for the public interest litigation as an essential element of protecting legitimate environmental rights and interests, promoting accountability of decision-making and the rule of law;
- (d) Called on Parties to take the necessary measures to address existing barriers in public interest litigation related to costs, access to legal aid and other assistance mechanisms, standing, timeliness, appeal procedures and other issues highlighted by the speakers;
- (e) Called on Parties to carry out national dialogues and capacity building activities to improve access for the public to administrative and judicial review and remove existing barriers;
- (f) Invited Parties to promote the use of collective redress to remedy environmental damage and ensure compliance with the law relating to the environment;
- (g) Encouraged Parties to develop mechanisms that will prevent strategic lawsuits against public participation;

¹ The document was not formally edited.

² The list of speakers, other documents, presentations and statements are available from: <https://unece.org/environmental-policy/events/thirteenth-meeting-task-force-access-justice-under-aarhus-convention>

(h) Decided to continue the exchange of information, experiences, challenges and good practices with regard public interest litigation in environmental matters through the Convention's reporting mechanism, Aarhus Clearinghouse and the jurisprudence database.

III. Access to justice in cases relating to air quality

3. The Task Force:

(a) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges related to access to justice in cases relating to air quality;

(b) Noted the increased number of cases on subjects related to content and scientific basis of air quality plans, zonal planning, location of measurement points, diesel car bans and defeat devices, individual development projects that may cause exceedance of air quality standards;

(c) Encouraged Parties to take the necessary legislative and other measures to address existing challenges and further promote effective public access to justice in cases relating to air quality, especially with regard to standing, timeliness and fairness of the existing procedures, scope of review, access to adequate and effective remedies and the enforcement of court decisions;

(d) Reiterated that above measures should ensure effective enforcement of the legislation relating to air protection taking into account the close links between air pollution, its effects on human health and enjoyment of many human rights;

(e) Noted the increased use of citizen science and crowdsourced data to support environmental claims and encouraged Parties to establish a clear, transparent and coherent framework to support the use of such data;

(f) Called on Parties to ensure the effective implementation of the Aarhus Convention with regard to decision-making relating to air quality matters, which would reduce the demand for seeking access to justice;

(g) Decided to continue the exchange of information, experiences, challenges and good practices with regard to access to justice related to air quality through the Aarhus Clearinghouse and the jurisprudence database.

IV. Access to justice in information cases

4. The Task Force:

(a) Thanked the Chair, participated Parties and stakeholders for their contribution to the study on access to justice in information cases;

(b) Took note of the comments received at the meeting and requested the Chair to make the final revisions (if needed) in the study and inform the Meeting of the Parties on its finalization;

(c) Encouraged Parties to take the necessary measures and allocate sufficient resources to address existing challenges and further promote effective access to justice in information cases, especially with regard to the establishment of information commissioners, timeliness and fairness of the existing procedures, access to adequate and effective remedies, execution of the final decisions and the use of mediation;

(d) Encouraged Parties to use the study to promote national dialogues and capacity-building activities to improve access to justice in information cases.

V. Taking stock of recent and upcoming developments

5. The Task Force:

(a) Took note of the recent developments, challenges and lessons learned related to access to justice in environmental matters, including in the context of COVID-19 pandemic, as presented by the speakers;

(b) Welcomed the Note on possible future directions for the work prepared by the Chair (AC/WGP-24/Inf.3) and took note of the comments received at this meeting, recalling that comments on the draft decision on access to justice, as was announced by the secretariat on 21 January 2021, had to be sent in accordance with the consultation procedure with the deadline for comments is 18 February 2021³;

(c) Highlighted the need for further work with regard to: adequate and effective remedies and enforcement of the review decisions; access to justice in cases relating to spatial planning and information cases; and the use of citizen science and pollutant release and transfer registers data in judicial and administrative review procedures;

(d) Called on the Parties to take additional measures as needed to ensure that access to justice for members of the public is provided effectively in accordance with the relevant provisions of Aarhus Convention, also during the COVID-19 pandemic and its subsequent economic recovery phase;

(e) Expressed its appreciation to the representative of member States and the international forums for informing about the relevant activities and invited them to explore the potential opportunities for synergies with the Aarhus Convention in promoting access to justice in environmental matters;

(f) Highlighted that the measures adopted by the countries to implement Sustainable Development Goal target 16.3 (promote the rule of law at the national and international levels and ensure equal access to justice for all) can support the progress towards other environment-related Sustainable Development Goals and targets and encouraged to include indicator 16.3.3 in the national monitoring frameworks;

(j) Encouraged Parties to continue improving online information on access to administrative and judicial review procedures, in particular, with regard to information on upcoming and current cases by describing the subject matter with key words related to environmental matters and publishing hearing dates of upcoming cases in good time, access to online hearings; and called on partner organizations and stakeholders to continue supporting e-justice and other relevant initiatives in this area;

(h) Highlighted the important role of Aarhus Centres in disseminating information on access to judicial and administrative review procedures and raising awareness of the public on how to seek access to justice in environmental matters.

³ See <https://unece.org/environment-policy/public-participation/consultation-draft-documents-aarhus-convention-mop7>

VI. Closing

6. The Task Force:

(a) Requested the secretariat, in consultation with the Chair, to finalize the meeting report and incorporate these outcomes.
