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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 Justice on its thirteenth meeting*

Summary

At its second session (Almaty, Kazakhstan, 25–27 May 2005), by its decision II/2, the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters established the Task Force on Access to Justice to undertake a number of tasks related to promoting access to justice in environmental matters, including analytical work on financial and other barriers to access and the sharing of relevant experience and examples of good practice (ECE/MP.PP/2005/2/Add.3, paras. 30–33). By that same decision, the Task Force was requested to present the results of its work to the Working Group of the Parties for consideration and appropriate action. At its sixth session (Budva, Montenegro, 11–13 September 2017), the Meeting of the Parties renewed the Task Force's mandate 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/3).

Pursuant to the above-mentioned mandates, the present report of the Task Force on its thirteenth meeting (Geneva (online), 15 and 16 February 2021) is being submitted for the consideration of the Working Group of the Parties at its twenty-fifth meeting.

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

Introduction

1. The thirteenth meeting of the Task Force on Access to Justice under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held online on 15 and 16 February 2021.

2. The meeting was attended by the representatives of the following Parties to the Convention: Armenia, Austria, Belarus, Belgium, Estonia, Finland, France, Georgia, Germany, Greece, Ireland, Kazakhstan, Latvia, Lithuania, Malta, Montenegro, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Switzerland and United Kingdom of Great Britain and Northern Ireland. Representative of Uruguay also participated in the meeting. The 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 Ombudsman, the European Environment Agency and the European Investment Bank were also present.

3. Also attending the meeting were judges, representatives of judicial institutions and independent review bodies and experts from Albania, Belarus, Belgium, Iceland, Ireland, Kazakhstan, Montenegro, the Republic of Moldova, Serbia and Ukraine, as well as the Court of Justice of the European Union and the Registry of the European Court of Human Rights. Some of these participants represented the European Union Forum of Judges for the Environment.

4. Representatives of United Nations entities such as the Office of the United Nations High Commissioner for Human Rights, the United Nations Environment Programme (UNEP), the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) were present. The meeting was also attended by representatives of other international organizations such as the Organisation for Economic Co-operation and Development (OECD) and the Organization for Security and Cooperation in Europe.

5. Representatives of Aarhus Centres, international financial institutions and business, professional, research and academic organizations were 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 Task Force Chair, Mr. Jan Darpö (Sweden), opened the meeting.

7. The Task Force adopted its agenda as set out in informal document AC/TF.AJ-13/Inf.1.[1]

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

8. Opening the item, the Chair draw attention to the outcomes of the recent thematic session on access to justice at the twenty-fourth meeting of the Working Group of the Parties (Geneva, 28 October 2020),[2] recalling that: public interest litigation could support progress in implementing environmental rights and addressing most critical environmental issues such as air quality, biodiversity loss, water quality and climate change; and Parties could benefit greatly from promoting enabling conditions for public interest litigation as an essential

[1] All documents for the thirteenth meeting, including background documents, a list of participants, statements and presentations, are available at https://unece.org/environmental-policy/events/thirteenth-meeting-task-force-access-justice-under-aarhus-convention.

[2] See https://unece.org/environmental-policy/events/twenty-fourth-meeting-working-group-parties-aarhus-convention-hybrid (tab marked “AJ session”).

element of protecting legitimate environmental rights and interests, and promoting accountability in decision-making and the rule of law.

9. Mr. Luc Lavrysen (President, European Union Forum of Judges for the Environment) highlighted the impact of public interest litigation using the example of climate change matters. The outcomes of the Forum's 2017 annual conference (Oxford, United Kingdom of Great Britain and Northern Ireland, 21–23 September 2017) and further developments demonstrated that climate justice was developing gradually in the region. At first, litigation had focused primarily on very specific and often quite technical aspects of climate legislation, but over time several strategic cases had been brought before the courts with different outcomes (for example, *Nature and Youth Norway, Greenpeace Nordic and others v. The State represented by the Ministry of Petroleum and Energy*[3] or *Urgenda Foundation v. The State of the Netherlands (Ministry of Economic Affairs and Climate Policy*).[4] In the latter case, the Supreme Court of the Netherlands had emphasized the importance of articles 2 and 8 of the European Convention on Human Rights and confirmed no violation of separation of powers by imposing a result-based injunction to ensure the established reduction of greenhouse gas emissions. Furthermore, strategic climate litigation cases had been initiated by members of the public before the national courts of countries such as Belgium, France, Germany, Ireland and Spain. Other examples of cases at the international level included *Armando Carvalho and others v. European Parliament and Council of the European Union*,[5] *Duarte Agostinho and others v. Portugal and others*[6] and *The Union of Swiss Senior Women for Climate Protection v. Swiss Federal Council and others*.[7] The speaker concluded that national courts and tribunals would inevitably be increasingly confronted with such cases and highlighted the importance of learning from the case law of other national and international courts on the matter.

10. Mr. Richard Buxton (Partner, Richard Buxton Solicitors) highlighted several cases initiated by individuals or groups concerned about public law decisions that could adversely affect their environment. While costs remained a significant challenge in the United Kingdom of Great Britain and Northern Ireland, the speaker focused on challenges related to the appeal system. One case concerned authorization for two adjacent housing developments next to a wetland with several international and domestic designations. The appellants had claimed that the developments should have been assessed jointly for environmental impact assessment purposes given their location. However, the court had rejected the claim at first instance. A permission to appeal in that case had also been refused, as well as a subsequent request to reopen the case. The whole procedure had involved significant costs for the applicants but had not answered their claims. Another case related to the decision to construct a memorial and a learning centre in a park in central London had raised concerns over the separation of powers between promoter and decision-maker. Likewise, the initial claim and further appeal had been rejected by the Court of Appeal, leaving the applicants with only one option – to apply to the European Court of Human Rights. Nevertheless, several successful cases had resulted in more careful application of the environmental impact assessment, including a housing development over contaminated land and another protecting a natural site from the threat of enclosed sports development. Those cases had clearly proved the importance of judicial protection for the environment.

