

AARHUS CONVENTION CAPACITY BUILDING COORDINATION

Twelfth meeting

Report on the meeting¹

prepared by the secretariat

I. Introduction

1. The twelfth meeting of the Aarhus Convention Capacity-building Coordination took place online on 11 May 2021.

2. The meeting was chaired by Ms. Ella Behlyarova, Secretary to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and the Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs), United Nations Economic Commission for Europe (UNECE). UNECE also provided the secretariat services for the Aarhus Convention capacity building coordination meeting.

3. Representatives of the following organizations were present at the meeting: United Nations Environment Programme (UNEP); United Nations Educational, Scientific and Cultural Organisation (UNESCO); United Nations Country Teams in Albania, Belarus, Georgia, Turkmenistan and Uzbekistan; Organization for Security and Co-operation in Europe (OSCE); European Commission; European Environmental Agency (EEA); European Investment Bank (EIB); European Bank of Reconstruction and Development (EBRD); and the European ECO Forum.

II. Opening and adoption of the agenda

4. The Chair opened the meeting, introduced the participants and highlighted the objectives of the meeting. The meeting aimed to consider: (a) recent developments with regard to existing and future capacity-building activities under the Aarhus Convention and, to some extent, under its Protocol on PRTRs; (b) outcomes of a survey on capacity-building needs in countries of South-Eastern and Eastern Europe, the Caucasus and Central Asia; (c) a possible input to the report on capacity building for the Meeting of the Parties to the Aarhus Convention at its seventh session (Geneva, 18-21 October 2021); (d) an update on activities related to the promotion of the Convention to non-ECE countries and of Principle 10 of the Rio Declaration on Environment and Development (Rio Declaration); and (e) future steps to support capacity building.

5. The Chair introduced the Aarhus Convention, its governing structure and capacity-building coordination framework. Then she drew attention to the draft decisions to be considered by the Meeting of the Parties to the Convention at its seventh session, including the Strategic Plan for 2022-2030, the work programme for 2022-2025 and several substantive decisions². These documents will guide capacity-building activities in the next intersessional period.

6. The Chair informed that specific capacity-building activities carried out by partner organizations in the current intersessional period 2017-2021 will be detailed in the report on capacity-building and its accompanying document to be submitted to the seventh session of the Meeting of the Parties to the Convention.

7. The participants took note of the information provided by the Chair and adopted the agenda for the meeting.³

III. Advancing implementation of the Convention

8. The secretariat introduced major outcomes of the survey on the capacity-building needs in the countries of South-Eastern and Eastern Europe, the Caucasus and Central Asia, carried out in 2020-2021. Up to date, six responses to the above-mentioned survey were received by the secretariat. The responses were fairly distributed among subregions (Montenegro and Serbia for South-Eastern Europe,

¹ This document was not formally edited.

² Available at https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7 (tab Action documents)

³ Agenda and other documents of the meeting are available at: <https://unece.org/environmental-policy/events/twelfth-meeting-capacity-building-coordination-framework> .

Armenia and Georgia for the Caucasus and Kazakhstan and Tajikistan for Central Asia). The secretariat also noted interest of Uzbekistan in the accession to the Convention and called upon partner organizations to support the country in this regard.

9. The respondents of the survey identified several capacity constraints in implementing the Convention at the national level such as lack of awareness or interest of the general public (also resulted in low levels of participation and litigation), insufficient capacities of local NGOs to participate in decision-making at national/state level, lack of trainings for public authorities and judicial actors and challenges linked to digital transformation. As for the local level, the respondents reported the lack of awareness and funding to support programs implementing the Convention, insufficient capacities of relevant stakeholders such as local NGOs and media outlets, lack of long-term cooperation strategy between local authorities and NGOs, lack of qualified experts and lawyers specializing in environmental law and challenges linked to digital transformation.

10. The priority areas for capacity-building varied from country to country. Nevertheless, capacity-building needs in the following areas have received the highest priority: (a) overall implementation of the Convention, i.e. establishing a clear, transparent and consistent framework, increasing environmental awareness, education and knowledge about the Convention among public authorities and stakeholders and providing guidance and assistance to the public exercising their rights; (b) use of digital tools to support access to information, public participation and access to justice; (c) public participation in decision-making on specific activities; and (d) strengthening capacities of judiciary and other review bodies in environmental law and use of independent environmental expertise during the review procedures.

