



# Economic and Social Council

Distr.: General  
28 April 2021

Original: English

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## 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-fifth meeting

Geneva, 3 May and 7 and 8 June 2021

Item 3 of the provisional agenda

**Reports by the Chairs of the task forces and other updates  
on recent developments in the areas of access to information,  
public participation in decision-making and access to justice**

### **Report of the Task Force on Access to Information on its seventh meeting\***

#### *Summary*

The Task Force on Access to Information under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was established by the Meeting of the Parties to the Convention at its fourth session through decision IV/1 (see ECE/MP.PP/2011/2/Add.1). At its sixth session (Budva, Montenegro, 11–13 September 2017), the Meeting of the Parties renewed the mandate of the Task Force to carry out further work under the authority of the Working Group of the Parties (see ECE/MP.PP/2017/2/Add.1, decision VI/1).

Pursuant to the above-mentioned mandate, the present report of the Task Force on its seventh meeting (online, 16 and 17 November 2020) is being submitted for the consideration of the Working Group of the Parties at its twenty-fifth meeting.

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\* This document was scheduled for publication after the standard publication date owing to circumstances beyond the submitter's control.



## Introduction

1. The seventh meeting of the Task Force on Access to Information under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held on 16 and 17 November 2020 in an online format due to restrictions associated with the coronavirus disease (COVID-19) pandemic.<sup>1</sup>

2. The Task Force is led by the Republic of Moldova. Due to COVID-19 pandemic-related travel restrictions and quarantine measures introduced by the Governments of the Republic of Moldova and of Switzerland, Ms. Valentina Tapis, the Chair of the Task Force, was unable to chair the meeting. Therefore, the Republic of Moldova nominated Ms. Tatiana Molcean, Ambassador and Permanent Representative of the Republic of Moldova to the United Nations Office and other international organizations in Geneva, to replace Ms. Tapis as the Chair of that meeting only. Owing to work-related commitments, Ms. Molcean delegated Mr. Iulian Grigorita, Counsellor (Republic of Moldova) to chair the morning session on Tuesday, 17 November 2020.

3. The meeting was attended by the representatives of the following Parties to the Convention: Albania, Austria, Belarus, Cyprus, Estonia, Finland, France, Georgia, Germany, Greece, Ireland, Kazakhstan, Kyrgyzstan, Luxembourg, Malta, Montenegro, Republic of Moldova, Romania, Serbia, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland. Representatives of Guatemala, the Republic of Korea and Uzbekistan also participated in the meeting. Representatives of the European Commission and the Permanent Delegation to the United Nations Office and other international organizations in Geneva attended the meeting on behalf of the European Union. Representatives of the European Environment Agency, the European Ombudsman and the European Investment Bank also took part in the meeting.

4. Representatives of the United Nations Environment Programme (UNEP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Office for Disaster Risk Reduction (UNDRR), the United Nations Institute for Training and Research (UNITAR), and the secretariat of the Convention on Biological Diversity also participated in the meeting.

5. Representatives of review bodies, Aarhus Centres and business, professional, research and academic organizations were also present, as were representatives of international, regional and local non-governmental organizations (NGOs), many of whom coordinated their input within the framework of the European ECO-Forum.

## I. Opening of the meeting and adoption of the agenda

6. The meeting was opened by the Chair of the meeting, Ms. Molcean.

7. The Task Force adopted its agenda for the meeting as set out in document AC/TF.AI-7/Inf.1.

## II. Access to environment-related product information

8. Opening the item, the Chair recalled that, in accordance with article 5 (8) of the Convention, Parties should develop mechanisms with a view to ensuring that sufficient product information was made available to the public in a manner which enabled consumers to make informed environmental choices. Parties should also encourage operators whose activities had a significant impact on the environment to inform the public regularly of the

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<sup>1</sup> Documents for the Task Force meeting, as well as a list of participants, statements and presentations, are available at <https://unece.org/environmental-policy/events/seventh-meeting-task-force-access-information-under-aarhus-convention>

environmental impact of their products, where appropriate within the framework of voluntary eco-labelling or eco-auditing schemes or by other means (art. 5 (6)).

9. The Chair underscored that such measures had become cornerstones of the transition towards green and circular economy, implementing zero waste approaches and acting as enablers for a number of Sustainable Development Goals. She drew attention to the overview of access to environment-related product information in accordance with article 5 (6) and (8) of the Convention (AC/TF.AI-7/Inf.2).

10. The representative of UNEP underscored the potential of data and digital transformation to accelerate environmental sustainability and the role of product information in that regard. New and emerging digital capabilities held unprecedented potential to support the transformation of the key economic sectors to achieve decarbonization, dematerialization, detoxification, driving circularity and regeneration. The speaker said that to harness that potential, the four following challenges should be addressed: (a) improving management of data to make them less fragmented and unstructured and to make their quality less variable; (b) increasing public-private collaboration to transform data into knowledge that could influence economic incentives and behaviours – access to product information could be essential in that regard; (c) closing the digital divide and strengthening digital literacy; and (d) ensuring the digital transformation process by public authorities performing environmental functions and services. In order to address those challenges, the speaker recommended: (a) building a digital ecosystem for the planet that would produce data and predictive analytics as public goods; (b) accelerating the integration and application of environmental data, analytics and norms to inform and transform core pillars of the digital economy, for example, e-commerce; (c) strengthening digital literacy and public participation in digital transformation and supporting e-governance applications for public participation and citizen science; and (d) embracing a digital transformation agenda in institutions. Such an approach would inform UNEP digital transformation priorities for the next four years. To build a digital ecosystem, UNEP would develop an environmental data governance framework and for that purpose it would convene global stakeholder consultations to discuss and agree on options for that framework.