11. The representative of Environment-People-Law, also speaking on behalf of the European ECO-Forum, shared the practice of public interest litigation concerning environmental assessments in Ukraine. In 2018, the Law on Environmental Impact Assessment had been passed enabling members of the public to challenge in court environmental impact assessment decisions and other decisions, actions or omissions by State bodies or self-government bodies during environmental impact assessment procedures. While the Law on Strategic Environmental Assessment lacked provisions on access to justice, decisions of public authorities requiring such assessment could be challenged in court

[3] Norway, Supreme Court, Case No. 20-051052SIV-HRET, Order, 28 October 2020.
[4] The Netherlands, Supreme Court, Case No. 19/00135, Judgment, 20 December 2019.
[5] General Court of the European Union, Case No. T-330/18, Order, 8 May 2019.
[6] European Court of Human Rights (ECHR), Request No. 39371/20, Communication, 13 November 2020.
[7] ECHR, Application No. 53600/20, Communication, 25 March 2021.

following general rules. Overall, individuals and NGOs enjoyed broad standing and could challenge decisions of public officials if they violated their rights, freedoms and interests. Moreover, they could be admitted as third parties to a dispute (for example, *Ekosphera v. Department of Ecology of the Transcarpathian Regional State Administration*).[8] Nevertheless, court fees and costs remained a significant deterrent for public interest litigation and had increased recently without any waivers for NGOs or types of environmental cases. Another challenge remained due to the long duration of litigation in some cases. To promote public interest litigation and broad access to justice, Environment-People-Law continued awareness-raising activities and had published several studies on access to justice issues.

12. The representative of Lithuania reported on the evolution of the concept of class action in country, which had existed since 2011 and had been incorporated into both civil and administrative proceedings. The introduction of class actions aimed at: (a) improving access to justice for those unable to initiate legal proceedings owing to financial reasons, or lack of experience or of time; (b) shortening civil proceedings; (c) ensuring uniform case law in the same or similar cases; (d) contributing to public confidence in the judicial system, legal certainty, protection of legitimate expectations; and (e) reducing costs of civil proceedings for plaintiffs filing a class action, defendants and the State. In 2020, provisions of the Code of Civil Proceedings regarding class actions had been amended to make that class actions more effective. There were no specific rules concerning class actions in environmental disputes, meaning that general provisions applied. Between 2015 and 2021, there had been ten class actions, including one related to environmental matters in administrative proceedings. Regarding both civil and administrative proceedings, the speaker elaborated on: (a) substantial legal standing requirements, such as a similarity or identicalness of facts, rights and interests protected by law and the same means of redress; (b) procedural legal standing requirements concerning the number of claimants, prelitigation and representation; and (c) other aspects such as the scope of review, costs, assistance mechanisms, the requirement to have professional legal representation, timeliness and remedies and protection against harassment or retaliation. However, a Natura 2000 case filed against the State concerning clear-cutting and selective logging showed the challenges of class action in Lithuania, as the court had refused to accept the case on procedural grounds.

13. The representative of the European Environmental Bureau, also speaking on behalf of the European ECO-Forum, underscored the importance of amending the European Union Aarhus Regulation[9] to fully meet the Convention's access to justice requirements. She dismissed the arguments delaying implementation of the Compliance Committee's recommendations and urged that its recent advice on the matter be followed. That would allow for decisions made by European Union institutions to be challenged in the public interest and reconfirm the standing of the European Union as a proponent of the rule of law. She warned that failure to do so would undermine the authority of the Convention and the Compliance Committee.

14. The representative of the Guta Environmental Law Association, also speaking on behalf of the European ECO-Forum, stressed the importance of removing barriers in standing, costs and availability of funding for public interest litigation cases. She proposed continuing to share experiences, success stories and lessons learned to identify ways in which funding and other barriers could be overcome and to support, among other things, the increase in the number of public interest lawyers, effective strategies for public interest litigations, better access to environmental knowledge and expertise for such cases, and increased protection of environmental human rights defenders often comprising public interest lawyers.

15. Following the discussion, the Task Force:

(a) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges related to promotion of public interest litigation in various environmental matters;

[8] Ukraine, Transcarpathian Regional Administrative Court, Case No. 260/771/19.

[9] Available at https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32006R1367 .

(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 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 laws relating to the environment;

(g) Encouraged Parties to develop mechanisms that would prevent strategic lawsuits against public participation;

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

III. Access to justice in cases relating to air quality

16. Opening the item, the Chair recalled that, at its previous meeting, the Task Force had decided to continue focusing on access to justice in cases challenging acts or omissions that contravened permit requirements or laws relating to the environment, focusing on cases relating to air quality (e. g., permits for industrial installations and plans and projects concerning infrastructure, land use and air quality management) (ECE/MP.PP/WG.1/2019/4, para. 10). He recalled the work undertaken under the auspices of the ECE Convention on Long-range Transboundary Air Pollution and the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment[10] on promoting clean air.

17. The expert from the University of Antwerp (Belgium) presented the scientific and societal impact of large-scale citizen science projects on air quality, highlighting the "CurieuzeNeuzen" project in Belgium. The project aimed to assess how many people in a city, region or country might be living at locations that exceeded the legal limits values for nitrogen dioxide (NO_2). The project took into account the following challenges: (a) the insufficient monitoring strategy of the European Union Air Quality Directive;[11] and (b) environmental information primarily targeted the highly educated and environmentally aware part of the population, whereas a large part of the population affected by pollution had no access to the information. To overcome those challenges, the "CurieuzeNeuzen" project enabled the residents to receive simple measuring equipment kit and measure air quality for NO_2. Such a large-scale citizen science project could become a powerful tool for collecting high quality scientific data to reliably estimate population exposure to air pollution and to verify air quality models. However, it also had a broader societal impact thanks to a professional marketing and communication campaign. Consequently, it had already increased environmental awareness and influenced individuals' behaviour, affected local and national-level elections, led to the adoption of a more ambitious air quality plan for 2030, and provided data for a lawsuit related to compliance with European Union law.

18. The expert from the Registry of the European Court of Human Rights shared the Court's practice related to air quality cases. The speaker elaborated on the Court's procedural jurisprudence relating to legal standing in accordance with article 34 of the European

[10] See A/HRC/40/55, available at ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/55 .

[11] Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0050 .