11. Various approaches were used in the above countries to strengthen capacities of different target groups in the implementation of the Convention. The survey outcomes indicated a greater interest in such formats as pilot projects, short face-to-face workshops (1-2 days), self-paced and moderated online course and face-to-face trainings (1-2 weeks). It should be noted that some activities in the last two years were affected by the coronavirus disease (COVID-19) pandemic due the restrictions for organizing events with in-person attendance and reduced organisational capacities.

12. Half of the respondents reported that the capacity-building programs relating to the implementation of the Aarhus Convention were carried out on a periodic basis. Other respondents reported the practice of having continuous or one-time capacity-building activities.

13. Institutions involved in capacity-building activities included ministries of the environment, Aarhus Centres, law academies or faculties, training institutions for judiciary and prosecutors, public libraries, media outlets, NGOs, business operators and international organizations (e.g. OSCE and its field operations, UNDP, others).

14. At the meeting, partner organizations shared their experiences, including advantages and disadvantages of using different approaches to capacity-building activities. The combination of e-learning tools at the beginning or in the middle of the project combined with face-to-face meetings was acknowledged as the most effective approach. Participants also noted the increased interest in pilot projects based on good practices related to access to information, public participation in decision-making or access to justice in environmental matters.

15. The representative of OSCE underscored the continuous support of the Aarhus Centres in promoting effective implementation of the Convention and informed that the next meeting of the Aarhus Centres network will focus on their role in “green recovery” and women empowerment (23-24 September 2021).

16. The representative of the European Commission highlighted the support provided by the European Union Life programme to advance environmental governance, developing training programme for judges and other legal professionals in environmental law, promoting the environment rights education for children and improving public access to environmental information through modern digital tools.

17. Participants considered priorities for future capacity-building work with regard to access to information, public participation in decision-making, access to justice, genetically modified organisms and public participation in international forums based on the survey results and the respective draft decisions submitted to the Meeting of the Parties at its seventh session (see sections i-vi below).

i. Access to information

18. The activities are to be focused on active dissemination of environmental information routinely and in case of emergencies, digital transformation and use of modern digital technologies, transparency of public authorities and the application of restrictions, and protection of whistle-blowers.

19. The activities could: (a) support modernization of environmental information system and reporting on the state of the environment to the public and to MEAs, establishing PRTRs and user-friendly single web access points harnessing on e-government and Open Data initiatives, (b) support initiatives related to citizen science and crowdsourcing; (c) promote the application of tools to inform consumers, such as eco-labelling, energy-labelling, product passports, product declarations and warning labelling, green public procurement mechanisms; (d) support Aarhus Centres, the media, public libraries and other information sites to promote access to information by local communities and disadvantaged and vulnerable groups (e.g. women, children, persons with disabilities); (e) provide assistance in reviewing legislation (especially related to the protection of whistle-blowers); (f) provide assistance in trainings and multi-stakeholder dialogues to improve public access to information.

20. Furthermore, the following priority needs were specifically identified through the survey: (a) addressing challenges in digitalization at different levels; (b) developing digital environmental information system which is publicly accessible through a single web-access point; and (c) greater integration between national PRTRs and other elements of digital environmental information management system of a country.

21. The participants were strongly encouraged to use material produced within the framework of the Convention for capacity-building in this area, in particular the forthcoming updated Recommendations on the more effective use of electronic information tools⁴.

22. Partner organizations presented ongoing and potential future projects in the above countries and underscored the value of improving legal framework for access to information, data sharing, effective institutional coordination at the national level and establishing management systems for information requests. In particular, participants discussed the benefits of a model legislation that was developed with the support of UNESCO and UNEP and a training course on access to information being developed by UNESCO.

23. Further, participants addressed a number of issues, including the following:

(a) importance of digitalization, especially to implement the European Green Deal and its monitoring framework;

(b) increased demand for public access to environment-related product information and the need to strengthen capacities of the countries with economies in transition to address this matter;

(c) instrumental role of Aarhus Centres for capacity building as they have gathered vast experience in promoting public access to environmental information and in using innovative methods in reaching out the public;

(d) importance of promoting not only active dissemination of environmental data per se but also of environmental knowledge;

(e) benefits of preparing and disseminating the state of the environment reports;

(f) need to continue building capacity of public authorities in relation to requests for environmental information that could be a subject for exceptions due to challenges associated with determining of the scope of environmental information and with the application of restrictions to access it (e.g. copyright, business and trade secrets, or security issues).