11. The representative of the European Environmental Bureau, also speaking on behalf of the European ECO-Forum, stressed the importance of reliable product information given its ability to influence consumers' choices and generate market solutions to reduce products' environmental footprint. While many products in the European Union displayed an environmental claim or label, the majority of consumers found it difficult to identify truly environmentally friendly products and were deeply distrustful of the information provided. To address those challenges, a product passport could be introduced as an interoperable digital information system for accessing product data generated from different sources on one public interface using digital tools (for example, quick response code or blockchain). The passport could include information on the durability, repairability, recyclability, environmental performance, energy use efficiency, contents of hazardous substances, and social data of the products. The passport should comprise legally required data and incentives to encourage transparency and be based on clear language, formats and standards to ensure comparability and enforceability. Potential benefits of product passports could include increasing public confidence in environmental claims, enabling consumers to make informed choices, preventing greenwashing, and creating trust between producers and suppliers. The product passport had been referenced in several European Union policy documents and could be built on several existing initiatives. Nevertheless, a proper policy framework and legislation for market regulation and incentives should be introduced to drive change towards sustainable production and consumption.

12. The representative of Kazakhstan reported on measures taken by the country to expand public access to product information. In particular, the forthcoming Environmental Code would provide for updated public participation procedures in the context of environmental impact assessment and strategic environmental assessment, incentives for consumers of natural resources to reduce emissions and improved principles and progressive emissions regulation mechanisms, as well as reviewing the country's environmental standards. The suggested novelties took into account good practices adopted by different

countries and international commitments of Kazakhstan. Further work would be carried out after the adoption and entry into force of the Environmental Code, expected on 1 July 2021.<sup>2</sup>

13. The representative of Serbia reported on the requirements for mandatory and voluntary labelling of environment-related product information. The mandatory product labelling aimed to inform consumers about material type and recyclability of packaging, hazardous substances and mixtures and energy consumption. Voluntary environmental labelling had been in place within the framework of ISO/TC/207<sup>3</sup> on environmental management since 2009 and had developed similarly to the European Union Eco-label as far as criteria and product groups were concerned. The Serbian eco-label award procedure was carried out by a commission, comprising representatives of the Ministry of the Environment, the Ministry of Economics, the Chamber of Commerce, national associations of consumers and experts. Requests for granting of eco-labels should be considered by the commission, taking into account all stages of the product life cycle. The Ministry of the Environment kept records of requests, awarded eco-labels and provided information regarding, among other things, eco-label-related procedures. To promote eco-labelling, a brochure had been developed to provide information to companies regarding award requirements and explaining to consumers why certain products had been awarded eco-labels. A number of lessons had been learned since the introduction of eco-labelling, including: (a) the importance of market stability; (b) the need for decision-makers to endorse the eco-label system as a tool for achieving environmental goals; (c) the award of the first eco-label had boosted interest from other operators in the same industrial sector; (d) eco-label had become of great interest to companies for their marketing strategies; and (e) eco-label criteria in the green public procurement process might boost further eco-label requests. Additionally, to promote climate action, opportunities for assessing and reporting on the environmental impact of products could arise from the enhanced use of the pollutant release and transfer register when the companies reported their emissions (e.g. carbon dioxide (CO<sub>2</sub>)), consumption of electricity, water and raw materials per product unit. For example, it had been already used in Serbia to estimate CO<sub>2</sub> reductions.

14. The representative of France shared several initiatives aimed at promoting public access to environment-related product information and addressing the proliferation of unfounded labels and claims related to environmental protection. The initiatives aimed to support sustainable consumption and production, foster eco-design, promote equity, transparency and credibility, and protect consumers against greenwashing. The Agency for Ecological Transition, in cooperation with stakeholders and the Ministry of Ecological Transition, had developed a general method and sector-specific methods for the calculation of the environmental footprints of products, a database of such footprints, and respective calculators. In addition, a developed common logo made it possible to use a formal system to distinguish environmental claims clearly. A pilot phase to advance the initiative had been rolled out in the period 2017–2019 in five economic sectors (in particular, the textile and food sectors) with good results. On 10 February 2020, France had adopted a specific law against waste and for the circular economy<sup>4</sup> that had improved access to all types of environmental information (art. 13) and set up an official system of environmental product labelling based on product life cycle analysis (art. 15). The labelling system, although official, remained voluntary, namely regarding disclosure of environment-related product information. Any such disclosure should be carried out in line with the rules established by the system in that regard. Studies and surveys conducted in France before the COVID-19 pandemic had confirmed significant levels of consumer interest regarding environmental information, yet consumers were not satisfied with the quality of the information, believed that insufficient environmental information was provided and found that “green” products were difficult to discern. Regarding the communication format, consumers preferred a single score on a scale rating, as well as some endorsement by public authorities or environmental NGOs that could reassure them as to the quality and credibility of the environmental information.

<sup>2</sup> At the time of preparation of the present report, Kazakhstan informed the secretariat that the legislator had adopted the Environmental Code on 2 January 2021.

<sup>3</sup> See [www.iso.org/committee/54808.html](http://www.iso.org/committee/54808.html).

<sup>4</sup> See <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041553759?r=JyUApnuivG>.

