



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-fourth meeting

Geneva, 1–3 July and 29 and 30 October 2020

**Report of the Working Group of the Parties on its twenty-
 fourth meeting**

Contents

	<i>Page</i>
I. Introduction	3
A. Attendance	3
B. Adoption of the agenda.....	4
II. Status of ratification of the Convention.....	4
III. Substantive issues.....	4
A. Access to justice	4
B. Access to information	7
C. Public participation in decision-making	8
D. Genetically modified organisms	8
IV. Procedures and mechanisms.....	9
A. Compliance mechanism.....	9
B. Reporting mechanism	10
C. Capacity-building and awareness-raising	10
V. Promotion of the Convention and relevant developments and interlinkages	10
VI. Implementation of the work programme 2018–2021, including financial matters	11
VII. Preparations for the seventh session of the Meeting of the Parties	11
A. Future work programme	11
B. Future strategic plan	12



C.	Accession by States from outside the United Nations Economic Commission for Europe region	12
D.	Future financial arrangements	12
E.	Agenda of the seventh session of the Meeting of the Parties	13
F.	Hosting of the seventh session of the Meeting of the Parties.....	13
VIII.	Promotion of the principles of the Convention in international forums	13
A.	Future work.....	13
B.	Thematic session.....	14
C.	Conclusions	17
IX.	Other business	18
X.	Adoption of outcomes	18

I. Introduction

1. Due to restrictions associated with the coronavirus disease (COVID-19) pandemic, it was not feasible to hold the twenty-fourth meeting of the Working Group of the Parties to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) in Geneva from 1 to 3 July 2020 as originally planned. The Bureau held consultations and agreed that, in order to ensure smooth preparations for the seventh session of the Meeting of the Parties, the meeting would be held in two slots: (a) items of an informational nature would be considered in an online format, with no decision-making except the adoption of the agenda for the meeting and of a new organization of work; and (b) items requiring decision-making would be considered in an in-person/hybrid format. The first slot was held online from 1 to 3 July 2020 and the second slot was held on 28 and 29 October 2020 in Geneva. Representatives of twenty-five Parties were present in-person during the second slot; a quorum for the purposes of decision-making was thereby established. Due to technical challenges and lack of capacity associated with the provision of interpretation by the United Nations Office at Geneva, the online session was held in English only. The online session resulted only in draft outcomes, which were considered at the second slot. However, Parties and stakeholders were requested to submit written comments on documents that were subject to decision-making for the session in July, in order to progress with preparations and discussions for the session in October. Parties and stakeholders also had an opportunity to submit statements on items that were not subject to decision-making in order to inform participants of any relevant developments. Ms. Maia Bitadze, the Chair of the Working Group of the Parties, chaired the first slot. Due to pandemic-related travel restrictions and quarantine measures introduced by the Governments of Georgia and of Switzerland, she was unable to come to Geneva and chair the second slot held in October. Therefore, Georgia nominated Mr. Irakli Jgenti to replace Ms. Bitadze as the Chair of that session. Owing to work-related commitments, Mr. Jgenti was unable to perform the Chair's functions after the meeting. Georgia nominated Ms. Bitadze to replace him and to reassume her functions as Chair after the meeting. Discussions and decisions during the two slots are summarized in the present report in accordance with agenda items.

A. Attendance

2. The meeting was attended by delegations from the following Parties to the Convention: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, European Union, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Ukraine and United Kingdom of Great Britain and Northern Ireland.

3. Delegates from Guinea-Bissau and Uzbekistan were also present.

4. Also present were representatives of the United Nations Environment Programme (UNEP), the Office of the United Nations High Commissioner for Human Rights, the World Health Organization, the Organization for Security and Cooperation in Europe and the European Environment Agency. Representatives of judiciary and other review bodies, international financial institutions, Aarhus Centres and academic organizations were also present. Furthermore, representatives of international, regional and national environmental non-governmental organizations (NGOs) participated in the meeting, many of whom coordinated their input within the framework of the European ECO-Forum.¹

¹ Information on the meeting, including documentation and a list of participants, is available online at <https://unece.org/environmental-policy/events/twenty-fourth-meeting-working-group-parties-aarhus-convention-site>. Statements delivered at the meeting that were made available to the secretariat are also accessible from this web page.

B. Adoption of the agenda

5. The Chairs opened the sessions held in July and in October respectively and introduced a provisional agenda and a new organization of work prepared for the meeting. At the July session, the Chair stressed that the fact that the session was being held in English did not mean that a precedent had been set for future meetings, as the secretariat was operating in exceptional circumstances linked to pandemic-related measures.

6. The Working Group: (a) took note of the information provided by the Chairs, including on a new organization of work for the meeting due to the impact on the meeting's organization of the pandemic-related measures and on the related technical challenges associated with the provision of interpretation, stressing, at the same time, that multilingualism was key to the work of the Convention's bodies and requesting the secretariat to ensure interpretation for the future meetings of the Convention; (b) took note of the statement of the European Union and its member States on several issues, including on the need to avoid rolling back from environmental democracy priorities and to ensure that recovery measures did not undermine ongoing efforts to ensure environmental rights and improve environmental health, and welcoming the possibility to participate at the meeting remotely; and (c) adopted the agenda for the meeting as set out in document ECE/MP.PP/WG.1/2020/1, with the modifications as reflected in the Organization of Work (AC/WGP-24/Inf.13 and AC/WGP-24/Inf.13/Rev.1).