(f) importance of taking into account local conditions and traditional means of communication in order to address the needs of the public in access to environmental information.

⁴ See documents ECE/MP.PP/2021/20 and ECE/MP.PP/2021/20/Add.1 available at https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7 (tab Action documents)

ii. Public participation in decision-making

24. The systemic issues to be continuously addressed included (a) effective and early public participation with disadvantaged and vulnerable groups, (b) effective access to all relevant documents to the public (in particular through electronic tools), (c) effective notification and time frames for public participation, (d) ensuring that account is taken of comments, and (e) safe participation and protection of environmental defenders.

25. The following thematic focus is expected to receive priority for the next intersessional period: agriculture (SDG2); health-related issues linked to air pollution (SDG3); large-scale infrastructure and transport (SDG9); urban development/cities (SDG11); climate change (SDG13); fishery and oceans, seas, marine resources (SDG14); emerging technologies (SDG 9 and others).

26. Capacity-building activities in this area can include: (a) assisting countries in reviewing legislation; (b) pilot projects to carry out public participation procedures based on good practices, (c) developing training programmes or conducting trainings at all levels for public officials to cover articles 6, 7 and 8 of the Convention; (d) assisting in developing e-participation tools and improving access through Internet to information related to the decision-making procedure (especially environmental impact assessment, strategic environmental assessment, permitting and licenses as well as state environmental *expertiza*); (e) conducting research with a view to collect good practices and examples of practical means of promoting more effective public participation; and (f) support trainings/awareness-raising events on the obligations under article 3(8) of the Convention targeting officials of public authorities, law enforcement agencies, prosecutors, members of judiciary, international financial institutions, providers of private security services and developers and support other measures to protect environmental defenders such as development of anti-SLAPP and whistle-blowers protection legislation, special programmes to protect and support environmental defenders at risks, reporting and monitoring mechanisms, etc.

27. Furthermore, activities aimed at ensuring effective public participation in decision-making on specific activities, plans, programmes and policies; and during the preparation of executive regulations and legally binding normative instruments were reported through the survey as most important for the countries concerned.

28. Participants welcomed the progress in establishing rapid response mechanism to facilitate implementation of article 3 (8) of the Convention and stressed the need to raise-awareness and provide guidance to the members of the public on how to use this mechanism once established.

29. The participants were strongly encouraged to use material produced within the framework of the Convention for capacity-building in this area, in particular the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters⁵.

30. Partner organizations reported about their activities aimed at e.g. strengthening public participation in decision-making regarding environmental impact assessment and strategic environmental assessment; climate change, especially related to national determined contributions, and nuclear issues; green economy; extractive sector; and disaster risk reduction.

31. Participants also discussed innovative good practices in public participation procedures, especially given the impact of the COVID-19 pandemic, and expressed support to continue assisting countries in promoting the use of the Maastricht Recommendations at the national and local levels. They were also strongly encouraged to use relevant material prepared by the Aarhus Convention Compliance Committee⁶. The work of Aarhus Centres on these matters remained instrumental.

iii. Access to justice

32. The activities in this area are to be focused on overcoming the main barriers for members of the public to access to justice, promoting public interest litigation and collective redress; and enhancing measures preventing strategic lawsuits against public participation.

⁵ Available at <https://unece.org/environment-policy/publications/maastricht-recommendations-public-participation-decision-making>

⁶ See ECE/MP.PP/C.1/2020/5/Add.1 and ECE/MP.PP/C.1/2021/6 at: https://unece.org/sites/default/files/2021-04/ece_mp_pp_c.1_2021_6_eng.pdf and https://www.unece.org/fileadmin/DAM/env/pp/compliance/CC-67/ece.mp.pp.c.1.2020.5.add.1_advance_unedited.pdf.

33. The activities could support a national dialogue, promote judicial networking, monitor and evaluate the effectiveness of domestic administrative and judicial review procedures, access to independent expertise, improve relevant legislation and facilitate provision of information to the public on access to judicial and administrative review procedures as well as on access to decisions of courts and other review bodies.