15. The representative of the European Environment Agency highlighted the new European Union policy framework, the European Green Deal,<sup>5</sup> as well as several European Union-related initiatives aiming at a sustainable economic transformation in support of the implementation of the 2030 Agenda for Sustainable Development. Furthermore, the recently adopted Circular Economy Action Plan outlined measures related to all key supply chains, waste prevention and better management and sustainable production processes. Its implementation would be further facilitated by enhanced access to product information for empowering private and public consumers, harnessing the latest science-based approaches and contributing to a solid circular economy monitoring framework. To promote effective access to environmental information in the context of the circular economy, several important measures should be taken to: (a) ensure public access to environmental information across the whole supply chain and establish transparent tools to facilitate that process; (b) identify opportunities arising from the digitalization process (for example, sharing economy big data and digital product passports); and (c) explore possibilities for developing public-private partnerships. The Agency had also contributed to work related to circular economy with knowledge products<sup>6</sup> and information received from its member countries. Among the latest initiatives supporting the European Green Deal, the European Commission had put forward the “New Consumer Agenda: Strengthening consumer resilience for sustainable recovery”,<sup>7</sup> which would further strengthen work on access to product information and digital transformation.

16. In the ensuing discussion, the participants highlighted the importance of raising operators’ awareness about established eco-labelling and eco-auditing schemes and introducing incentives to join such schemes voluntarily.

17. The Task Force:

(a) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges related to the implementation of the respective provisions of the Aarhus Convention to promote effective public access to environment-related product information as presented by the speakers;

(b) Highlighted that effective public access to environment-related product information harnessing the benefits of digitalization could support Parties in achieving a number of Sustainable Development Goals, in particular Goals 8 (Decent Work and Economic Growth), 11 (Resilient and Sustainable Cities), 12 (Sustainable Consumption and Production) and 13 (Climate Action), and in implementing effectively the initiatives related to the European Green Deal, transition towards green and circular economy, greening public procurement and implementing zero waste approaches;

(c) Called on Parties to continue developing and improving frameworks encouraging operators whose activities had a significant impact on the environment to apply tools such as eco-labelling, energy-labelling, product passports, product declarations, warning labelling and other tools to inform the consumers;

(d) Also called on Parties to establish green public procurement mechanisms, to promote the use of pollutant release and transfer registers, and to facilitate multi-stakeholder dialogues in the different economic sectors, bringing together suppliers, producers, retailers, consumers, environmental NGOs and other interested members of the public in order to promote full consumer product transparency, traceability, accountability and the interoperability of product information systems using best available state-of-the-art digital technologies and open data principles;

(e) Encouraged Parties to promote and support efforts towards the development of methodologies, crowdsourced mobile applications and tools to provide the public with

<sup>5</sup> See [https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en) .

<sup>6</sup> See [www.eea.europa.eu/publications#?c7=en&c11=5&c14=&c12=&b\\_start=0&c5=waste](http://www.eea.europa.eu/publications#?c7=en&c11=5&c14=&c12=&b_start=0&c5=waste) .

<sup>7</sup> See Communication from the Commission to the European Parliament and the Council, “New Consumer Agenda: Strengthening consumer resilience for sustainable recovery” (COM/2020/696 final). Available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2020:696:FIN> .

accessible, comprehensive, up-to-date and comparable information on the environmental impact of products that enabled consumers to make informed environmental choices;

(f) Invited partner organizations and donors to support the above-mentioned initiatives;

(g) Invited Parties to provide further information on practical arrangements to promote access to environment-related product information in the Convention's 2021 national implementation reports and to continue submitting useful resources to the Aarhus Clearinghouse with a view of addressing that matter in the next intersessional period.

### III. Access to information with respect to genetically modified organisms

18. Opening the item, the Chair recalled that the topic was closely linked with the respective provisions of the Convention, the amendment to the Convention on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms (GMO amendment) and the Guidelines on access to information, public participation and access to justice with respect to genetically modified organisms (GMOs) (Lucca Guidelines).<sup>8</sup> Their implementation had also greatly complemented and supported the implementation of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity. She drew attention to the outcomes and background material of the third Joint Round Table on Public Awareness, Access to Information and Public Participation regarding Living Modified Organisms/Genetically Modified Organisms (Geneva, 16–18 December 2019).<sup>9</sup>

19. The Chair expressed deep regret at the fact that objective II.2 of the Convention's Strategic Plan for 2015–2020 (ECE/MP.PP/2014/2/Add.1) had not yet been achieved, as the GMO amendment to the Convention had not been approved by a sufficient number of Parties to enter into force by 2015. She reiterated the call to those Parties whose ratification of the GMO amendment would count towards its entry into force — i.e. Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, North Macedonia, Tajikistan, Turkmenistan and Ukraine — to take urgent steps towards ratification of the amendment before the seventh session of the Meeting of the Parties to the Convention in 2021, and called upon other Parties to ratify the GMO amendment.