Convention on Human Rights and the differentiation between indirect, direct, and "potential" victims who could bring a case (for art. 6, *Balmer-Schafroth and others v. Switzerland*[12] and *Athanassoglou and others v. Switzerland*;[13] for art. 8, *Asselbourg and others v. Luxembourg*).[14] The Court held that severe environmental pollution might affect the well-being of individuals and prevent them from enjoying their homes, thereby constituting a violation of article 8 of the Convention, even when there was no serious danger to health (see *López Ostra v. Spain*).[15] However, a legal entity such as an NGO could not rely on that right. Moreover, to access the Court under article 6 (right to a fair trial), there should be a genuine and serious domestic dispute regarding a right that could be said to be recognized under domestic law, irrespective of whether it was protected under the Convention (see *Collectif Stop Melox and Mox v. France,*[16] *L'Erablière A.S.B.L. v. Belgium*).[17] Legal standing was only granted to legal or natural persons that were parties to the procedure the subject of the complaint - either in person or, exceptionally through an NGO (see *Bursa Barosu Başkanlığı and Others v. Turkey*,[18] *Gorraiz Lizarraga and Others v. Spain*)[19] The Court had been dealing with several cases concerning actual or potential air pollution from industry or traffic and general air quality. Nevertheless, several legal issues were yet to be addressed by the Court, such as: (a) extending legal standing to persons acting through an NGO irrespective of the "local or direct connection"; (b) allowing NGOs to pursue litigation on behalf of individuals not capable of doing so; (c) allowing environmental NGOs to engage in public interest litigation before the court; (d) considering whether the right to access to court could include enforcement of a right to a healthy environment if such a right was foreseen in national law; and (e) examining access to administrative courts under the procedural limb of article 8, not article 6, of the Convention, to deal with cases in which such action was not recognized by domestic law.

19. The representative of ClientEarth, also speaking on behalf of the European ECO-Forum, highlighted new developments concerning the right to clean air and the role of courts in that regard. The Court of Justice of the European Union rulings in *Dieter Janecek v. Freistaat Bayern*[20] and *The Queen on the application of ClientEarth v. The Secretary of State for the Environment, Food and Rural Affairs*[21] had paved the way to the right to clean air and standing of NGOs and individuals to require the adoption of effective air quality plans. Several recent cases had raised new issues. In *Lies Craeynest and others v. Brussels Hoofdstedelijk Gewest and Brussels Instituut voor Milieubeheer*,[22] the Court of Justice had addressed matters related to standing to challenge the location of monitoring stations, the intensity of review of scientifically complex decisions, evidence and burden of proof. In *Deutsche Umwelthilfe eV v. Freistaat Bayern*,[23] the Court of Justice had addressed issues related to the fundamental right to an effective remedy, the primacy of European Union law to overcome procedural obstacles in national legal systems and the principle of State liability for losses and damages caused to individuals. Several national courts (e. g., in Belgium and France) had penalized public authorities for failing to act on air pollution. In the United Kingdom of Great Britain and Northern Ireland, a ground-breaking decision of a coroner had established that failure to reduce pollution levels to legal limits and World Health Organization recommendations had been a causal factor in a nine-year old girl's death. The speaker made recommendations to improve the situation, for instance by including an explicit access to justice provision and rules on the possibility to claim damages in the revised Air Quality Directive, strengthening and harmonizing European Union rules on penalties and

[12] ECHR, Application No. 22110/93, Judgment (Grand Chamber), 26 August 1997.
[13] ECHR, Application No. 27644/95, Judgment (Grand Chamber), 6 April 2000.
[14] ECHR, Application No. 29121/95, Decision, 29 June 1999.
[15] ECHR, Application No. 16798/90, Judgment, 9 December 1994.
[16] ECHR, Application No. 75218/01, Judgment (Merits), 12 June 2007.
[17] ECHR, Application No. 49230/07, Judgment, 24 February 2009.
[18] ECHR, Application No. 25680/05, Judgment (Merits and Just Satisfaction), 19 June 2018.
[19] ECHR, Application No. 62543/00, Judgment (Merits), 27 April 2004.
[20] Court of Justice of the European Union (CJEU), Case No. C-237/07, Judgment (Second Chamber), 25 July 2008.
[21] CJEU, Case No. C-404/13, Judgment (Second Chamber), 19 November 2014.
[22] CJEU, Case No. C-723/17, Judgment (First Chamber), 26 June 2019.
[23] CJEU, Case No. C-752/18, Judgment (Grand Chamber), 19 December 2019.

sanctions, and addressing the link between pollution and a human right to a healthy environment to ensure effective remedies.

20. The expert from the chambers of an Advocate General at the Court of Justice of the European Union provided further insights into the relevant case law. The cases before the Court of Justice were mainly related to enforcement of European Union air quality rules, which set out limit values on specific pollutants in the ambient air and required member States to establish an air quality plan where those limit values were exceeded. Challenges in different member States posed the question of to what extent air quality plans could be judicially controlled by national courts and what could be effective remedies in such cases. In *Dieter Janecek*,[24] the Court of Justice had confirmed that persons directly concerned could invoke the public authority's obligation to adopt an air quality plan as individuals had a legitimate interest in a healthy environment. In *ClientEarth*,[25] the Court of Justice had specified that, whereas the content of the plans remained within the discretion of the State, the exceedance should be as short as possible and courts should take any necessary measure so that the public authority would establish the required plan. Afterwards, the High Court of the United Kingdom of Great Britain and Northern Ireland had looked deeply into the technicalities to achieve ambient air quality and approved the introduction of congestion charges as the preferred measure to remedy the situation. In *Lies Craeynest*,[26] the Court of Justice had clarified the limits of discretion regarding placement of sampling points by the city and held that at least those limits should be enforced by the courts. *Deutsche Umwelthilfe eV*[27] had raised the question of the enforcement of a court decision when the responsible public officials had refused to ban diesel cars in cities. The Court of Justice had concluded that, if a judgment could not be enforced, the essential content of the right to an effective remedy would be violated, in particular if it concerned health. However, any restriction of the right to liberty caused by coercive detention required a sufficient legal basis, which was for the courts of the member States to decide. Moreover, it would have to be assessed whether other effective means of enforcement existed that were less restrictive to fundamental rights. While the situation regarding the diesel ban's enforcement remained open, other courts had opted for imposing one-time (in Germany) or recurring penalties (in France). In addition, the appointment of a special commissioner who could adopt the necessary measures appeared to be an option (in Italy).