34. The survey revealed the need to continue raising awareness and building capacities of judiciary, prosecutors, other review bodies, members of Bar associations, public interest lawyers, other legal professionals, non-governmental organizations and members of the public regarding ensuring effective access to justice and specialization in environmental matters.

35. Partner organizations shared information about the following recent and planned capacity-building activities, including:

(a) UNEP with regard to advancing environmental rights, the preparations of reports related to environmental rule of law, climate and air pollution litigation as well as strengthening respective capacities of parliamentarians in environmental matters⁷;

(b) European Commission regarding the update of the Aarhus Regulation, e-justice factsheets for the e-justice portal, developed training module and ongoing online trainings for judges;

(c) UNESCO about the work with judges, prosecutors and information commissioners related to the protection of the right to information, including the launch of the global massive open online course for judicial actors⁸ and collection of good practices;

(d) European ECO Forum regarding initiatives to reduce barriers for public interest lawyers and prevent strategic lawsuits against public participation.

36. The secretariat acknowledged the successful cooperation with UNEP on several capacity-building activities to promote good practices and address challenges and barriers related to access to justice.

37. Partner organizations reaffirmed their support to promoting networking of judiciary, judicial training institutions, information commissioners and other review bodies at the subregional and national levels and would continue to look into the practical means that could allow them to carry out these activities on a systemic basis.

iv. Genetically modified organisms

38. The secretariat noted the lack of progress in achieving objective II.2 of the Convention's Strategic Plan for 2015-2020, which states that the amendment to the Convention on public participation in decisions on the deliberate release into the environment and the placing on the market of genetically modified organisms (GMO amendment) is approved by a sufficient number of Parties to enter into force by 2015 and is progressively implemented.⁹

39. The secretariat recalled that the Meeting of the Parties to the Aarhus Convention at its sixth session (Budva, Montenegro, 11-14 September 2017) urged those Parties whose ratification of the GMO amendment would count towards its entry into force to take urgent steps towards ratification of the amendment and called on all countries to ratify the GMO amendment. Thus, the priority countries with economies in transition for capacity-building activities in this area are Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, North Macedonia, Turkmenistan and Ukraine.

40. The activities are to be focused on: (a) reviewing the legislation and preparing documents for the ratification of the GMO amendment; (b) organising national round-tables and trainings; (c) implementing pilot projects; and (d) strengthening the capacity of the public to participate in GMOs-related decision-making.

41. The secretariat highlighted the effective cooperation with the secretariat of the Convention on Biological Diversity and its Cartagena Protocol to promote this area of work. At the same time, the

⁷ For example, see a joint publication of UNEP and the Inter-Parliamentary Union "Green approaches to COVID-19 recovery: Policy note for parliamentarians" available at: <https://www.unep.org/resources/report/green-approaches-covid-19-recovery-policy-note-parliamentarians>

⁸ See <https://en.unesco.org/news/unesco-and-oxford-university-launch-massive-open-online-course-judicial-actors-international>.

⁹ See <http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/about-the-convention/amendments/gmo-amendment.html>

secretariat expressed its concern over the lack of specific capacity-building activities on this subject in the current intersessional period.

42. Partner organizations acknowledged that this area remained insufficiently addressed through the ongoing capacity-building activities. They were therefore encouraged to address this matter through other relevant upcoming capacity-building activities and to use the material¹⁰ produced under auspices of the Convention and the Cartagena Protocol on Biosafety.

v. Public Participation in International Forums

43. The secretariat highlighted the need for increasing capacity-building activities to support the participation of the public before, during and in the follow-up to meetings of international forums and to facilitate interaction within and between the ministries involved in the work of different international forums. Public participation remained also important in the discussion of new or emerging issues relating to the environment which were not yet addressed by international forums (for example, geoengineering).

44. Work could focus on international forums dealing with marine environment, air pollution, deforestation and degradation of forests, loss of biodiversity and the environmental effects of agriculture, land use, carbon trading and other market based mechanisms, and environmental impact assessment in a transboundary context.

