

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

Fifteenth meeting

Geneva, 4 and 5 April 2023

Information document 4

Key outcomes¹

as agreed by the Task Force on Access to Justice at its fifteenth meeting²

I. Opening and adoption of the agenda

1. The Task Force:

- (a) Adopted the agenda as set out in the document AC/TF.AJ-15/Inf.1;
- (b) Took note of the statement by the Chair and the European ECO Forum.

II. Thematic focus:

(a) Access to justice in cases related to climate change

2. The Task Force:

(a) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges regarding public access to justice related to climate change;

(b) Noted a continuous increase of cases brought by members of the public to challenge decisions, acts and omissions in climate related matters before national and international courts and other independent review mechanisms;

(c) Took note of the initiatives and challenges reported by several Parties to include in the climate legislation provisions related to access to justice for members of the public to protect their rights and legitimate interests and to challenge climate action plans, and called on other Parties to develop similar initiatives in accordance with the Convention requirements;

(d) Called on Parties: (i) to guarantee the effective implementation of the Convention with regard to access to information and public participation in decision-making relating to climate change matters, which would reduce the demand for seeking justice; (ii) to ensure proper execution of the final decisions of courts and other independent review bodies in climate cases; and (iii) to address the needs and to protect individuals and groups in vulnerable situations;

(e) Encouraged Parties to take necessary legislative and other measures to address existing challenges and further promote effective public access to justice in cases related to climate change, especially with regard to standing, jurisdiction, timeliness and fairness of the existing procedures, scope of review, access to relevant expertise and adequate and effective remedies, including injunctive relieve;

¹ The document was not formally edited.

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

(f) Decided to continue the exchange of information regarding the developments in legislation and case law concerning public access to justice in climate-related cases through the Aarhus Clearinghouse and the jurisprudence database, and called on Parties to address them through the Convention's reporting mechanism.

(b) Access to justice in cases related to biodiversity protection

3. The Task Force:

(a) Expressed its appreciation to the representative of the secretariat of the Convention on Biological Diversity for informing about the Kunming-Montreal Global Biodiversity Framework and its targets;

(b) Thanked the speakers and welcomed the exchange of experiences, good practices and challenges regarding public access to justice in cases related to biodiversity protection;

(c) Acknowledged a growing movement for the recognition of the rights of nature as a mechanism to achieve environmental justice which should integrate the public's rights to access to information and participation in decision-making as set out by the Aarhus Convention;

(d) Underscored that the effective implementation of the Convention's access to justice provisions can underpin the achievement of the relevant targets under the Kunming-Montreal Global Biodiversity Framework and called on Parties to the Aarhus Convention to liaise with the respective national focal points to the Convention on Biological Diversity as to support fulfilment of these targets;

(e) Took note of the initiatives by several Parties to update the national legal biodiversity framework clarifying the respective provisions related to public access to justice and the legal personality of natural sites and invited other Parties to implement similar initiatives;

(f) Called on Parties to take the necessary legislative and other measures to address existing barriers in access to justice in biodiversity protection with regard to court jurisdiction, the transboundary context of cases, costs, injunctive relief, timeliness, liability for poor quality environmental impact assessments 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, the judiciary and members of the public in this area;

(h) Decided to continue the exchange of information regarding developments in legislation and case law concerning public access to justice in cases related to biodiversity protection through the Aarhus Clearinghouse and the jurisprudence database, and called on Parties to address them through the Convention's reporting mechanism.

III. Access to justice in energy-related cases

4. 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;

(b) Took note of the draft document (AC/TF.AJ-15/Inf.2³) outlining the scope and methodology of analysis of energy-related cases and of the comments provided at the meeting;

³ See document AC/TF.AJ-15/Inf.2 available from <https://unece.org/environment/documents/2023/03/item-3-analysis-energy-related-cases-improving-implementation>.