21. Mr. Luc Lavrysen (President, European Union Forum of Judges for the Environment) further presented the findings of the Forum's 2020 conference related to domestic air pollution litigation (online, 9 and 10 October 2020).[28] A survey carried out before the conference underscored the heterogeneity of actors, the variety of normative bases, and conflicting economic and legal interests involved. Most cases were triggered due to exceedance of pollutant limits, country-specific problems with pollutants or sources of pollution, transboundary pollution, serious deficiencies in the monitoring network or defeat devices. The claimants varied from NGOs, municipalities, traders' associations, ombudspersons and scientific institutions to individuals. Those disputes had been initiated to challenge: (a) the content of air quality plans; (b) the scientific bases of air quality plans; (c) the location of measurement points; (d) the legality of diesel bans; (e) the lawfulness of interfering with property rights; and (f) individual development projects that might cause exceedance of air quality standards. Moreover, the speaker identified difficulties ensuring compliance with domestic judgments ordering Governments to take action. There were various trends concerning sanctions that could be imposed in case of infringement of national air laws. Overall, most jurisdictions were in favour of judicial review of the content of air quality plans. Remedies depended on national procedural and substantive laws and the technical complexity of cases.

22. A judge of the Supreme Court of Ukraine reported on the evolution of the case law related to environmental public interest litigation in Ukraine. Members of the public could seek access to justice in Ukraine in order to appeal decisions, actions or omissions by public

[24] CJEU, Case No. C-237/07, Judgment, para. 23.
[25] CJEU, Case No. C-404/13, Judgment, para. 57.
[26] CJEU, Case No. C-723/17, Judgment, paras. 44–53.
[27] CJEU, Case No. C-752/18, Judgment, paras. 35–38.
[28] See www.eufje.org/index.php?option=com_content&view=article&id=45&Itemid=235&lang=en .

authorities that violated national environmental law, to halt environmentally hazardous activities, or to claim damages. In *Volodymyr Rashko v. Ministry of Ecology and Natural Resources of Ukraine and others*,[29] the Supreme Court had held that the interpretation of existing domestic legislation incorporating the Convention concerning the right of access to justice could not be restricted and that everyone had the right to a legal remedy against the violation of the constitutional right to a safe environment, which could be realized individually or collectively. In another case related to an appeal against the conclusions of an environmental inspection during the construction of a biomass power plant, the Supreme Court had confirmed the applicant's right to access to justice according to article 9 (2) of the Convention but dismissed the claim due to the applicant's choice of an ineffective legal remedy. Yet another case concerned the termination of a land lease contract after the defendant had destroyed parts of the leased land of environmental protection value. Although stating that the applicant's right to environmental protection should be adequate and could not violate the defendant's right to property, the court declared that the termination of the lease contract – also concerning areas that had not been destroyed – was the only way to undo the consequences of the defendant's violations. However, although the domestic courts had repeatedly confirmed the rights of members of the public to directly apply for protection of their environmental rights, the key challenges revolved around the lack of awareness, the low level of legal education of the public about their rights and the controversial application of the Aarhus Convention by the courts. Therefore, it remained important to: (a) increase awareness of the public and judiciary regarding the importance of environmental protection and its connection to human rights; (b) improve judges' practical skills and knowledge concerning application of environmental law; and (c) establish legislative prerequisites to remove legal barriers to access to justice.

23. The representative of the Swedish Society for Nature Conservation, also speaking on behalf of the European ECO-Forum, highlighted an eleven-year (2008–2019) air quality case in Stockholm. In the case, several residents affected by exceedance of legal limits values for several pollutants had initiated proceedings requesting the city to enforce air quality standards and comply with the Government action plan. In the final verdict on appeal, the court had been unable to determine an obligation for the city to take action, concluding that the matter was legislative, rather than judicial, in nature, and that measures to comply with the particular limits were of such a nature that they only could be established by the county administration or the Government. The national court's judgment meant that limit values did not establish a right that could be relied upon to seek remedy from the responsible public authorities and air quality plans remained the only means in that regard. However, after an infringement case for non-compliance with European Union limit values against the country in 2011, several air pollution reduction measures had been taken and finally those limit values had been followed.

24. The representative of the BlueLink Foundation, also speaking on behalf of Justice and Environment and the European ECO-Forum, reported on the results of a survey relating to access to justice in the implementation of European Union air quality laws in selected member States such as Austria, Bulgaria, Czechia, Hungary and Romania. Air quality litigation was characterized by the complexity of the cases, which involved several actors and interest groups and had complicated relations of causality and liability, high costs, lengthy proceedings and great economic and political pressure. The speaker highlighted several findings from the survey, in particular: (a) air protection laws should comply with the Aarhus Convention and include provisions related to access to justice; (b) the important role of environmental NGOs in initiating changes to air quality plans; and (c) the need to reduce costs associated with air quality litigation. While air quality policymaking itself and strategic litigation by NGOs continued to face several challenges, public participation in developing air quality plans and other related matters remained crucial.

25. The representative of Environmental Action Germany, also speaking on behalf of the European ECO-Forum, highlighted the positive impact of public interest litigation in decreasing air pollution and improving air quality. In order to achieve compliance with article 9 (3) of the Aarhus Convention, the German legislator had created the possibility not only

[29] Ukraine, Supreme court, Case No. 826/9432/17, Judgment, 2 October 2019.

for affected persons, but also for environmental NGOs to file lawsuits. However, the scope of the law was limited in such a way that all approvals for products that violated environmental regulations could not be challenged in court . It remained contested whether access to the courts should also be granted regarding unlawful administrative acts approving certain products, especially cars, and the respective preliminary ruling had been brought before the Court of Justice of the European Union.[30] Since German law did not provide for the right to sue, the question arose as to whether such a right could be derived directly from European Union law and whether national law might have to remain inapplicable for its implementation. That could be important particularly if human health could be endangered without effective legal protection.

26. Subsequently, the participants discussed how representative citizen science projects could be when drawing conclusions regarding the scope of the population affected or the duration of exposure.

27. The Task Force then:

(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, and individual development projects that might 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 regarding 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 the above-mentioned measures should ensure effective enforcement of 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 regarding 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 regarding access to justice related to air quality through the Aarhus Clearinghouse and the jurisprudence database.

IV. Access to justice in information cases

28. Following up on the outcomes of the Task Force's twelfth meeting (Geneva, 28 February–1 March 2019), delegates continued to identify good practices, challenges, innovative approaches, priority actions and needs to further promote effective access to justice in information cases.