45. The participants were strongly encouraged to use material produced within the framework of the Convention for capacity-building in this area, in particular the Almaty Guidance on Promoting the Application of the Principles of the Aarhus Convention in International Forums and the Checklist of measures to promote the principles of the Convention in international forums¹¹.

vi. Compliance with the Convention

46. The secretariat informed the participants that the compliance by individual Parties with their obligations under the Convention will be considered by the Convention's Meeting of the Parties at its seventh session. Partner organizations were encouraged to assist these Parties in implementing the respective recommendations of the Compliance Committee and forthcoming decisions on compliance. Partner organizations were also invited to participate in the relevant meetings of the Compliance Committee to gain better insights of the follow up process on monitoring the implementation of these decisions.

47. The secretariat expressed its appreciation to the European ECO Forum for its support to raising awareness and building capacities of NGOs regarding the functioning of the Convention's compliance mechanism and reiterated the importance of provision of adequate funding to NGOs for such activities.

48. Partner organisations took note of the provided information and highlighted the importance of strengthening capacities of the public authorities and members of the public in the respective Parties to remedy deficiencies identified through the compliance mechanism as to advance the implementation of the Convention.

IV. Promoting accession to the Aarhus Convention and Principle 10 of the Rio Declaration

49. The participants welcomed the forthcoming accession of Guinea-Bissau to the Aarhus Convention and 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 (Escazu Agreement). They discussed relevant initiatives in other regions and opportunities to promote synergy and cooperation between various activities.

V. Further steps

50. The secretariat expressed its appreciation to partner organisations for their continuous support and cooperation with regard to the implementation of the Convention and its Protocol at the subregional and national levels.

¹⁰ See <https://unece.org/environment-policy/public-participation/key-guidance-and-other-material-related-gmos>

¹¹ Available at <https://unece.org/environment-policy/publications/maastricht-recommendations-public-participation-decision-making>

51. The participants highlighted the existing opportunities and concerns with regard to the funding of capacity-building projects, especially specific thematic projects (e.g. promoting the application of the Aarhus Convention to GMOs-related matters or promoting public participation in international forums), and discussed possible ways to address this matter.

52. The participants underscored the opportunities for collaboration to promote environment - good governance – human rights nexus within the United Nations Sustainable Development Cooperation Framework (UNSDCF), namely through its regional and national level components: the regional UN Issue-based Coalition on Environment and Climate Change and the country-level programme development. Such collaboration will be in line with the United Nations General Assembly Resolution 71/243¹² and the Mainstreaming Guidance on Integrating the Environment and Climate Change in Processes for UNSDCFs¹³.

53. Participants agreed to:

(a) Promote capacity building efforts of partner organizations at the seventh session of the Meeting of the Parties to the Convention, the fourth session of the Meeting of the Parties to the Protocol and their joint High-level Segment (Geneva, 18-22 October 2021);

(b) Provide final comments to the report on capacity-building and its accompanying document to be submitted to the Convention's Meeting of the Parties at its seventh session;

(c) Ensure that capacity-building activities are implemented in close cooperation with national focal points for the Convention and the Protocol in the respective countries;

(d) Use capacity building activities for assisting countries to implement relevant decisions of the Meetings of the Parties to the Convention and the Protocol to be adopted at their seventh and fourth sessions respectively;

(e) Support the participation of country experts (e.g. governmental, NGOs) at the sessions of the Meetings of the Parties and other meetings under the Aarhus Convention, including for presenting the outcomes of capacity-building activities;

(f) Provide possible input to the capacity-building webpage of the Convention (e.g. by providing links to event calendars of partner organizations, etc.)¹⁴;

(g) Promote useful information resources through the Aarhus Clearinghouse¹⁵ and PRTR.net¹⁶;

(h) Provide inputs for the collection of thematic case studies (e.g. on electronic information tools, case law, public participation etc) available through the Aarhus Clearinghouse;

(i) Promote and use e-learning courses released by the secretariat and the partner organisations (e.g. SDG16 course¹⁷).

¹² Available at: <https://undocs.org/en/A/RES/71/243>

¹³ Available at: https://unece.org/IBC_Env/key-resources

¹⁴ Available at <https://unece.org/env/pp/aarhus-convention-capacity-building>

¹⁵ Available at <http://aarhusclearinghouse.unece.org/>

¹⁶ Available at <https://prtr.unece.org/>

¹⁷ Available at <https://aarhusclearinghouse.unece.org/resources/e-learning-course-sdg-16-and-access-rights-aarhus-convention-and-escazu-agreement>