II. Status of ratification of the Convention

7. The secretariat reported on the status of ratification 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 Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs). At the time of the meeting, there were 47 Parties to the Convention, 37 Parties to the Protocol and 31 Parties to the GMO amendment. Since the Working Group's twenty-third meeting (Geneva, 26–28 June 2019), Kazakhstan had ratified the Protocol on 24 January 2020. There had been no new ratifications of the Convention. The Working Group took note of the secretariat's report and welcomed the accession of Kazakhstan to the Protocol.

III. Substantive issues

A. Access to justice

1. Future work

8. The Working Group considered the section of the Report on the implementation of the work programme for 2018–2021 (ECE/MP.PP/WG.1/2020/4, paras. 16–18) concerning access to justice. The Chair of the Task Force on Access to Justice reported on the key outcomes of the Task Force's eleventh and twelfth meetings, held on 27 and 28 February 2018 and on 28 February and 1 March 2019, respectively, in Geneva, and presented the Chair's Note on the progress achieved and possible future directions for the Task Force's work (AC/WGP-24/Inf.3). Delegations considered the suggested priorities for the next intersessional period contained in the Note and shared their views and recent developments with regard to that work area.

2. Thematic session

9. In the thematic session, the Working Group further considered the role of public interest litigation, which provided an opportunity to discuss achievements and barriers regarding the following key issues: (a) standing; (b) scope of review; (c) assistance mechanisms and costs; (d) timeliness; (e) remedies; and (f) protection against harassment and other forms of retaliation. Participants also looked at synergies with relevant activities under other international forums.

10. In the keynote statement, Lord Robert Carnwath, former Justice of the Supreme Court of the United Kingdom of Great Britain and Northern Ireland, representing the European Union Forum of Judges for the Environment, highlighted: (a) the fact that the natural environment was of legitimate concern to everyone; and (b) the advances made in the country with regard to standing, costs and remedies in cases protecting public environmental interests. For example, in a landmark air quality case, the Supreme Court had ordered the public authority to prepare plans to remedy a real and continuing danger to public health from exceeding air pollution limits and had further allowed the applicant to apply for a review of the adequacy of the newly adopted plans. That order had been valuable in securing real improvements in air quality in the country's cities and had become an inspiration for other countries to ensure judicial protection of clean air.

11. A representative of the European ECO-Forum highlighted the importance of safeguarding access to justice meeting the requirements of the Convention, especially in times of crisis. She addressed several negative trends, including persecution of environmental defenders, compliance with article 9 (3) of the Convention, the putting forward of proposals for, or the adoption of, restrictive measures related to the pandemic, planning acceleration and reforms to judicial review.

12. A representative of UNEP provided an overview of the main challenges and the strategic directions in advancing effective access to justice in environmental matters and monitoring of its progress. In particular, she outlined the key relevant conclusions of the publication *Environmental Rule of Law: First Global Report*,² opportunities for further work related to the rights of future generations, especially regarding climate justice, protection of environmental defenders, monitoring access to justice for all (target 16.3 of the Sustainable Development Goals) with a new indicator, the preparation of the second global Environmental Rule of Law report and capacity-building in that area through the United Nations Sustainable Development Cooperation Framework.

13. A representative of the Supreme Court of Ukraine underscored the importance of the judicial protection of the constitutional right to a healthy environment and reported on the state of justice in Ukraine. He presented several recent rulings that referenced the Convention on the following topics: (a) appeals against decisions of local self-government bodies on the provision of land plots, which had been carried out in violation of their intended use, and placement of objects harming the environment; (b) violation of legislation on the allocation of land within the natural protection zones of rivers and inland seas; (c) cruel treatment of animals and birds, including those introduced into the Red Data Book of Ukraine; and (d) emission of pollutants into the air.

14. Professor John Bonine of the University of Oregon and Environmental-People-Law of Ukraine gave an insightful presentation underlining the importance of equal access to justice for all, and highlighting the fact that financial and other related barriers to public interest litigation in environmental matters adversely affected the rule of law, environmental compliance and enforcement and accountability in decision-making.

15. A representative of the European ECO-Forum emphasized, giving practical examples, the importance of public interest cases in terms of how they brought systemic changes in environmental protection and exercising rights set out by the Convention. While the positive trends were encouraging, the negative trends in limiting standing, raising court fees and change of decision-making procedure posed a serious concern. It was also alarming that there had been cases of abuse of the justice system through strategic lawsuits against public participation and other forms of retaliation against environmental defenders.

16. Representatives of Latvia, Serbia and Switzerland shared their experiences, key lessons learned and the way forward in promoting public interest litigation in environmental matters. The representative of Latvia presented the legal and practical implications of the use of *actio popularis* in environmental cases and measures to keep the costs of judicial proceedings down to a reasonable level in such cases. The representative of Serbia highlighted legal standing for representatives of collective interests in administrative procedures and touched on the possibility of successful litigation in sensitive areas such as

² United Nations Environment Programme (Nairobi, 2019).

tourism infrastructure and hydroenergy. It was emphasized that awareness of judiciary of environmental law, legal aid and other assistance mechanisms to reduce financial barriers could contribute to ensuring an enabling environment for the promotion of strategic litigation for environmental protection. The representative of Switzerland presented a wide range of public interest cases – from species conservation to plant protection products – demonstrating that acts and omissions by public authorities could be consistently subject to an appeal to protect the public interest in nature conservation. It was noted that the standing of environmental NGOs and individuals in such cases could ensure compliance with environmental law.

17. In the ensuing discussion, representatives of the European ECO-Forum: (a) called for the widening of a proposal to amend the Aarhus Regulation³ implementing the Convention's access to justice provisions at the European Union level; (b) cautioned the Parties against raising court fees, limiting the right to review procedures in newly adopted legislation or effective and prompt public access to final decisions and other systematic efforts to push the public out of the entire decision-making system during the pandemic and its subsequent economic recovery phase; and (c) highlighted the importance of continuing regular exchange of experiences and good practices in promoting public interest litigation.