20. Setting the scene, the representative of the secretariat of the Convention on Biological Diversity highlighted the progress in the implementation of article 23 of the Cartagena Protocol on Biosafety, a supplementary agreement to the Convention on Biological Diversity, and the Programme of work on public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms (LMOs) (2011–2020). Public access to information and public participation remained crucial for the effective implementation of two main procedures under the Protocol, namely the advance informed agreement procedure and the procedure for LMOs intended for direct use as food or feed, or for processing. Parties, other stakeholders and the secretariat had, throughout the years, made use of collaboration with the Aarhus Convention and of the Lucca Guidelines based on the guidance contained in the Programme of work. Further work in that area had also been undertaken with regard to building and maintaining joint initiatives and improving tools and procedures for access to information, among other things. In particular, Parties, other stakeholders and the secretariat could also use e-learning modules,<sup>10</sup> tools and checklists developed jointly under the Aarhus Convention and the Convention on Biological Diversity. In 2019, results from a survey to assess the implementation of the Programme of work and the fourth national reports under the Protocol had shown that the respondents — a majority of the Parties to the Protocol — had, among other things: (a) already designated an entity to promote public awareness, education and participation regarding LMOs; (b) established a

<sup>8</sup> See <https://unece.org/environment-policy/publications/guidelines-access-information-public-participation-decision-making> .

<sup>9</sup> See <https://unece.org/environmental-policy/events/joint-global-round-table-lmosgmos> .

<sup>10</sup> See <https://scbd.unssc.org/course/view.php?id=40> .

procedure for facilitating public access to biosafety information; and (c) promoted access to educational material and online modules on biosafety. However, the survey had also shown that, among other things, only limited information had been shared through the Biosafety Clearing-House and biosafety websites. Owing to effective collaboration with the Aarhus Convention, further achievements were highlighted, such as the organization of joint round tables and other events and preparation of materials (for example, e-learning module and a joint newsletter). She also noted a way forward in making use of: the draft Implementation Plan for the Cartagena Protocol on Biosafety that was expected to be adopted by the Tenth Meeting of the Conference of the Parties to the Convention on Biological Diversity serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (Kunming, China, 11—24 October 2021); the fourth Joint Round Table on Public Awareness, Access to Information and Public Participation regarding LMOs/GMOs under the auspices of the Aarhus Convention and the Convention on Biological Diversity; and a pocket guide on access to information and public participation regarding GMOs/LMOs to be made available in 2021. She also highlighted the importance of the Sharm El-Sheikh to Kunming Action Agenda for Nature and People<sup>11</sup> for non-state actors making commitments on biodiversity and biosafety to, among other things: (a) support Governments in implementing the Implementation Plan and the Global Biodiversity Framework expected to be adopted in 2021; and (b) enhance their profiles online and in meetings.

21. The representative of Ecoropa, also speaking on behalf of the European ECO-Forum, welcomed the recent acceptance by Albania of the GMO amendment and reiterated a call to the respective countries to become a Party to the amendment without any further delay to ensure its entry into force. In her view, as long as the GMO amendment had not entered into force, the public could not enjoy the full potential of their rights vested by the Aarhus Convention with respect to GMOs and the effective implementation of the forthcoming Recommendations on the more effective use of electronic information tools could be diminished in that area. Progress in online access to GMO-related information remained crucial for promoting public participation in the relevant decision-making and seeking of justice given that GMOs could not be restricted to one location only. Electronic information tools became key enablers for different members of the public to exercise their rights under the Convention effectively in those matters. Interoperability and cooperation remained key supportive elements, both nationally and internationally, especially with regard to the Biosafety Clearing-House of the Convention on Biological Diversity to achieve effective access to information. Further measures should address the following challenges in the area: (a) information confidentiality should not be assumed by default; and (b) new genetic engineering methods should be included in the digital information system similarly to GMO crops. As a way forward, the following elements were necessary: (a) the entry into force of the GMO amendment; (b) accessible, open, reusable and complete GMO-related information; (c) access to information on synthetic biology and other new technologies; and (d) the political will to apply the Aarhus Convention effectively to GMO-related matters.

22. The representative of Belarus shared experience in promoting public access to GMO-related information and accession to the GMO amendment. As a Party to the Aarhus Convention and the Cartagena Protocol on Biosafety, Belarus had developed legislation on access to information and public participation in decision-making on GMO-related matters taking into account the respective provisions of those treaties. Information about GMOs was included in the scope of environmental information. The Institute of Genetics and Cytology of the National Academy of Sciences functioning as the National Coordination Biosafety Centre was responsible for maintaining a database containing GMO-related information, obtained through risk assessment and permitting procedures and other sources, and for providing public access to such information through the biosafety website<sup>12</sup> and upon request. The legal framework also established the procedure for submission of the relevant materials containing information on GMOs and measures to prevent their potential negative impacts on human health and the environment, the grounds for their confidentiality and the list of information that could not be considered confidential. In 2020, further work had been carried out to review the compatibility of the national legislation with the GMO amendment's

<sup>11</sup> See <https://www.cbd.int/action-agenda/>.

<sup>12</sup> See <https://biosafety.igc.by/> (in Russian only).

provisions and prepare the background document for joining the amendment with the support of the international technical assistance project “Involving the public in environmental monitoring and improving environmental management at the local level” funded by the European Union and implemented by the United Nations Development Programme in Belarus.

23. The representative of Albania provided an overview of national legislation on GMO matters and recent developments in the light of the recent acceptance of the GMO amendment. Albanian legislation remained very limited, consisting mainly of the international treaties and framework provisions in the laws related to agriculture and the environment. The main responsibilities were shared by the Ministry of Agriculture and Rural Development — responsible for planting, food and trade — and the Ministry of Environment — responsible for controlled introduction into the environment, including the setting up and operation of the respective notification system. Recent initiatives had focused on supporting Albania in modernizing its food safety capacities. The key areas of further work to address existing challenges should include: (a) approximation of the national legislation with the European Union legislation related to the placing of GMO food and feed products on the market; (b) clarification of the roles and responsibilities of various public authorities involved in GMO-related matters; (c) improvement of professional skills and technical capacities of the responsible institutions; (d) strengthening law enforcement; and (e) improving public participation in decision-making and access to information. In terms of future steps, Albania would continue to: improve its legislative and institutional framework to fully comply with the GMO amendment; define the roles and responsibilities of the various authorities with respect to information and public participation processes related to GMO matters; build national and local capacities; and raise awareness and improve common understanding of the benefits of public participation and the consultation of relevant public authorities regarding LMOs/GMOs.

