

## Economic Commission for Europe

Meeting of the Parties to the Convention on  
Access to Information, Public Participation  
in Decision-making and Access to Justice  
in Environmental Matters

### Task Force on Access to Justice

#### Fourteenth meeting

Geneva (Hybrid), 27 and 28 April 2022

### Key outcomes<sup>1</sup>

as agreed by the Task Force on Access to Justice at its fourteenth meeting<sup>2</sup>

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

1. The Task Force adopted the agenda as set out in the document AC/TF.AJ-14/Inf.1.

#### II. Thematic focus:

##### (a) Access to justice in cases related to spatial planning

2. The Task Force:

(a) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges related to access to justice in spatial planning;

(b) Highlighted that spatial planning decisions could affect the possibility of members of the public to enjoy their rights to live in an environment adequate to their health and well-being and other rights under the Aarhus Convention and their legitimate interests; therefore, judicial mechanisms should be accessible to the public to challenge such decisions so that the rights and legitimate interest are protected and environmental law is enforced;

(c) Noted that a regular analysis of administrative and judicial complaints related to spatial planning could help improve the procedures for public participation in this multi-stage and complex decision-making;

(d) Encouraged Parties to take the necessary legislative, enforcement and other measures to ensure compatibility between the provisions implementing public participation and access-to-justice provisions in accordance with the Convention concerning the multi-stage decision-making procedure of spatial planning, including with regard to strategic environmental assessment and environmental impact assessment;

(e) Welcomed measures adopted by several Parties to broaden standing for members of the public to bring cases related to spatial planning and establish specialised courts and tribunals to deal with such cases;

(f) Called on Parties to take the necessary legislative and other measures to address existing barriers in access to justice in spatial planning with regard to public access to the adopted decisions,

<sup>1</sup> The document was not formally edited.

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

timeliness, court jurisdiction, transboundary cases, costs, injunctive relief, remedies in cases of illegally built objects and other issues highlighted by the speakers;

(g) Encouraged Parties, stakeholders and partner organizations to disseminate information to the members of the public, especially to those in vulnerable situations, with regard to access to the related administrative and judicial review procedures and to promote awareness raising and capacity-building for public authorities, judiciary and members of the public in this area;

(h) Decided to continue the exchange of information, experiences, challenges and good practices with regard to spatial planning through the Convention's reporting mechanism, Aarhus Clearinghouse and the jurisprudence database.

### **(b) Access to justice in energy-related cases**

#### 3. The Task Force:

(a) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges with regard to access to justice in energy-related cases and population of the jurisprudence database with the new relevant cases;

(b) Encouraged Parties to take the necessary legislative, enforcement and other measures to ensure compatibility between the provisions of national legislation implementing access to information, public participation and access-to-justice provisions in accordance with the Convention related to the multi-stage decision-making procedure on energy-related matters, including with regard to strategic environmental assessment and environmental impact assessment;

(c) Noted that a regular analysis of energy-related cases could help to address challenges and improve the procedures for public participation in decision-making and access to justice in this area and invited the Task Force to discuss the scope and methodology for such analysis;

(d) Called on Parties to take the necessary legislative and other measures to remove existing barriers in access to justice in energy-related cases with regard to standing, timeliness, limited scope of review, compensation of damages, costs and assistance mechanisms, use of scientific assessments and other issues highlighted by the speakers;

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

### **III. Stocktaking of recent and upcoming developments**

#### 4. The Task Force:

(a) Took note of the recent developments, challenges, lessons learned and suggestions related to access to justice in environmental matters as presented by the speakers;

(b) Highlighted the need for further work to remove persistent barriers related costs, access to assistance mechanisms and timeliness and decided to undertake a survey to collect possible solutions and good practices to overcome these barriers;

(c) Took note of the draft questionnaire<sup>3</sup> and agreed to provide final comments by 16 May 2022;

(d) Requested the secretariat in consultation with the Chair to update as necessary and circulate the questionnaire to collect the required information by 1 November 2022 and invited the Chair to inform at the fifteenth meeting of the Task Force on the results of the survey;

<sup>3</sup> See information document 3 available at [https://unece.org/sites/default/files/2022-04/14TFAJ\\_Inf3\\_Draft\\_survey\\_enablers\\_AJ\\_draft.docx](https://unece.org/sites/default/files/2022-04/14TFAJ_Inf3_Draft_survey_enablers_AJ_draft.docx).

(e) Encouraged Parties to continue national multi-stakeholder dialogues to discuss solutions for removing barriers in access to justice in environmental matters identified through compliance and reporting mechanisms under the Convention;

(f) Agreed that the Task Force meeting in 2023 would continue focusing on access to justice in cases challenging acts or omissions that contravened permit requirements or laws relating to the environment, in particular, in relation to the following issues: spatial planning and energy-related cases (including standing and remedies), access to justice in strategic environmental assessment procedures and in transboundary context and measures to discourage strategic lawsuits against public participation (SLAPP);

#### **IV. Tools to promote effective access to justice**

##### **5. The Task Force:**

(a) Welcomed initiatives of Parties and stakeholders as reported by the speakers aimed to promote effective access to justice by (i) introducing e-justice initiatives, modern digital technologies and other tools; (ii) promoting specialization of judiciary and other legal professionals in environmental law and (iii) introducing measures to discourage strategic lawsuits against public participation;

(b) Encouraged Parties to continue improving dissemination of information on access to administrative and judicial review procedures in accordance with the updated Recommendations on the more effective use of electronic information tools that were adopted by the Meeting of the Parties to the Convention at its seventh session (Geneva, 18-21 October 2021), taking into account challenges highlighted by the speakers;

(c) Encouraged Parties, stakeholders and partner organization to promote public participation in design, testing and implementation of e-justice initiatives linked to access to justice and take into account the needs related to access to justice in environmental matters;

(d) Called upon Parties to promote further building capacities and strengthen specialisation of judges, prosecutors, attorneys, public interest lawyers and other legal professionals in environmental cases in accordance with decision VII/3 of the Meeting of the Parties and to allocate sufficient resource for these purposes;

(e) Welcomed measures undertaken by the Parties to discourage strategic lawsuits against public participation, including by introducing early detection measures, guarantees for whistle-blowers and other environmental defenders related to cooperation in criminal proceedings, reversing the burden of proof, launching a public consultation and other measures as highlighted by the speakers;

(f) Encouraged Parties and stakeholders to continue the exchange of information, experiences, challenges and good practices to promote measures to discourage SLAPP through the Convention's reporting mechanism, Aarhus Clearinghouse, including its library on protection of environmental defenders and the jurisprudence database, and other relevant tools.

(g) Noted the necessity for cooperation between the Special Rapporteur's work and the work of the Task Force in accordance with their mandates.

#### **V. Closing**

6. The Task Force requested the secretariat, in consultation with the Chair, to finalize the meeting report and incorporate these outcomes.