3. Conclusions

18. The Working Group:

(a) Took note of the information provided by the Chair of the Task Force on Access to Justice and of his Note (AC/WGP-24/Inf.3), expressing general support for the suggestions outlined therein as a good basis for the discussion;

(b) Expressed its appreciation to the Chair and to the Task Force for the work done and acknowledged the important role it played in the implementation of the Convention;

(c) Took note of comments by delegations concerning future work in that area, including with regard to the promotion of the use of information and communications technologies, modalities of the work of the Task Force, key subjects to be considered in the next intersessional period and the need to prioritize them;

(d) Also took note of the information provided by delegations on recent developments and other matters linked to the subject area, including on the issue of access to justice in relation to the European Union;

(e) Expressed its appreciation to Lord Robert Carnwath, Mr. John Bonine and the representatives of Latvia, Serbia, Switzerland, UNEP, the Supreme Court of Ukraine and the European ECO-Forum for their presentations and statements;

(f) Welcomed the exchange of information, experiences, challenges and good practices provided by the representatives of Parties and stakeholders to promote effective access to justice in environmental matters for members of the public, especially in cases related to the protection of the public interest;

(g) Also welcomed several positive trends that had been identified, namely: (i) increasing use of the human rights approach to the protection of a safe, clean, healthy and sustainable environment; (ii) increasing admissibility of public interest litigation cases in such areas as protection of air quality, species and habitats, climate change, spatial planning and energy-related decision-making; (iii) increasing review by courts and other review bodies of the substantive legality of challenged decisions, acts and omissions; (iv) measures introduced to remove or reduce financial barriers; and (v) promotion of awareness-raising and specialization of judiciary and other legal professionals in environmental matters;

³ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, *Official Journal of the European Union*, L 264 (2006), pp. 13–19.

(h) Reiterated the importance of public interest litigation in environmental matters for ensuring the rule of law, enabling effective judicial protection of environmental rights and legitimate interests and improving transparency and accountability of decision-making;

(i) Noted a number of challenges that had been identified, namely: (i) lack of access to justice in relation to several environmental subjects; (ii) increased challenges in adhering to the rule of law in some countries; (iii) insufficient guarantees of the independence of judiciary; (iv) increased risks faced by environmental defenders; (v) adjustments made to the functioning of administrations and justice systems due to the adverse impact of the pandemic and its economic recovery phase; and (vi) insufficient digitalization of review procedures that could meet the needs of members of the public seeking justice in environmental matters;

(j) Called on Parties to further improve access to justice in environmental matters in accordance with the Convention by taking the necessary measures with regard to: (i) standing; (ii) the scope of review; (iii) burden of proof; (iv) financial and other related barriers; (v) timeliness in review procedures, especially with regard to information cases; (vi) remedies, including injunctive relief; (vii) preventing abuse of the justice system through strategic lawsuits against public participation and other forms of retaliation against environmental defenders; (viii) compatibility between domestic legislative provisions related to access to information, public participation in decision-making and access to justice; (ix) inclusive use of electronic information tools and e-justice initiatives for review procedures; and (x) awareness of the public and legal professionals about the Convention;

(k) Encouraged Parties to: further develop expert capacity; strengthen the specialization of judiciary and other legal professionals in environmental law; use independent expert opinions in environmental matters; and allocate sufficient resources to the justice system;

(l) Also encouraged Parties to improve online information on access to administrative and judicial review procedures, in particular with regard to information on upcoming and current cases, and called on partner organizations and stakeholders to continue supporting e-justice and other relevant initiatives in that area;

(m) Reiterated that effective access to justice in environmental matters supported the achievement of target 16.3 of the Sustainable Development Goals and underpinned the implementation of other relevant Sustainable Development Goals and targets;

(n) Took note of a new indicator 16.3.3 with regard to the proportion of the population that had experienced a dispute in the past two years and encouraged Parties to take further measures to strengthen monitoring of that indicator for environmental cases.

B. Access to information

19. The Working Group considered the section of the Report on the implementation of the work programme for 2018–2021 (paras. 3–11) concerning access to information.

20. The Chair of the Task Force on Access to Information presented the key outcomes of the sixth meeting of the Task Force on Access to Information, held in Geneva on 3 and 4 October 2019 (see ECE/MP.PP/WG.1/2020/3), progress in preparing the updated Recommendations on the more effective use of electronic information tools (ECE/MP.PP/WG.1/2020/14 and Add.1), as well as her Note on possible future directions for the Task Force's work (AC/WGP-24/Inf.1). Delegations considered the suggested priorities for the next intersessional period contained in the Note and shared their views and recent developments with regard to that work area.

21. The Working Group:

(a) Took note of the information provided by the Chair of the Task Force on Access to Information and of her Note, expressing general support for the suggestions outlined therein as a good basis for the discussion;

(b) Expressed its appreciation to the Chair and to the Task Force for the work done and acknowledged the important role it played in the implementation of the Convention;

(c) Took note of comments by delegations concerning the future work in that area, including with regard to the promotion of the use of information and communications technologies, modalities of the work of the Task Force, key subjects to be considered in the next intersessional period and the need to prioritize them;

(d) Took note of the draft updated Recommendations on the more effective use of electronic information tools and of the comments on the document;

(e) Invited Parties, signatories, other interested States and stakeholders to provide comments on the draft updated Recommendations by 30 September 2020, in order to facilitate preparation of the next draft for the upcoming meeting of the Task Force (Geneva, 16 and 17 November 2020);

(f) Took note of the information provided by delegations on recent developments and other matters related to the subject area, including the issue of privacy in the context of digitalization.

