

Working Group of the Parties to the Aarhus Convention
Agenda item 3 (c)

Statement by the Chair of the the Task Force on Access to Justice
Mr. Luc Lavrysen

Wednesday, 22 June, 3-30 p.m.

Good morning, distinguished delegates! Greetings from Brussels!

In this video statement, I am pleased to bring to your kind attention the results of the work of the Task Force on Access to Justice in accordance with the mandate set out in decision VII/3 adopted by the Meeting of the Parties in October last year.

The Task Force held its fourteenth meeting from 27-28 April 2022 in a hybrid format. The meeting brought together about 100 representatives of governments, judiciary, non-governmental organizations, environmental lawyers, academia, international organizations, and other stakeholders. We learned from experiences shared by Parties, Observers and stakeholders from Armenia, Albania, Bulgaria, Croatia, Denmark, European Union, France, Georgia, Hungary, Ireland, Malta, Mauritius, North Macedonia, Serbia, Spain, Tajikistan, the United Kingdom and Uzbekistan.

Two thematic sessions focused on access to justice in cases related to spatial planning and energy matters. Both areas imply a complex, multistaged decision-making procedures, involving strategic environmental impact assessment, environmental impact assessment and public participation at various stages. Access to justice in these areas remained instrumental to protect the public's rights and legitimate interests, enforcing laws relating to the environment and preventing irreversible damage to the environment.

The Task Force discussed current trends, good practices, barriers, challenges, and innovative approaches in these areas. Positive trends in some countries included broadening the standing of the members of the public, regardless of their actual participation in the decision-making procedure under review; establishing specialized tribunals and increased use of administrative justice and providing the possibility for public authorities to correct flaws in decision-making in the course of proceedings at the direction of court within the established timeframe.

At the same time, several barriers remained regarding standing, timeliness, limited scope of review, compensation for damages, costs and assistance mechanisms, court jurisdiction and transboundary aspects of cases, use of scientific assessments, injunctive relief, remedies in cases of illegally built objects especially when third parties affected acted in good faith and other issues.

Also Parties differed greatly in approaches whether plans, programmes and decisions on strategic environmental assessment could be subject to judicial review and the scope and standards of such review.

The Task Force encouraged Parties to take the necessary measures to ensure compatibility between the provisions of national legislation implementing three pillars of the Convention. A regular analysis of case law could help to address existing challenges and improve procedures for public participation in decision-making and access to justice in these areas.

The Task Force also took stock of developments regarding (a) public interest litigation and collective redress; (b) standing; (c) timeliness; and (d) costs and access to assistance mechanisms. The Task Force underscored the need for further work to remove persistent barriers related to costs, access to assistance mechanisms and timeliness, and decided to undertake a survey to collect possible solutions and good practices to overcome those barriers. The questionnaire is currently under finalization in the light of the comments received and will be circulated to Parties and stakeholders soon. The progress in the survey will be reported at the fifteenth meeting of the Task Force in March 2023.

Furthermore, the Task Force also considered tools to promote effective access to justice such as (a) e-justice initiatives and modern digital technologies; (b) specialization of judiciary and other legal professionals in environmental law; and (c) measures to discourage strategic lawsuits against public participation (SLAPP) welcoming the establishment of the rapid response mechanism and calling on Parties to take concrete measures to discourage such suits.

The Task Force agreed that the next meeting would continue focusing on spatial planning and energy-related cases; access to justice in strategic environmental assessment procedures and in a transboundary context; and measures to discourage strategic lawsuits against public participation. The Task Force also continued populating the jurisprudence database and the Aarhus Clearinghouse awaiting the finalization of ongoing technical updates.

Another activity that preceded the Task Force meeting is the Judicial Colloquium “Adjudication of cases related to climate change and air quality” convened by UNECE in partnership with UNEP. The meeting was organized pursuant to decision VII/3, which called on promoting a network of judiciary, judicial training institutions and other review bodies in the pan-European region. The event provided a valuable opportunity to discuss how effectively handle cases related to climate change and air quality and explore trends and good practices related to adjudication of these cases. I would like to thank UNEP, IUCN World Commission on Environmental Law, OSCE, Global Judicial Institute on Environmental Law and the European Union Forum of Judges for the Environment for their crucial support.

Thanks to the established judicial cooperation and partnerships, another successful event on judges and the environment “The impact of the Stockholm Declaration in shaping global environmental law and jurisprudence” organized by the Global Judicial Institute on Environmental Law took place on the margins of the Stockholm +50 Conference in June this year and provided another opportunity to raise awareness about the Convention and share judicial practice from the Pan-European region.

In conclusion, I would like to express my deep gratitude to all experts from Parties, members of judiciary, partner organizations, European ECO Forum and other stakeholders who have supported the work of the Task Force and look forward to their support of the Task Force activities in the future.

Thank you for attention.