24. Following the ensuing discussion, the Task Force:

(a) Expressed its appreciation to the representative of the secretariat of the Convention on Biological Diversity for providing information about work undertaken under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity with regard to promoting public access to information;

(b) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges related to the coherent implementation of the respective provisions of the Aarhus Convention and the Cartagena Protocol on Biosafety with regard to access to information as presented by the speakers;

(c) Welcomed the long-standing cooperation with the secretariat of the Convention on Biological Diversity and the opportunities for further action to promote access to information on matters related to GMOs;

(d) Reiterated the importance of the GMO amendment to the Aarhus Convention entering into force as an effective tool supporting countries in achieving relevant Sustainable Development Goals, in particular Goals 2 (Zero Hunger), 15 (Life on Land) and 16 (Inclusive Societies and Strong Institutions), and the post-2020 Global Biodiversity Framework;

(e) Called on Parties to take the necessary legislative, regulatory and other measures to promote effective public access to information on GMOs meeting the needs of different users, including with regard to access to product-related information using labelling and other means;

(f) Encouraged Parties to promote further use of modern digital technologies and the integration of collected data and information on GMO-related matters within the meaning of article 2 (3) of the Aarhus Convention into the nationwide environmental information digital system and the use of electronic information tools so as to facilitate public access to such information and the required reporting, and called on partner organizations and donors to support the respective initiatives;

(g) Also encouraged Parties to include biosafety and GMO-related matters in national state-of-the-environment reporting;

(h) Further encouraged Parties to continue involving Aarhus Centres, education entities, libraries and the media in raising awareness about GMO-related matters and providing assistance to the public on how to obtain access to information;

(i) Invited Parties to provide further information on practical arrangements to promote access to information on and public awareness of GMO-related matters in the Convention's 2021 national implementation reports and to continue submitting useful resources to the Biosafety Clearing-House and the Aarhus Clearinghouse, with a view to addressing that matter in the next intersessional period.

#### **IV. Update of the Recommendations on electronic information tools**

25. The Chair recalled the request by the Meeting of the Parties through decision VI/1 (ECE/MP.PP/2017/8, annex, para. 13 (b) (i)) regarding the update of the Recommendations on electronic information tools set out in the annex to decision II/3 (ECE/MP.PP/2005/2/Add.4) and reported on the progress achieved to date. He drew attention to the next draft updated Recommendations ( AC/TF.AI-7/Inf.3 and Add.1) and the outputs of the capacity-building projects carried out by the European Commission and the European Environment Agency that could underpin the forthcoming implementation of those Recommendations.

26. The representative of the European Environment Agency explained that the Agency and its European Information and Observation Network (Eionet) had undertaken a wide range of activities that could support policies recently adopted by the European Union and the forthcoming Recommendations. The current work was primarily driven by the European Digital Strategy,<sup>13</sup> the European Strategy for Data,<sup>14</sup> the European Green Deal and the new European Environment Agency-Eionet Strategy 2021—2030.<sup>15</sup> The implementation of the European Green Deal had been further supported by the launch of the European Green Data Space that included such initiatives and actions as: (a) the “GreenData4All” initiative to evaluate the INSPIRE Directive<sup>16</sup> and the Public Access to Environmental Information Directive;<sup>17</sup> (b) rolling out reusable data services for large data volumes; (c) data space for smart circular applications, digital product policies and passports; (d) a pilot project to support “zero pollution ambition”; and (e) the “Destination Earth” initiative to establish a digital model of Earth. To ensure effective data management supporting the European Green Deal, the European Green Data Task Force had recently been launched by the partners under the Environment Knowledge Community. A task force co-chaired by the European Commission Directorate-General for Environment and the Agency would focus its work on the following areas: (a) governance and data policy check; (b) green data inventory; and (c) green data user needs and requirements based on pilot initiatives carried out. The implementation of the new European Environment Agency-Eionet Strategy would focus, among other things, on making full use of the potential of data, technology and digitalization. The Strategy would be supported by a digitalization framework and would focus on: (a) technology and content, such as widening data types and improved infrastructure of the Agency and Eionet for data management, communication and dissemination; and (b) processes, organization and people, such as preparing digital workspace, improving stakeholder interaction, develop the sustainability role of digitalization and increase digital literacy and user feedback.

<sup>13</sup> See <https://ec.europa.eu/digital-single-market/en/content/european-digital-strategy>.

<sup>14</sup> See <https://digital-strategy.ec.europa.eu/en/policies/strategy-data>.

<sup>15</sup> See <https://www.eea.europa.eu/about-us/eea-eionet-strategy-2021-2030-1>.

<sup>16</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), *Official Journal of the European Union*, L 108 (2007), pp. 1—14.

<sup>17</sup> Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC, *Official Journal of the European Union*, L 41 (2003), pp. 26—32.