C. Public participation in decision-making

22. The Working Group next considered the section of the Report on the implementation of the work programme for 2018–2021 (paras. 12–15) concerning public participation in decision-making.

23. The Chair of the Task Force on Public Participation in Decision-making reported on the key outcomes of the Task Force's eighth meeting (Geneva, 8 and 9 October 2018) and the thematic session on the subject matter organized during the twenty-third meeting of the Working Group of the Parties, as well as presenting the Chair's Note on the possible future directions for the Task Force's work (AC/WGP-24/Inf.2). Delegations considered the suggested priorities for the next intersessional period contained in the Note and shared their views and recent developments with regard to that work area.

24. The Working Group:

(a) Took note of the information provided by the Chair of the Task Force on Public Participation in Decision-making and of her Note, expressing general support to the suggestions outlined therein as a good basis for the discussion;

(b) Expressed its appreciation to the Chair and to the Task Force for the work done and acknowledged the important role it played in the implementation of the Convention;

(c) Took note of comments by delegations concerning the future work in that area, including with regard to the promotion of the use of information and communications technologies, modalities of the work of the Task Force, key subjects to be considered in the next intersessional period and the need to prioritize them;

(d) Also took note of the information provided by delegations on recent developments and other matters linked to the subject area, including with regard to challenges associated with the pandemic in relation to public participation in general, and for vulnerable and marginalized groups in particular.

D. Genetically modified organisms

25. The Working Group considered the section of the Report on the implementation of the work programme for 2018–2021 (paras. 19–21) concerning GMOs. The representative of Albania reported on the country's efforts towards ratification.

26. The Chair of the Joint Round Table on Public Awareness, Access to Information and Public Participation regarding Living Modified Organisms/Genetically Modified Organisms reported on key outcomes of the third Joint Round Table (ECE/MP.PP/WG.1/2020/6), held in Geneva from 16 to 18 December 2019 and organized jointly with the secretariat of the

Convention on Biological Diversity, and presented possible future directions for the work. Delegates considered the proposed future work presented by the Chair and shared their views and recent developments in that area.

27. The Working Group:

(a) Took note of the Report on the third Joint Round Table on Public Awareness, Access to Information and Public Participation regarding Living Modified Organisms/Genetically Modified Organisms and of the event's key outcomes presented by the Chair of the Round Table;

(b) Expressed its appreciation to the Chair for the work done and to the secretariat of the Convention on Biological Diversity for its long-standing cooperation;

(c) Reiterated its serious concern that, although objective II/2 of the Strategic Plan for 2015–2020 (ECE/MP.PP/2014/2/Add.1, decision V/5, annex) envisaged that the GMO amendment to the Convention was to be approved by a sufficient number of Parties to enter into force by 2015, the objective had not been achieved;

(d) Took note of the information provided by Albania with regard to its plans to ratify the GMO amendment by the end of 2020;

(e) Reiterated its call upon the following Parties, whose ratification of the GMO amendment would count towards its entry into force, to take serious steps towards ratification and requested them to report at the next meeting of the Working Group on the progress achieved: Albania, Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, North Macedonia, Tajikistan, Turkmenistan and Ukraine;

(f) Urged the above-mentioned Parties to submit the updates in writing to the secretariat prior to the sessions in October, in order to inform the Working Group about their plans with regard to ratification;

(g) Took note of the information provided by delegations on matters related to the subject area, including on challenges linked to lack of technical capacity and of support to civil society in countries with economies in transition.

IV. Procedures and mechanisms

A. Compliance mechanism

28. The Working Group considered the section of the Report on the implementation of the work programme for 2018–2021 (paras. 22–25) concerning the compliance mechanism. The Chair of the Compliance Committee presented the major outcomes of recent Committee meetings and recent developments related to the Committee's work.

29. Delegates considered the topics presented by the Committee Chair and shared their views with regard to the subjects presented.

30. The Working Group of the Parties:

(a) Took note of the information provided by the Chair of the Compliance Committee on the outcomes of the Compliance Committee's sixty-fourth, sixty-fifth and sixty-sixth meetings (ECE/MP.PP/C.1/2019/5, ECE/MP.PP/C.1/2019/8 and ECE/MP.PP/C.1/2020/2, respectively) and other developments, including with regard to: the request by Kazakhstan to the Compliance Committee to provide advice on the application of the Convention during the pandemic; the need for more legal support from the secretariat to the Committee; the caseload and measures to manage it; and a proposal to establish a rapid response mechanism to deal with cases related to article 3 (8) of the Aarhus Convention (ECE/MP.PP/WG.1/2020/13) in the context of the Committee's work;

(b) Expressed its appreciation to the Chair and to the Compliance Committee for the work done and acknowledged the important role it played in furthering the Parties' compliance with the Convention;

(c) Took note of comments provided by delegations with regard to the information presented by the Chair and other matters related to the subject area, including on the challenges in exercising the rights under the Aarhus Convention due to pandemic-related restrictions and a proposal to establish a rapid response mechanism to deal with cases related to article 3 (8) of the Aarhus Convention.

B. Reporting mechanism

31. The Working Group considered paragraph 37 (on the reporting mechanism) of the Report on the implementation of the work programme for 2018–2021.

32. The Chair informed the Working Group that the 2021 reporting cycle had been launched in March 2020 and that detailed instructions and guidance materials regarding the preparations of the new reports were made available to Parties online.⁴ The Chair noted that to date, only the Republic of Moldova had failed to submit its report for the 2017 reporting cycle.