29. The Chair recalled that the discussion would aim to finalize the study launched since the sixth session of the Meeting of the Parties to the Convention in 2017 to collect in-depth information on the matter and further support implementation of article 9 (1), in conjunction with article 4 and other relevant provisions of the Convention. He also recalled the Task Force's role as a platform for studies and meetings where all aspects of the third pillar of the Convention could be discussed and facilitate a wider debate.

30. The Chair introduced the finalized report on the study, which had targeted the following Parties to the Convention: European Union, Germany, Georgia, Ireland,

[30] CJEU, *Deutsche Umwelthilfe e.V. v. Bundesrepublik Deutschland*, Case No. C-873/19, Request, 29 November 2019.

Kazakhstan, Montenegro, Portugal, Republic of Moldova, Serbia, Slovakia, Sweden and Switzerland. The report was based on responses received from several institutions (public authorities, review bodies, academia, NGOs, etc.) in the Parties to a questionnaire circulated to the national focal points and stakeholders, the 2017 national implementation reports and several follow-up rounds of consultations with the Bureau, national focal points and stakeholders. The study reflected the viewpoints expressed by the Chair and should be considered as a comprise indicating where differing opinions had been reported on a certain issue and giving a general picture of the arguments used.

31. The Chair underscored that the topic had not received sufficient attention in the work of the Convention but remained very complex in many Parties, touching on the effective judicial protection of the right to know and disclosure of sensitive information. Information remained extremely important; it would not be possible without information to make assessments, effectively participate in decision-making or seek access to justice. The session would take stock of comments to the study but also look in depth at experiences and developments in several Parties involved in the study and beyond.

32. The representative of Montenegro reported on the legal framework and recent developments related to access to justice in information cases in Montenegro. The right to a healthy environment and related procedural rights were set out by the Constitution of Montenegro, the Law on Environment and the Law on Free Access to Information. According to the latter, members of the public could file a request for information with the public authorities, who must respond within 15 days plus 8 additional days in voluminous cases. Refusals of information requests should contain a detailed explanation of the reasons and information on available legal remedies. The requesting party could appeal the refusals to the Agency for Personal Data Protection and Free Access to Information as an independent supervisory body. The Agency should decide and submit a decision to the appellant within 15 days of the appeal being filed. Public authorities responsible for information provision and the Agency could be subject to penalties should they fail to make a timely decision. Appellants not satisfied with the Agency's decision could file a complaint against that decision with the Administrative Court. Cases related to data secrecy could be appealed to the Administrative Court directly. Court proceedings of information cases were regarded as urgent and should be carried out at the lowest possible cost to the parties and other participants in the proceedings. The challenges to be further addressed included: the length of the judicial review procedure due to the large number of complaints submitted (not only concerning environmental matters); understaffing of the review bodies; and a lack of specialized environmental units within the judiciary. Further actions would be needed to: (a) strengthen the capacity of courts and review bodies; (b) promote closer cooperation between public authorities, the Agency and the Administrative Court to address systemic challenges; (c) raise knowledge of relevant legislation and environmental awareness among public authorities, judiciary and the public; and (d) develop manuals on comparative environmental law and court practice.

33. The representative of Georgia outlined issues related to access to justice in information cases. The relevant national legal framework was in place for empowering the public to access environmental information as set out by the Convention. Cases regarding violations of the right to access to environmental information were rare because the information was mostly provided. The main decisions under appeal related to strategic documents and public or private activities that would have a significant impact on the environment and human life or health. Refusals of public authorities to provide information could be appealed before a higher administrative body or in court. It usually took two to five months for the courts to hear a case. The courts' scope of review depended on the scope of the party's request, as a court could not award anything that the party had not initially claimed. A study by the Centre for Research and Analysis of the Supreme Court of Georgia on access to environmental information in court practice provided supporting material to courts. The study also recommended planning and implementing training activities on international environmental standards for judges and their staff, and actively invoking the Aarhus Convention and European Court of Human Rights jurisprudence in the respective cases. The forthcoming National Human Rights Strategy 2021–2030 was expected to state that ensuring public access to environmental information and continuous improvement of

both environmental decision-making process and stakeholder participation mechanisms were mandatory and priority directions.

34. The representative of the Office of the Commissioner for Information of Public Importance and Personal Data Protection of Serbia reported on access to justice in information cases, with special focus on cases related to small hydropower plants. The construction of such plants sometimes raised public concern and identified further needs to improve the practical implementation of the Convention related to access to information and public participation. Under the Serbian legal framework, requests for information should be responded to by a public authority within 15 days. Furthermore, information should be provided within 48 hours when a request could relate to information that could be reasonably assumed to have a bearing on the protection of a person's life or freedom and/or of public health and the environment. Refusals of information requests could be appealed to the Commissioner as another independent and impartial body established by law in the meaning of article 9 (1) of the Convention. The Commissioner could issue final and enforceable decisions. On average, of the 3,000 to 4,000 cases pending before the Commissioner each year, only a small percentage related to small hydropower plants. Such appeals were launched by investigative journalists, environmental NGOs and individuals against various public authorities responsible for local governance, mining, energy, water management and other matters. Refused information requests mainly concerned environmental impact assessment, construction and usage permits, spatial plans, energy permits and tenders and investors. In most cases, the Commissioner had ordered that the information be made available to the requestor. Although administrative procedures against the Commissioner's decision could be instituted by a public prosecutor, that had not happened. Overall, the case study demonstrated the opportunities for responsible public authorities to understand public demand for information and improve proactive disclosure.

35. A judge of the Supreme Court of Kazakhstan reported on the adoption of the new Environmental Code and Administrative Procedure Code, which provided a number of innovations on access to both environmental information and to justice that could help further strengthen environmental protection and transparency of decision-making.