27. The representative of the European Commission provided further insights into implementation of the European Strategy for Data that aimed at: (a) allowing data to flow across borders in the European Union and across the different sectors; (b) ensuring high quality data originating both from the public sector and from businesses; (c) ensuring the respect of European Union rules and values; and (d) setting clear rules for access to and use of data and clear data governance mechanisms. Further work should address the following challenges: (a) the lack of European data processing and storage solutions; (b) the fact that there were insufficient data available for reuse; (c) the lack of real user empowerment; (d) the absence of comprehensive data governance approaches; (e) the fragmentation of the Single Market; and (f) the lack of skills and low data literacy. To address those issues, the Strategy would be deployed based on the four following pillars: (a) a cross-sectoral governance framework for data access and use; (b) enablers such as federated cloud infrastructures; (c) competences, including improved digital skills and data literacy of individuals both in their professional and their daily lives; and (d) the roll-out of common European data spaces, including European Green Data space. The recently adopted Open Data Directive<sup>18</sup> had updated a minimal set of rules to make more data from the public sector easier and cheaper to use and reuse and introduced the concept of high value data sets. To be defined within six thematic categories, including “Earth observation and environment”, such data sets should be available for free with open licences and accessible in machine-readable formats, as a bulk download or via application programming interfaces as appropriate. Besides the legislative initiatives, the European Commission had also put in place an Open Data digital infrastructure, the European Union Recovery Plan counting also on addressing linkages of future economic growth with environmental and digital domains, and the Digital Europe Programme, which would ensure higher quality and availability of data for artificial intelligence applications.

28. The representative of UNDRR underscored the importance of the rights-based approach to disaster risk reduction, stressing how access to information at the right time could make a difference in the prevention of casualties and losses and protect the right to life. To improve accessibility of information, the Sendai Framework for Disaster Risk Reduction 2015–2030<sup>19</sup> set a range of activity targets, guiding principles and specific priorities in that area. In accordance with the seventh guiding principle (para. 19 (g) of the Framework), disaster risk reduction required a multi-hazard approach and inclusive risk-informed decision-making based on the open exchange and dissemination of disaggregated data, as well as on easily accessible, up-to-date, comprehensible, science-based, non-sensitive risk information, complemented by traditional knowledge. To implement paragraph 23 of the Framework on understanding disaster risk, UNDRR also promoted the collection, analysis, management and use of relevant data and practical information and ensured its dissemination. In particular, that was done through the PreventionWeb digital knowledge platform, which had seen a significant rise in the number of users during the COVID-19 pandemic and had become open to other United Nations partners to share their relevant information. UNDRR also further supported the accessibility of information by: (a) ensuring accurate data and analysis (for example, through establishing indicators for the Sendai Framework Monitor, launching the Inventory system of the effects of disasters, preparing the Global Assessment Report on Disaster Risk Reduction); (b) making information available to the public (for example, through cooperation with the World Broadcasting Unions and networks of journalists); and (c) building effective partnerships (the Climate Risk and Early Warning Systems initiative, the Risk-informed Early Action Partnership and the Global Alliance for Disaster Risk Reduction and Resilience in the Education Sector). To ensure that the right information could reach the right people, UNDRR also promoted accessibility of information to media outlets, which could play a critical role in reducing risks, prior to, during and after disasters.

<sup>18</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the reuse of public sector information, *Official Journal of the European Union*, L 172 (2019), pp. 56–83.

<sup>19</sup> United Nations Office for Disaster Risk Reduction (2015), available at [www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030](http://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030).

29. The representative of the European Citizen Science Association, also speaking on behalf of the European ECO-Forum, welcomed the inclusion of citizen science activities in the forthcoming Recommendations and further work under the Convention. The work of the Association contributed to the development of good practices and principles that could provide guidance for carrying out good citizen science projects. He also highlighted the importance of considering citizen science as a part of a wider movement promoting open science and the recognition of the human right to science. He suggested supporting the work of the Special Rapporteur in the field of cultural rights and the implementation of the relevant human rights instruments. He called for caution with respect to the assumption of “open by default” regarding community-generated data, especially for vulnerable communities and with respect to indigenous data sovereignty and environmental campaigners. Furthermore, the speaker made several suggestions regarding paragraphs 9, 11, 16, 18, 22, 28, 34, 40 and 41 of the Recommendations and the addendum thereto.

30. In the ensuing discussion, the participants highlighted the opportunities that citizen science could bring for children and youth to be involved in climate action and environmental protection and further work related to the right to benefit from scientific progress.

31. The Task Force:

(a) Thanked the speakers and noted the work undertaken for the update of the Recommendations on the more effective use of electronic information tools and on the recent developments in the dissemination of environmental information and the use of electronic information as presented by the speakers;

(b) Took note of the draft updated Recommendations on the more effective use of electronic information tools (AC/TF.AI-7/Inf.3 and Add.1) and of the comments on the document provided during the meeting;

(c) Invited Parties, signatories, other interested States and stakeholders to provide further possible comments on the draft updated Recommendations by 18 December 2020;

(d) Requested the Chair with the assistance of the secretariat to finalize the draft updated Recommendations for their submission to the twenty-fifth meeting of the Working Group for consideration and approval and subsequent submission to the Meeting of the Parties for consideration.

## V. Stocktaking of recent and upcoming developments

32. The Chair invited the participants to discuss developments regarding public access to information, including those related to the COVID-19 pandemic and to the application of restrictions in disclosure, specifically in the case of internal communications of public authorities (art. 4 (3) (c) of the Convention).