33. The Working Group took note of the information provided by the Chair and by delegations, recalled its serious concern over the continuing failure of the Republic of Moldova to submit a report on the implementation of the Convention for the 2017 reporting cycle and urged Parties to proceed with the preparation of the national implementation reports for 2021 reporting cycle without delay.

C. Capacity-building and awareness-raising

34. The Working Group took note of paragraphs 26 to 36 (on capacity-building activities) of the Report on the implementation of the work programme for 2018–2021 and the information provided by the secretariat with regard to recent developments and plans concerning capacity-building.

35. The Working Group:

(a) Took note of the information provided by the representatives of the Organization for Security and Cooperation in Europe and the European Environment Agency; and expressed its appreciation to these and other partner organizations for supporting the implementation of the Convention;

(b) Reiterated its call to national focal points to continue reaching out to authorities responsible for development assistance and technical cooperation programmes to explore the possibility of: integrating the Aarhus Convention into those programmes; supporting its implementation through the United Nations Sustainable Development Cooperation Framework; and strengthening the nexus approach to the environment, human rights and good governance;

(c) Took note of the information provided by delegations on other matters related to the subject area, including with regard to the promotion of the use of information and communications technologies whenever possible for capacity-building and for awareness-raising activities.

V. Promotion of the Convention and relevant developments and interlinkages

36. The Working Group took note of paragraphs 38 to 44 (on promotional activities) of the Report on the implementation of the work programme for 2018–2021.

⁴ United Nations Economic Commission for Europe, “The Aarhus Convention Reporting Mechanism: 2021 Reporting Cycle – Practical Considerations”, presentation. Available at https://www.unece.org/fileadmin/DAM/env/pp/wgp/WGP_24/AC_2021_cycle_Practical_considerations.pdf.

37. The Working Group took note of the information provided by the representatives of UNEP and the Office of the United Nations High Commissioner for Human Rights with regard to relevant recent developments and future opportunities for cooperation and expressed its appreciation to those organizations for promoting synergy in assisting countries to further access to information, public participation in decision-making and access to justice in environmental matters.

38. Regarding the promotion of the Aarhus Convention in other regions, the Working Group took note of the information provided by delegations related to the subject area, such as the developments with regard to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) and the work of the Eastern Partnership Civil Society Forum.

VI. Implementation of the work programme for 2018–2021, including financial matters

39. The Working Group:

(a) Took note of the Report on the implementation of the work programme for 2018–2021, the Report on contributions and expenditures in relation to the implementation of the Convention's work programme for 2018–2021 (ECE/MP.PP/WG.1/2020/5) and the information provided by the secretariat on editorial changes required in table 3 of that Report, and of the Note on contributions and pledges received after 1 April 2020 and the Note on contributions and pledges received between 1 April and 7 October 2020 (AC/WGP-24/Inf.14 and AC/WGP-24/Inf.18, respectively);

(b) Also took note of the statements by delegations, including with regard to making use of information and communications technologies to the extent possible, the need to ensure adequate funding despite challenges associated with the pandemic and plans regarding future funding;

(c) Welcomed the synergies with partner organizations that helped in the effective implementation of the work programme and encouraged the promotion of further synergies;

(d) Reiterated its call upon the Parties to proceed with financial contributions as soon as possible and expressed its concern at the fact that contributions were still arriving late in the year;

(e) Urged Parties that had not yet contributed to communicate their plans in writing to the secretariat and encouraged them to increase contributions in view of the upcoming session of the Meeting of the Parties;

(f) Expressed appreciation for the work done by the secretariat and recognized the difficulties posed by limited and unpredictable funding.

VII. Preparations for the seventh session of the Meeting of the Parties

A. Future work programme

40. The Working Group of the Parties:

(a) Took note of the situation regarding environmental defenders and of the comments and additional information provided by participants regarding the Draft note on a rapid response mechanism to deal with cases related to article 3 (8) of the Aarhus Convention (ECE/MP.PP/WG.1/2020/13);

(b) Requested the Bureau to revise the document in the light of the comments received for its 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 and possible adoption. The draft document will be circulated to Parties and

stakeholders for comments prior to its finalization for the twenty-fifth meeting of the Working Group. In order to facilitate the work of the Bureau, the Working Group requested Parties and interested stakeholders to indicate the preferred option presented in the Draft note and provide a brief outline of the major reasons why that option had been chosen and to submit that input to the secretariat by 1 December 2020;

(c) Took note of comments and additional information provided by participants regarding the Draft elements of the work programme for 2022–2025 (ECE/MP.PP/WG.1/2020/7);

(d) Requested the Bureau: (i) In the light of the comments received, to prepare a draft decision on the future work programme based on the Draft elements of the work programme for 2022–2025 for its 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. The draft decision will be circulated to Parties and stakeholders for comments prior to its finalization for the twenty-fifth meeting of the Working Group; (ii) to prepare draft decisions on access to information, on public participation in decision-making, on access to justice and on promoting the Convention’s principles in international forums, 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. The draft decisions will be prepared on the basis of the Chairs’ Notes and the submitted comments. The drafts will be circulated to Parties and stakeholders for comments prior to their finalization for the twenty-fifth meeting of the Working Group.

B. Future strategic plan

41. The Working Group of the Parties:

(a) Took note of comments provided by participants regarding the Draft Strategic Plan for 2022–2030 (ECE/MP.PP/WG.1/2020/11);

(b) Requested the Bureau to prepare a draft decision on the future strategic plan based on the Draft Strategic Plan for 2022–2030 (ECE/MP.PP/WG.1/2020/11), revising it in the light of the comments received for its 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. The draft decision will be circulated to Parties and stakeholders for comments prior to its finalization for the twenty-fifth meeting of the Working Group.