36. The representative of the NGO Ecohome, also speaking on behalf of the European ECO-Forum, shared the findings of a study related to access to justice in information cases in Belarus, highlighting the reliance of those cases on the overall effectiveness of the justice system and its responsiveness to public concerns. In 2016, Belarus had modified its legal framework concerning access to the results of public participation procedures (e. g., protocols of public hearings), requiring public authorities to publish such documents on their websites. Following that development, the project had analysed more than 200 requests for environmental information sent in the period 2017–2018. Out of 60 requests submitted regarding information on public authorities' websites, most had been satisfied by the providers in the requested form or in another form. Regarding other requests for different types of environmental information or local environmental plans, only about one third of the requests had been satisfied by the providers while half had not been answered. Refusals received had been issued in writing but the instructions relating to legal remedies against the decision, however, had some deficiencies. Challenging refusals or administrative silence in such cases by NGOs remained problematic due to legislative uncertainties regarding their standing and resulted in most cases being declared inadmissible by the courts from the start. Concerning judicial proceedings, such cases were subject to a court fee of one basic unit that could be waived for NGOs if they brought a case for protecting someone's right, and, on average, proceedings could last up to two months. Other challenges in the area related to the lack of a public register or any other opportunity to research texts of court decisions, unclear definition of environmental information in the legislation and poor understanding of the importance of the opportunity to exercise environmental rights among the general public. To support further progress in that area, the organization continued raising awareness and had published several studies about key issues related to access to justice in information cases.

37. The representative of the NGO Za Zemiata, also speaking on behalf of Greenpeace Bulgaria and the European ECO-Forum, shared observations on the limitations of the right to access to justice and public participation in decision-making regarding operating conditions of coal power plants in Bulgaria. According to the respective European Union

law, Bulgarian law required large combustion plants to submit documentation providing that they would either comply with the new environmental requirements related to best available techniques (BAT) or request a derogation. Such derogations might only be granted only after an assessment that the achievement of emission levels under the BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits. As many coal power plants requested such derogations, two environmental NGOs had requested access to the applications and cost-benefit analyses from the responsible public authorities as the draft permits had not contained any information on the amount of the costs for the plant to comply with the BAT conclusions. Those requests had been denied by the responsible public authorities, and despite the courts annulling their refusals and ordering new consideration, the public authorities kept refusing access to information on new grounds. As of 2019, cases for access to environmental information were subject to one-instance court review only and could not be reviewed by the Supreme Administrative Court. As a result, that lack of access to information, effective judicial remedies and sanctions for public authorities for non-compliance basically undermined the judicial protection and led to a situation when the public was practically excluded from the decision-making process.

38. The representative of the Guta Environmental Law Association, also speaking on behalf of the European ECO-Forum, expressed a concern regarding the situation in Hungary, where the time frame for provision of information had been increased from 15 to 45 days and could be further extended to 45 days due to the declaration of a state of emergency by law. That measure aimed to assist in cases of information requests to the public institutions dealing with protection against the pandemic and having stretched capacities. Nevertheless, it could also pose a risk of abuse and maladministration in responding generally to information requests regarding environmental and health-related measures. The speaker called for those arrangements to be terminated as the pandemic situation improved and recalled that the Convention's Compliance Committee had emphasized[31] that the binding rights set out in the Convention could not be reduced or curtailed even in the case of a crisis such as the pandemic. There were other barriers to accessing environmental information experienced such as increased refusal of information requests and administrative silence. While Hungary had not been a target country in the study, it could be beneficial for Hungary and some other Parties, as well as for the public, to follow the study's methodology and evaluate the situation in the country regarding access to justice in information cases and outline the areas that needed improvements.

39. Subsequently, the participants highlighted the benefits of establishing and effective functioning of information commissioners to support the implementation of article 9 (1) of the Convention and their cooperation with the respective national human rights institutions (e.g. ombudsmen).

40. The Task Force then:

(a) Thanked the Chair, participating 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 regarding establishing information commissioners, timeliness and fairness of existing procedures, access to adequate and effective remedies, execution of final decisions and 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.

[31] See https://unece.org/fileadmin/DAM/env/pp/compliance/CC-67/ece.mp.pp.c.1.2020.5.add.1_advance_unedited.pdf .

V. Taking stock of recent and upcoming developments

41. In a discussion on recent and upcoming developments, participants shared their experiences regarding implementation of the Convention's third pillar, including those related to the pandemic, regarding: (a) access; (b) review proceedings; (c) financial barriers; and (d) tools to promote effective access to justice. They also took stock of recent developments under other international forums dealing with access to justice.

42. The representative of the European Commission outlined key priorities for the work as foreseen in the 2020 Communication on improving access to justice in environmental matters in the European Union and its member States[32] and in support of the European Green Deal, ensuring fundamental rights and accountability of public administration. Further joint actions should aim to: (a) address the shortcomings identified in 2019 environmental implementation reports for individual member States (mainly, standing and prohibitive costs); (b) step up implementation of applicable European Union laws; (c) ensure appropriate functioning of the multilayered European Union administrative and judicial redress system; and (d) promote involvement of individuals and NGOs in environmental compliance and enforcement. Priority areas of action should include: (a) correct transposition of European Union secondary law into domestic law; (b) inclusion of access to justice provisions in draft or revised European Union law concerning environmental matters; (c) review by member States of their own legal framework; and (d) the obligation of national courts to guarantee effective legal remedies. The European Commission supported that work by improving access to information and monitoring (e. g., through the European eJustice Portal[33] and forthcoming updated fact sheets on access to justice in environmental matters), engaging with stakeholders, cooperating with judges, capacity-building (e. g., updating training modules), making legislative proposals, and securing implementation of the treaties.

43. The representative of the Aarhus Information Centre Vlore, Albania, discussed the importance of the transparency of court decisions, especially during the pandemic, and their potential to bring a societal change to address key environmental challenges. Since the start of the pandemic, Albanian legislation had been quickly adapted to the situation and court proceedings/hearings in environmental matters had been shifted online to overcome public health restrictions. That shift had become a positive step towards transparency and community participation. Given that public interest litigation, especially on climate change matters, could be an important tool for holding Governments and companies accountable for their efforts to ensure sustainable development following the pandemic, such cases should be made accessible to all interested groups. Public notification about such cases as early as possible, the live broadcast of the open proceedings and the possibility of follow-up discussions would improve access to justice for the public interested in being involved in and following such cases. Aarhus Centres remained instrumental to support the public seeking access to justice.

