

Summary of the Judicial Colloquium

The Judicial Colloquium involved the presentation by judges from a broad range of countries regarding challenges to access to justice. The primary themes were access to justice in spatial planning and in energy related cases.

The colloquium was followed by meeting of the Task Force on Access to justice which I also attended and the range of attendees was wider and included judges, lawyers and NGOs in a discussion on cases related to climate change and air quality.

Climate change litigation is relatively new but is undoubtedly an expanding area of jurisprudence. There are advantages in the exchange of views and knowledge between judges and the Colloquium and conversations had informally between delegates were worthwhile and important.

A number of themes emerged from the discussion at the Colloquium and it is interesting to note that similar themes emerge from the Task Force meeting :

1. An overriding consideration was the desire to promote public participation and the prevention of conflict as essential tools in the safeguarding and protecting of environmental rights.
2. Different approaches to standing exist in different jurisdictions. There emerged a consensus that the preferred approach was a broad interpretation which permitted challenges to planning or environmental decisions generally, even to persons who had not participated in the first stage of decision-making.

3. There was also a broad view that specialised tribunal or courts were a desirable way to improve access to justice. The focus here is on the education of judges and the provision and use of online sources of scientific and legal information.
4. There was also a perceived need to improve transparency in strategic environmental assessments are environmental impact assessments generally, as well as establishing a system for early detection in violation, supporting whistle-blowers and promoting networking of prosecutors.
5. The scope of review and costs were key features in the discussion of different legal regimes.
6. There was a far-reaching discussion on the use of technology both as a means of providing information on access to Justice in environmental matters and also as a source of scientific information and of legal knowledge and science. The availability of databases of judgments is regarded as an important source of information to members of the public generally.
7. It was generally believed that the continuation of the exchange of information and experiences as well as discussion regarding best practice was desirable.

What I personally took from my attendance of the Colloquium was the reach and broad acceptance of the high principles of the Aarhus Convention in nation states and in national courts, albeit, in a practical sense, enforcement and compliance is often difficult. The principles from the Convention, and model laws, draft legislation et cetera really do work as an aid

towards change. Cooperation and exchange of information and experience is an essential tool in improving the work of Aarhus.

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