C. Accession by States from outside the United Nations Economic Commission for Europe region

42. The representative of Guinea-Bissau informed the Working Group through a written statement about recent activities in the country aimed at promoting the Aarhus Convention. The representative emphasized that the Aarhus Convention responded to the different aspects of the 2030 Agenda for Sustainable Development and many aspects of Agenda 2063 – the common strategic framework for inclusive growth and sustainable development of the African continent. The representative reported that Guinea-Bissau was in the midst of a period of legislative reform, namely the revision and creation of environmental legal instruments covering the three pillars of the Aarhus Convention.

43. The Working Group took note of the Expression of intention by Guinea-Bissau to accede to the Convention (ECE/MP.PP/WG.1/2020/12) and of the written statement by the representative of Guinea-Bissau, and welcomed the country’s willingness to accede to the Convention.

D. Future financial arrangements

44. The Working Group of the Parties:

(a) Took note of comments provided by participants regarding Draft elements of possible financial arrangements under the Convention (ECE/MP.PP/WG.1/2020/8), including the need to continue considering the mandatory contribution scheme and to increase the minimum amount of the contribution;

(b) Requested the Bureau to prepare a draft decision on financial arrangements in the light of the comments by the Working Group for its 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. The draft decision will be circulated to Parties and stakeholders for comments prior to its finalization for the twenty-fifth meeting of the Working Group.

E. Agenda of the seventh session of the Meeting of the Parties

45. The Working Group considered the Draft elements of the provisional agenda of the seventh session of the Meeting of the Parties to the Aarhus Convention (ECE/MP.PP/WG.1/2020/10). The Working Group took note of comments regarding the document, supporting in general its structure, substantive scope and themes of the high-level segment, highlighting at the same time the need to focus on the strategic dimension of future activities in that context. The Working Group also took note of comments provided by participants regarding the draft outline of the Declaration.

46. The Working Group requested the Bureau to prepare: (a) a draft provisional agenda for the seventh session of the Meeting of the Parties; and (b) a draft Declaration jointly with the Protocol's Bureau, in the light of the comments by the Working Group provided at the meeting, 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. The draft declaration will be circulated to Parties and stakeholders for comments prior to its finalization for the twenty-fifth meeting of the Working Group.

F. Hosting of the seventh session of the Meeting of the Parties

47. At its July session, the Working Group reiterated its appreciation to the Government of Georgia for the offer to host the next sessions of the Convention's and Protocol's Meetings of the Parties and took note of the information provided by the host country regarding its preparations. It requested the secretariat to continue liaising with Georgia regarding the matter and to report on developments as required. At its October session, the Working Group was informed that Georgia was not in a position to confirm its commitment to host the upcoming sessions of the Meetings of the Parties due to financial challenges associated with the pandemic. It requested the Bureau to follow up on that issue, and to report to the next meeting of the Working Group accordingly. The Working Group also took note of dates for the seventh session of the Meeting of the Parties to the Convention and the fourth session of the Meeting of the Parties to the Protocol on PRTRs, to be held back-to-back during the week of 18 October 2021.

VIII. Promotion of the principles of the Convention in international forums

A. Future work

48. The Working Group considered paragraphs 45 to 52 (on the promotion of the principles of the Convention in international forums) of the Report on the implementation of the work programme for 2018–2021. The Chair of the thematic session on the promotion of the principles of the Convention in international forums presented her Note (AC/WGP-24/Inf.4) on the progress achieved and suggestions for the future work. Delegations considered the suggested priorities for the next intersessional period contained in the Note and shared their views and recent developments with regard to that work area.

B. Thematic session

1. International trade negotiations

49. A representative of Georgia presented the country's successful experience with its national coordination mechanisms, which included consultations with different stakeholders for different trade agreements. Civil society involvement was ensured in the implementation of Deep and Comprehensive Free Trade Areas through the Joint Civil Society Dialogue Forum and there was a commitment to, among other things, information exchange on multilateral environmental agreements, transparent implementation and public communication/consultation.

50. A representative of Kazakhstan shared information on recent progress on trade and the green economy, as well as clean technologies, green bonds, pollution reduction and the development of a new environmental regulation that would assist with the implementation of the Aarhus Convention by bringing together the Government, business, civil society and the public.

51. Key systemic challenges regarding the implementation of the Convention's principles in international trade negotiations were identified by the European ECO-Forum and included the lack of inclusion of environmental NGOs with regard to: trade negotiations and their consequences (except for European Union agreements); the discussion of Eurasian Economic Union trade agreements and the Belt and Road Initiative. Representatives of the European ECO-Forum: (a) called for the promotion of the principles of transparency and effective public participation regarding environmental issues in the World Trade Organization, the United Nations Conference on Trade and Development and multilateral and bilateral trade agreements of all countries of the United Nations Economic Commission for Europe (ECE) region, as well as for the development of programmes to increase the capacity of countries of Eastern Europe, the Caucasus and Central Asia regarding both the relationship between trade, environment and sustainable development and the involvement of civil society organizations in those processes: and (b) requested Parties to urge the European Union to properly align its trade policy with the European Union European Green Deal and the Aarhus principles, and to ensure that they were reflected in trade negotiations and decisions.

2. International Civil Aviation Organization processes

52. A representative of France gave a presentation on how the principles of the Convention were implemented in various aviation policies. She described how there was political will to enhance public participation in those processes and gave examples of how public participation was enshrined in law. She stated that environmental advisory commissions were consultative bodies composed of aeronautical professionals, the concerned communities, residents' associations and environmental protection associations, for all environmental issues relating to airports. The Government of France was proactively applying the principles of the Aarhus Convention in its national territory, thus providing all Parties with examples of good practice and participation guaranteed by law.