44. The representative of Environment Links UK provided insights concerning recent developments in access to justice in the United Kingdom of Great Britain and Northern Ireland. Measures to replace European Union monitoring, reviewing and enforcement of environmental law including a complaints mechanism were well underway in most of the country following Brexit but major gaps remained. In England and Wales, the proposed review of the Environmental Costs Protection Regime had been delayed due to the pandemic. Instead, the Government had set up an independent panel to examine judicial review and evaluate whether the right balance was being struck between the rights of the public to challenge executive decisions and the need for effective and efficient government. Several concerns about compliance with article 9 of the Aarhus Convention relating to costs remained. The Scottish Government had also failed to reform the Protective Expenses Orders rules despite repeated findings of non-compliance with the Convention and several other concerns. Positive developments included the Scottish Government's announcement of legal aid reforms and the inclusion of the right to a healthy and safe environment in Scottish law. Concerning Northern Ireland, the costs in environmental litigation remained a barrier

[32] See https://ec.europa.eu/environment/aarhus/pdf/communication_improving_access_to_justice_environmental_matters.pdf .

[33] See https://e-justice.europa.eu/content_access_to_justice_in_environmental_matters-300-en.do .

regarding the types of claims covered, reciprocal (cross caps) costs and the unavailability of legal aid. Additional concerns related to: (a) exclusion of private law claims from the cost protection regime; and (b) cross-undertakings for damages in cases involving applications for injunctive relief.

45. The representative of the Legal Informational Centre for NGOs shared concerning changes to the legislative framework related to NGOs' status and access to justice in Slovenia since the beginning of the pandemic. New laws set out to contain the pandemic and mitigate its economic consequences had established new conditions for NGOs to gain the status of a party acting in the public interest – a precondition for access to justice in certain procedures. The new conditions related to the number of members and employees and should be fulfilled for at least two years; however, only 16 per cent of all NGOs could fulfil those conditions. Moreover, Slovenian law authorized the start of construction works immediately after the issuance of the permit, regardless of any possibility to conduct an administrative or judicial review procedure, and the deadline for filing a lawsuit before the administrative courts had been shortened from 30 to 15 days. Furthermore, the new laws had initially been intended to cover only the pandemic period, but their duration had been extended until the end of 2021. In some cases, access to the Constitutional Court remained the only avenue for NGOs wishing to bring environmental cases. Consequently, the respective rights of NGOs, some of them established 20 years previously, had been revoked or limited, presenting a serious regression of access to justice in the country.

46. Furthermore, the Chair invited the participants to express their views on the Task Force's future work in the next intersessional period. The Chair drew attention to the Note on possible future directions for the work (AC/WGP-24/Inf.3)[34] prepared by the Chair for the Working Group of the Parties at the first slot of its twenty-fourth meeting (online, 1–3 July 2020) and ongoing consultations on the draft decision on promoting effective access to justice prepared by the Bureau and be considered by the Meeting of the Parties at its seventh session in October 2021.

47. Subsequently, the participants suggested that the Task Force address the following issues in the next intersessional period:

(a) Provision of adequate and effective remedies and compliance by public authorities with court decisions and orders;

(b) Access to justice on matters related to spatial planning;

(c) Continuing monitoring progress in access to justice in information cases (art. 9 (1) of the Convention) and removing barriers as identified by the above-mentioned study;

(d) Sharing experiences of the use of citizen science as evidence in judicial and administrative review procedures;

(e) Sharing experiences of the use of pollutant release and transfer registers for administrative and judicial review procedures, therefore underpinning forthcoming activities of partner organizations regarding the use of such registers for environmental justice.

48. Furthermore, the Chair invited participants to share developments under the respective international forums dealing with access to justice matters.

49. The representative of UNESCO highlighted work to promote the freedom of expression and the right to access information through enactment and enforcement of related laws and policies, strengthening the rule of law and the functions of courts and other judicial system actors. The UNESCO Judges Initiative aimed to reinforce capacities and knowledge of judges, prosecutors, lawyers and other judicial system actors regarding international and regional standards on freedom of expression issues. The Initiative supported in-person training sessions, regional/national level training-of-trainers workshops and a massive open online course for judiciary members and civil society representatives and had provided training for 17,000 judicial actors across Africa, Latin America and the Arab region since 2013. Access to information remained a key component of those activities, ensuring that judges, prosecutors and judicial operators also fell under the obligation to act in full transparency as guarantors of the right to access information. To promote the freedom of

[34] See https://unece.org/environmental-policy/events/twenty-fourth-meeting-working-group-parties-aarhus-convention-hybrid.

expression and safety of journalists, UNESCO had established effective cooperation with public prosecutors by supporting the establishment of institutional frameworks with prosecutors' networks and launching the Guidelines for Prosecutors on Cases of Crimes against Journalists.[35] UNESCO had also supported the training of over 8,500 members of security forces across Africa, Latin America, Europe and the Arab region on the issue, particularly to guarantee access to quality and reliable information in the context of elections. Upcoming activities included: developing a global massive open online course for judicial actors;[36] developing a training module and organizing a specialized workshop for prosecutors; strengthening training of security forces; supporting a partnership with the Columbia University Global Database of Freedom of Expression Case Law; and organizing training of trainers for judicial training institute facilitators in Africa.

50. The representative of UNEP outlined several recent initiatives such as: (a) the *Global Climate Litigation Report: 2020 Status Review*,[37] which provided an overview of the current state and trends in that area and highlighted the rapid increase of climate litigation to compel Governments and corporate actors to pursue more ambitious climate policies and the key role of human rights connected to a safe climate; (b) the forthcoming Global Assessment of Air Pollution Legislation, which would assess national air quality legislation in 194 States and the European Union and would focus, among other things, on access to justice and challenges to law enforcement; (c) the ongoing update of the Global Report on Environmental Rule of Law; (d) ongoing work carried out under the Secretary- General's Call to Action for Human Rights,[38] particularly regarding future generations' rights and climate justice; (e) further work in support of environmental defenders, in particular the global effort to identify and promote good practices regarding legal and institutional frameworks to support environmental defenders and more in-depth assessment of their situation in certain parts of the world; and (f) further development of electronic tools such as the InforMEA platform,[39] including a course on Sustainable Development Goal 16,[40] and the Judicial Portal.[41]