33. The representative of the Leuphana University Lüneburg (Germany) presented the findings of a study conducted for the German Federal Environment Agency and Federal Ministry for the Environment, Nature Conservation and Nuclear Safety on access to environmental information in accordance with the Environmental Information Act. The study found that the Act was fit for purpose. Nevertheless, the project revealed several challenges in its implementation with regard to awareness of rights and obligations, especially for private bodies, keeping statistics of information requests, compliance with deadlines when a third party was involved and lack of standards and guidance for active dissemination of information. Further developments should address the fragmentation in data availability and accessibility, take into account the increase in the number of written requests for information and greater public interest in and awareness of environmental and climate action issues in the future. The study recommended increasing awareness of the Environmental Information Act, improving organization and practical learning, and expanding dissemination of environmental information. It was also recommended that the Federal Commissioner for Data Protection and Freedom of Information be mandated to deal with complaints related to access to environmental information. All those measures could help to better link environmental information to the Sustainable Development Goals and further develop a culture of transparency. The speaker also provided some insights into German case law on

whether COVID-19-related data fell under the scope of environmental information under the Convention and the interpretation of internal communications as a ground for refusal of information requests.

34. The representative of Germany further clarified that the study informed further work in that area and that the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety had put forward the legislative proposal to mandate the Federal Commissioner for Data Protection and Freedom of Information to deal with complaints related to access to environmental information to be adopted by the legislator in early 2021.<sup>20</sup>

35. The representative of the European Ombudsman highlighted the work undertaken by the Ombudsman as an external and independent mechanism carrying out impartial investigations into complaints against European Union institutions and the second tier of the review mechanism of complaints against the European Investment Bank. The Ombudsman also complemented the work of the courts, by offering the public an alternative way of resolving disputes within the European Union administration. The Ombudsman had no power to make legally binding decisions but had the power of persuasion. In its 25-year history, the Ombudsman had dealt with a number of complaints concerning access to environmental information. In 2018, for example, the Ombudsman had carried out an investigation into the European Commission's refusal to grant access to documents concerning the positions taken by national authorities in a Commission technical committee dealing with the risk assessment of how pesticides affected the bee population. Other investigations concerned European Investment Bank practice regarding sufficient and timely provision of environmental information about projects that it financed either directly or indirectly. The Ombudsman had also promoted administrative transparency during the COVID-19 pandemic and recommended that all decisions related to the pandemic – including those taken under accelerated or emergency procedures – needed to be taken as transparently as possible, while temporary measures should be publicized, explained, and regularly reviewed. Lastly, it was concluded that ombudsmen might, and on many occasions did, play a vital role as an independent environmental watchdog in each country, which could investigate whether the national authorities properly applied and enforced environmental law, and which could receive complaints from the public. Their role also remained crucial in the time of the pandemic to control temporary restrictions on freedoms due to the current health crisis.

36. The representative of Malta provided an overview of the national legal framework and practical arrangements related to access to environmental information, grounds for refusal, and appeal procedures. The legal framework included the Freedom of Information Act (Chap. 496 of the Laws of Malta) and the Freedom of Access to Information on the Environment Regulations (Subsidiary Legislation 549.39). The regulations specifically focused on access to and dissemination of environmental information implementing the Convention. Requests for environmental information were received mainly by email, telephone or through the Environment and Resources Authority website. The website had been made more user-friendly recently and included an electronic customer care tool that allowed for the making of enquiries regarding environmental permits, the reporting of environmental illegality and the submission of requests for data or information. The grounds for refusal of the requested environmental information were listed in regulation 7 of Subsidiary Legislation 549.39. One of the grounds provided that the requests for information could be refused if it concerned material in the course of completion or internal communications of public authorities. The term “internal communication” was not defined in the legislation but could cover information, opinions, statements and other material made and shared by officers within one public authority, or between different public authorities. Such a refusal could be justified to allow for and ensure the free expression of personal and professional opinions by public officers involved in internal communications or in preparation of relevant materials, without external pressures. It aimed to prevent the disclosure of communications that could be taken out of context, misapplied or difficult to redact. In any case, when applying that ground for refusal, the public authority should interpret it restrictively, and weigh up the public interest served by disclosure against that served by the refusal for every particular case. A decision

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<sup>20</sup> At the time of preparation of the report, Germany informed the secretariat that the legislator had adopted the requested changes, which entered into force in March 2021.

not to disclose information could be appealed before the Information and Data Protection Commissioner, free of charge, or before the Environment and Planning Review Tribunal with an expedited review (hearing within six days). The pandemic had not affected the procedure for access to information upon request due to the traditional use of electronic tools such as emails or website requests.

37. The representative of the NGO Journalists for Human Rights, also speaking on behalf of the European ECO-Forum, raised awareness about the situation related to access to information in North Macedonia in the context of the pandemic and pressures faced by environmental defenders in the country. For example, a significant challenge had been experienced in reaching out to the public authorities and receiving their responses to requests for information. At the same time, some decisions taken during that period could indicate concerns related to corruption or favouritism to business. Some cases related to opening a mine in the eastern part of the country or construction of small hydropower plants should be properly investigated. In that regard, the role of green prosecutors in the country remained important to ensure effective public access to information and access to justice in environmental matters without persecution or harassment.