53. A representative of the International Coalition for Sustainable Aviation stated that there was limited public access to the International Civil Aviation Organization (ICAO) decision-making procedure, resulting in a negative impact on decision-making and communication. ICAO did not make public statements following important decisions. The International Coalition for Sustainable Aviation was the only observer NGO coalition allowed to participate in ICAO meetings, with attendance being limited to specific meetings. Some of the information made publicly available was for sale only and could not be disseminated any further. The representative further reported that papers submitted by ICAO member States that were also Parties to the Aarhus Convention were not made public. He recommended that all Parties: support making public all papers presented to ICAO; question the mode of working of ICAO through the Committee on Aviation Environmental Protection, the ICAO Council and the Assembly; and question the ICAO external communication strategy.

3. Update on items considered at previous thematic sessions

54. Written updates from the following organizations were received: the Asian Infrastructure Investment Bank (AIIB), the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the World Bank, the secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), UNEP and ECE.

55. The Chair turned to the item on lessons learned from the twenty-fifth session of the Conference of the Parties to UNFCCC (Madrid, 2–15 December 2019) and preparations for the twenty-sixth session (Glasgow, United Kingdom of Great Britain and Northern Ireland, 1–12 November 2021). A written statement of the UNFCCC secretariat had been made available online. It provided an overview of observer engagement activities undertaken during 2019. A representative of the European ECO-Forum reported on the negotiations on the implementation of the modalities that will govern carbon trading under article 6 of the Paris Agreement. Those modalities must integrate human rights and social safeguards guaranteeing that no project implemented in the name of the Paris Agreement would support the violation of the rights of indigenous peoples and local communities.

56. The written updates from UNEP contained information on stakeholder engagement in the United Nations Environment Assembly of UNEP and the UNEP Policy on Stakeholder Engagement. The updates from ECE contained information on the promotion of the principles of the Convention while pursuing and monitoring achievement of the Sustainable Development Goals and stakeholder participation in the high-level political forum on sustainable development.

57. With reference to the update provided on the high-level political forum on sustainable development, a representative of the European ECO-Forum called for major groups and other stakeholders to be allowed to participate in the meetings under the high-level political forum review process, as they had not participated in the negotiations of those meetings. A representative of the European ECO-Forum called for the equal and independent participation of NGOs in the Strategic Approach to International Chemicals Management beyond 2020.

58. Written updates on the policies and activities were given by international financial institutions. EIB is in the process of reviewing its Transparency Policy in 2020, where any member of the public is entitled to contribute to the public consultation; EIB will consider all the comments received before taking a final decision on the revised Transparency Policy. AIIB's Policy on Public Information is still in its early stages of implementation; its Directive on Public Information was updated in November 2019. EBRD focused on stakeholder engagement through the Access to Information Policy, the Environmental and Social Policy and the Independent Project Accountability Mechanism. The World Bank's Environmental and Social Framework (ESF) Implementation Update, published September 2020, summarizes the substantial work done during this initial implementation period of the ESF and includes further information on experience with stakeholder engagement and related issues.

59. A representative of the Heinrich Böll Foundation presented the topic of geoengineering and its potential impacts, which made the topic relevant to a wide range of international processes, including UNFCCC, the United Nations Environment Assembly of UNEP, the Convention on Biological Diversity and the Aarhus Convention. The development of an International Organization for Standardization voluntary standard on radiative forcing management that might open the door to high-risk geoengineering technologies was highly controversial. Geoengineering had been the subject of extremely controversial governance debates in multilateral forums. NGOs were concerned that such standards were being developed within an industry-led body when they related to questions of values and policy regarding which public participation was key.

4. The Chair's summary of the session

60. The Chair thanked the panellists and other speakers for their contributions, including the representatives for their interesting substantive presentations, which demonstrated the importance of the promotion of the Convention's principles.

61. The Chair welcomed the progress made in promoting the principles of the Convention in international forums but recognized that more effort should be made to further transparency and effective public participation in international environment-related decision-making, including in international trade negotiations and ICAO-related processes.

62. It was noted that access to information and public participation in trade negotiations was improving, although unevenly/unequally. There were also big differences between the different trade negotiations forums. Within the framework of trade agreements between the European Union and other Parties to the Convention, for example in Georgia and Ukraine, the participation procedures were institutionalized and allowed for significant participation of civil society organizations concerning the impacts of those trade agreements on the environment. But in many other trade negotiations, the principles of the Convention were not implemented, and efforts must be continued. It was, therefore, crucial that effective access to information and public participation be guaranteed through trade negotiations and policies.

63. The Chair expressed regret that ICAO had been unable to attend the thematic session. She noted that, in the field of civil aviation, transparency of decision-making processes, promoting access to information and participation, in accordance with the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (ECE/MP.PP/2005/2/Add.5, decision II/4, annex), was needed. A number of member countries of both the Committee on Aviation Environmental Protection and the ICAO Council were Parties to the Aarhus Convention, such as France, and were proactively applying the principles of the Aarhus Convention in their national territory, thus providing all Parties with examples of good practice and participation guaranteed by law.

64. She added that those national initiatives should extend to the international negotiations within ICAO, where access to information and participation remained restricted, as underlined by the International Coalition for Sustainable Aviation, the only NGO observer authorized by ICAO.

65. She encouraged Parties that were also members of ICAO to continue to reflect on how they could fulfil their obligations under the Aarhus Convention and promote the Convention's principles within ICAO and its Committee on Aviation Environmental Protection, including by: (a) expanding the diversity of observers; (b) opening up meetings to observers; (c) facilitating access to important documents, including recommended standards and practices on the organization's website; and (d) allowing the public to make contributions to the decision-making process and making those contributions public on the ICAO website.