51. The representative of Uruguay shared recent regional and national developments related to advancing access to justice in environmental matters, in particular the entry into force of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) on 22 April 2021. The Escazú Agreement, based on Principle Ten of the Rio Declaration on Environment and Development, was the first regional environmental treaty of Latin America and the Caribbean. Aiming to leave no one behind, the Agreement provided a rights-based framework focusing on persons and groups in vulnerable situations, and particularly protected environmental defenders, while also prioritizing capacity-building and cooperation. Access to justice as one pillar of the Agreement ensured the right to access to justice in environmental matters in accordance with due process, and to that end provided for judicial and administrative mechanisms to challenge and appeal decisions, actions or omissions on access rights or that could affect the environment adversely or violate laws and regulations related to the environment. Furthermore, measures were foreseen to minimize or eliminate related barriers to access to justice, including support mechanisms for persons or groups in vulnerable situations. Alternative dispute resolution was likewise promoted. The Agreement also specifically protected human rights defenders in environmental matters so that they could act free from threat, restriction or insecurity. Having ratified the Agreement, Uruguay was committed to preserving nature and advancing in clean energies, green production, innovative education, and the development and improvement of environmental law. Having welcomed continuous effective cooperation with the Aarhus Convention, the speaker called for continued sharing of experience, good practices, lessons learned, support

[35] See https://unesdoc.unesco.org/ark:/48223/pf0000375138 .

[36] See https://en.unesco.org/news/unesco-and-oxford-university-launch-massive-open-online-course-judicial-actors-international .

[37] See www.unep.org/resources/report/global-climate-litigation-report-2020-status-review .

[38] See www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Asperation_A_Call_To_Action_For_Human_Right_English.pdf .

[39] See www.informea.org/.

[40] See https://aarhusclearinghouse.unece.org/resources/e-learning-course-sdg-16-and-access-rights-aarhus-convention-and-escazu-agreement.

[41] See https://judicialportal.informea.org/.

and future developments in promoting access to justice in environmental matters among the Parties of both treaties and efforts to make environmental democracy a reality for all.

52. The representative of the UNDP Oslo Governance Centre provided information regarding monitoring of target 16.3 of the Sustainable Development Goal 16 (promote the rule of law at the national and international levels and ensure equal access to justice for all). In March 2020, indicator 16.3.3 to monitor that target had been added to the statistical framework by the United Nations Statistical Commission to provide a holistic understanding of access to justice, namely access to dispute resolution mechanisms. The new indicator called for countries to measure the proportion of the population that had experienced a dispute in the past two years and had accessed a formal or informal dispute resolution mechanism, by type of mechanism. To promote data collection, UNDP, OECD and the United Nations Office on Drugs and Crime, the indicator's co-custodians, had been developing a survey module on the matter to be included as part of a broader survey instrument on Sustainable Development Goal 16, together with other modules on governance, corruption, violence, discrimination and trafficking in persons. The indicator focused on people's perspectives of their ability to access and receive just resolution over disputes from a range of mechanisms, including for disputes related to environmental damage (land or water pollution, waste dumping, etc.). The first phase of cognitive testing regarding the survey had been completed in three countries, and piloting had been initiated in eight countries, which was expected to be finalized in the current year. The speaker emphasized the importance of global data collection and comparison to better understand people's ability to access justice and engage in environmental litigation before civil courts, and encouraged member States to support the operationalization of the Sustainable Development Goal 16 survey instrument once finalized.

53. The representative of the secretariat of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment provided an update on relevant activities. First, the Special Rapporteur had prepared a thematic report on the dependence of human rights on a healthy biosphere,[42] which discussed the need for urgent action to protect and restore the biosphere, the key role of human rights in catalysing action to safeguard nature, the obligations and responsibilities of States and other actors and recommendations to conserve and restore ecosystems and ensure the sustainable use of natural resources. A compilation of good practices submitted by Parties to the Aarhus Convention had been included in the annex to the report.[43] Second, the Special Rapporteur had prepared a report on human rights and obligations related to water pollution, water scarcity and water-related disasters,[44] together with a compilation of good practices[45] for the forty-sixth session of the Human Rights Council (Geneva, 22 February–24 March 2021). Third, the next report would focus on the theme "Healthy and Sustainable Food: Reducing the Environmental Impacts of the Global Food System on Human Rights", to be considered at the seventy-sixth session of the General Assembly in October 2021. Furthermore, the Human Rights Council at its forty-fifth session (Geneva, 14 September–7 October 2020) had adopted a resolution on the rights of the child: realizing the rights of the child through a healthy environment.[46] The resolution urged States to protect children from the effects of environmental harm through effective regulation and enforcement mechanisms. Lastly, the speaker highlighted efforts to promote global recognition of the right to a safe, clean, healthy and sustainable environment, and invited Parties to the Convention and stakeholders to consider supporting those efforts. That would also help to promote the objectives and principles of the Convention, while facilitating Parties' efforts to meet their human rights obligations.

54. Subsequently, the participants:

(a) Welcomed efforts related to the global recognition of the right to a heathy environment, also linked to the right to clean air and water, and entry into force of the Escazú Agreement;

[42] A/75/161.

[43] Available at www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Annualreports.aspx.

[44] A/HRC/46/28.

[45] Available at www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Annualreports.aspx.

[46] A/HRC/RES/45/30.

(b) Encouraged the relevant international forums to continuing sharing experience and developing synergies of their activities related to promoting effective access to justice in environmental matters.

55. The Task Force then:

(a) Took note of recent developments, challenges and lessons learned related to access to justice in environmental matters, including in the context of the 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 the current meeting, recalling that comments on the draft decision on access to justice, as announced by the secretariat on 21 January 2021, had to be sent in accordance with the consultation procedure, with comments to be sent before 18 February 2021;[47]

(c) Highlighted the need for further work regarding: adequate and effective remedies and enforcement of 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 register 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 was provided effectively in accordance with the relevant provisions of the Aarhus Convention, also during the pandemic and its subsequent economic recovery phase;

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

(f) Highlighted that the measures adopted by 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) could support progress towards other environment-related Sustainable Development Goals and targets and encouraged member States to include indicator 16.3.3 in their national monitoring frameworks;

(g) Encouraged Parties to continue improving online information on access to administrative and judicial review procedures, in particular regarding 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, and access to online hearings; and called on partner organizations and stakeholders to continue supporting e-justice and other relevant initiatives in that area.

VI. Approval of key outcomes and closing of the meeting

56. 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.AJ-13/Inf.2). The Chair thanked the speakers, the participants, the secretariat and the interpreters, and closed the meeting.

[47] See https://unece.org/environment-policy/public-participation/consultation-draft-documents-aarhus-convention-mop7 .