38. The representative of Justice and Environment reported on a study related to the implementation of the Environmental Liability Directive.<sup>21</sup> The study mainly focused on access to information in connection with environmental liability based on practice in selected member States of the European Union: Austria, Bulgaria, Estonia, Greece, Hungary and Spain. The study looked at the specialized organizational or information infrastructure of access to information in environmental liability issues, the role of state-of-the-environment reporting, alternative sources of information, access to information upon request, flows of information in case of accidental release and other issues. Some case studies showed experience in establishing public registries, databases or other sources of information on that matter. The study concluded that such information should be collected from multiple sources, not only from the concerned operators and lower level environmental authorities, but also from other public authorities and review and law enforcement bodies, even if their primary topics were not related to environmental liability itself. Only such a divergent set of information sources could offer a sufficiently balanced environmental liability information system, where both aggregate and individual data related to new and previous occurrences and unresolved pollution cases could be traced back and could be searched by interactive means.

39. In the following discussion, the participants:

(a) Raised concerns with regard to the forthcoming Environment Bill in the United Kingdom of Great Britain and Northern Ireland that could limit the disclosure of information on investigations into suspected failures by public authorities to comply with environmental law;

(b) Highlighted the need to ensure that members of the public had access to all necessary information in times of crisis such as pandemics or climate change, the emerging trend of members of the public producing information when they perceived that they could not access – or trust – official or mainstream information, and the issue of possible productive means of engaging the public differently with such events that could be massively distributed in time and space.

40. The Task Force:

(a) Thanked the speakers and took note of the recent developments, challenges and lessons learned related to access to environmental information, including in the context of the COVID-19 pandemic and with regard to internal communications, as presented by the speakers;

(b) Called on the Parties to take additional measures as needed to ensure that public access to environmental information upon request was provided effectively in

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<sup>21</sup> Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, *Official Journal of the European Union*, L 143 (2004), pp. 56–75.

accordance with the relevant provisions of the Aarhus Convention during the COVID-19 pandemic and its subsequent economic recovery phase;

(c) Called on the Parties to improve the sustainability of the practical arrangements for public access to environmental information online and upon request in case of disasters and any other emergency situations and post-emergency recovery and to involve the Aarhus Centres in that work as appropriate;

(d) Highlighted that access to internal communications underpinned the transparency of the decision-making procedure in environmental matters and promoted a culture of open government;

(e) Encouraged the Parties to adopt the necessary legislative and practical measures setting out a clear definition of the scope of the term “internal communications” if an exception to their disclosure was provided for in national law or customary practice;

(f) Also encouraged the Parties to take the necessary measures to raise awareness of public officials related to the handling of internal communications and their disclosure in accordance with the Aarhus Convention.

## **VI. Activities under other international forums**

41. The Chair invited the representatives of the respective international forums to share information about their activities to measure and monitor progress towards the achievement of environment-related Sustainable Development Goals and to explore opportunities for building synergies. She highlighted that the implementation of the information pillar of the Convention could support the achievement of the environmental dimension of target 16.10 of the Sustainable Development Goal 16, on ensuring public access to information and protecting fundamental freedoms, in accordance with national legislation and international agreements.

42. The representative of UNESCO reported that the organization, as the custodian agency for indicator 16.10.2 of the Sustainable Development Goal 16, had been mandated to monitor and report on the number of countries that had adopted and implemented constitutional, statutory and/or policy guarantees for public access to information. To implement that mandate, UNESCO had developed standardized monitoring and reporting instruments for the indicator to assist countries in tracking their progress (for example, national and institutional surveys with the objective of assessing the state of access to information). In accordance with a recent institution survey, some countries with recently adopted legal frameworks or policies related to access to information had shown an interest in disclosing environmental information. Other countries had provided a working mechanism to process access to information requests in their ministerial jurisdictions and disclose environmental information proactively despite the lack of legislative grounds. To support capacity-building in that area, UNESCO had also successfully carried out training sessions for judicial operators (17,000 in more than 60 countries to date). The training sessions had included a component on how courts should deal with access to information issues from the point of view of information cases before them and the transparency of their functioning. Further progress should be made with regard to the transparency of the judicial system itself and the functioning of information commissioners. The speaker highlighted the role of the Aarhus Convention in continuing to promote the rights-based approach and a level playing field regarding access to information in the fields of environment and health. It remained important to keep reporting in those areas transparent for the public and international organizations at the same time.

43. In the ensuing discussion, the participants welcomed the progress in the ratification of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), and recognized both the importance of keeping reporting to international organizations on environmental matters and crisis situations transparent for the public to prevent misinformation and disinformation and the crucial role of scientific information in that regard.

44. Following the ensuing discussion, the Task Force:

(a) Expressed its appreciation to the representative of UNESCO for providing information about the relevant activities related to access to information and invited to explore possible opportunities for synergies with the Aarhus Convention in promoting public access to environmental information;

(b) Welcomed the exchange of information on recent activities with regard to the implementation of, and measuring and monitoring of progress towards, target 16.10 of the Sustainable Development Goal 16 as presented by the speakers;

(c) Highlighted that the measures adopted by the countries to implement target 16.10 of the Sustainable Development Goal 16 (ensure public access to information and protect fundamental freedoms) could support progress towards other environment-related Sustainable Development Goals and targets;

(d) Encouraged Parties to collect the relevant data and information regarding public access to environmental information (e.g., statistics available on the number of requests made, the number of refusals and the reasons for such refusals) and to provide the respective information in the national implementation reports (Question IX).

## **VII. Closing of the meeting**

45. The Task Force requested the secretariat, in consultation with the Chair, to finalize the report and incorporate the agreed outcomes as presented by the Chair at the meeting (AC/TF.AI-7/Inf.4). The Chair thanked the speakers, the participants, the secretariat and the interpreters, and closed the meeting.

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