66. The Chair encouraged Parties to continue promoting the Aarhus principles:

(a) In the climate negotiations, in particular to be vigilant with regard to market-based instruments and their impact on human rights;

(b) Within the framework of the United Nations Environment Assembly of UNEP, so that, in the absence of the adoption of the Policy on Stakeholder Engagement, good practices are observed in the face of States seeking to weaken the Aarhus principles and restrict the activity of civil society organizations;

(c) Within the framework of the high-level political forum, so that the no-objection procedure does not prevent the participation of civil society organizations.

67. One major problem was that negotiators had little awareness of the Aarhus principles and of the obligations arising therefrom. Consequently, the Chair expressed her support for future work that strengthened capacities in that direction, with the provision of support material to facilitate the application of the principles of the Convention in international forums through guidance documents explaining the obligations related to article 3 (7), adapted to each specific forum and with a guide on the organization of international events to help host countries apply good practice.

68. The Chair proposed, concerning the next sessions, in addition to the new themes proposed in the Chair's Note, following up on a new international legally binding instrument under the auspices of the United Nations, to regulate, in international human rights law, the

activities of transnational corporations and other business enterprises.⁵ Moreover, in-depth work between the annual meetings on the most salient subjects appeared to be necessary. In that sense, a workshop focused on reducing inequalities in participation in line with paragraph 15 of the Almaty Guidelines appeared to be opportune. She reiterated her support for the Bureau's proposal to strengthen the work area of the promotion of the principles of the Convention in international forums and to allocate more resources. Lastly, she expressed her willingness to consider the matter of geoengineering at an upcoming session.

69. The Chair closed the session with the issue of how the global pandemic raised questions about the right to information and public participation in environmental matters. Those developments must be seen in a broader context, in which many countries participating in international negotiations were unfriendly to the Aarhus principles. Many Governments had taken measures, often in the guise of a State emergency, that reduced freedoms and limited the right to public participation. Conversely, the situation offered opportunities: innovation in terms of remote participation tools; new opportunities for participation; participation of persons unable to travel for different reasons, etc. Those advances should not, however, lead anyone to forget the fundamental problems. Remote participation could be a source of inequality and deprived NGOs of informal exchanges that helped advance the environmental cause. Even in countries where the rights to information and participation were well institutionalized, a process of regression was taking shape that had begun before the pandemic but that had been reinforced by that crisis.

C. Conclusions

70. The Working Group:

(a) Took note of the information provided by the Chair of the thematic session and of her Note, and expressed its appreciation to the Chair for the work done;

(b) Thanked Parties that had participated in the session's survey on the promotion of the principles of the Convention in international trade negotiations and in ICAO processes, and took note of the survey's results;

(c) Expressed its appreciation to the representatives of France, Georgia, the International Coalition for Sustainable Aviation and the European ECO-Forum for their presentations and statements and took note of the information provided;

(d) Also expressed its appreciation to the UNFCCC secretariat for its continuous cooperation and for the comprehensive written update on the lead up to and during the twenty-fifth session of the Conference of the Parties to UNFCCC, and preparations for the twenty-sixth session of the Conference of the Parties regarding access to information and public participation in decision-making;

(e) Further expressed its appreciation to the UNEP secretariat for the detailed written update on stakeholder engagement, in particular regarding the upcoming fifth session of the United Nations Environment Assembly of UNEP (to be held in two sessions: Nairobi (online), 22 and 23 February 2021, and Nairobi, February 2022, date to be announced) and the UNEP Access-to-Information Policy;

(f) Expressed its appreciation to the ECE secretariat for the update on stakeholder engagement in the global and regional follow-up and review of the 2030 Agenda and the Sustainable Development Goals;

(g) Also expressed its appreciation to the Asian Infrastructure Investment Bank, the European Bank for Reconstruction and Development, the European Investment Bank and the World Bank for their written updates;

(h) Took note of the written statements submitted by the above-mentioned organizations;

⁵ See <https://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx>.

(i) Took note of the statements by the European ECO-Forum/Heinrich Böll Foundation regarding geoengineering, the pandemic and climate change-related decision-making issues; and took note of the request to hold a session on the issue of geoengineering in 2021;

(j) Encouraged Parties to continue promoting the Convention's principles in ICAO, UNEP and international financial institution-related processes, climate-related negotiations, in particular with regard to carbon trading mechanisms established under the Paris Agreement, and when implementing the Sustainable Development Goals;

(k) Welcomed the progress made in promoting the Convention's principles in international forums but recognized that more effort should be made to further transparency and effective public participation in international environment-related decision-making, including in international trade negotiations and ICAO-related processes;

(l) Encouraged Parties to continue fulfilling their obligations under article 3 (7) of the Convention and to consider the results achieved at the next meeting of the Working Group;

(m) Reiterated that promotion of transparency and effective public participation in international decision-making on environmental matters is key for the achievement of the Sustainable Development Goals, in particular, Goals 16 and 17.

IX. Other business

71. At its July session, the Working Group took note of the information provided by the representative of the European Union about its intention to provide written comments on the topics to be discussed at the October session. At its October session, the Working Group took note of the statement made by the representative of Armenia regarding the environmental impact of armed conflicts and the pandemic.

X. Adoption of outcomes

72. The Working Group adopted the major outcomes and decisions of the meeting (as contained in documents AC/WGP-24/Inf.21 and AC/WGP-24/Inf.15) and requested the secretariat, in consultation with the Chairs, to finalize the report and incorporate those adopted outcomes and decisions.