(c) Invited the Parties and stakeholders to provide written comments to the above draft document by 15 May 2023;

(d) Requested the Chair with the support of the secretariat to finalise the document taking into account the comments received and make it available on the relevant Task Force webpage;

(e) Decided to continue the exchange of information regarding developments in legislation, case law and carried out analysis concerning public access to justice in energy-related cases through the Aarhus Clearinghouse and the jurisprudence database, and called on Parties to address them through Convention's reporting mechanism.

IV. Stocktaking of recent and upcoming developments

5. The Task Force:

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

(b) Welcomed the accession of Guinea-Bissau to the Aarhus Convention as the first state outside the ECE region;

(c) Recalled that the Sustainable Development Goal 16 links justice and peace and the ongoing war in Ukraine has devastating impact on people's lives, on the environment and on the social and economic development in the region and beyond, thereby sets back the attainment of this Goal and of the objective of the Aarhus Convention;

(d) Recognized the devastating impact of the Russian Federation's aggression on the environmental situation in Ukraine;

(e) Acknowledged that unjustified and unprovoked full-scale invasion of Ukraine by the Russian Federation undermined the recent progress of Ukraine in implementation of the Aarhus Convention and became a significant challenge to the implementation of all three pillars of the Convention. The war also caused the need to identify forums for bringing justice in environmental matters to Ukraine and to consider the issue of compensation for its damaged environment;

(f) Called on the Parties to the Aarhus Convention to support the creation of international ad hoc bodies and international tribunals dealing with aggression of the Russian Federation against Ukraine to ensure that opportunities for compensation of environmental damage and responsibility for such environmental damage are foreseen;

(g) Called on Parties and relevant international organizations and bodies to condemn the Russian Federation's aggression against Ukraine and to provide any possible assistance to Ukraine in overcoming the above challenges;

(h) Took note of the draft report on the outcomes of the survey on measures to enable effective access to justice in environmental matters (AC/TFAJ-15/Inf.3 and AC/TFAJ-15/Inf.3/Add.1)⁴ and the comments received at the meeting;

(i) Invited the Parties and stakeholders to provide written comments by 15 May 2023 to the draft report;

(j) Requested the Chair, in consultation with the secretariat, to finalise the document and make it available on the Task Force webpage;

⁴ See documents AC/TFAJ-15/Inf.3 and AC/TFAJ-15/Inf.3/Add.1 available from <https://unece.org/environment/documents/2023/03/draft-report-outcomes-survey-measures-enable-effective-access-justice> .

(k) Welcomed the organization of the 2023 Judicial Colloquium and expressed appreciation to the United Nations Environment Programme, the United Nations Development Programme, the Organization for Security and Co-operation in Europe, the IUCN World Commission on Environmental Law, the Global Judicial Institute on the Environment, the European Union Forum of Judges for the Environment, and other partner organizations for their support;

(l) Took note of the preparations for the thematic session on access to justice to be held at the meeting of the Working Group of the Parties in 2024.

V. 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) improving access by members of the public to independent environmental expertise in judicial and administrative review procedures; (ii) introducing e-justice initiatives, modern digital technologies and other tools integrating judicial, environmental, geospatial and other relevant data and using citizen science, as appropriate; and (iii) promoting multi-stakeholder dialogues to remove barriers related to access to justice and including youth organizations in such dialogues and thereby respecting, promoting and fulfilling intergenerational equity;

(b) Called on Parties to continue improving dissemination of information on access to administrative and judicial review procedures and access to decisions of courts and other review bodies in accordance with article 9 (4) and (5) of the Convention and the updated Recommendations on the more effective use of electronic information tools⁵;

(c) Encouraged other Parties in cooperation with stakeholders and partner organizations (i) to take into account the needs related to access to justice in environmental matters in general e-justice projects, including by adjusting the relevant case classifications; (ii) to undertake additional e-justice initiatives to promote data integration and improve data mining for environmental cases; and (iii) to promote public participation in design, testing and implementation of such projects.

VI. Closing

6. The Task Force requested the secretariat, in consultation with the Chair, to finalize the meeting report and incorporate the agreed outcomes as summarized by the Chair at the meeting.

⁵ See <https://unece.org/environment-policy/publications/recommendations-more-effective-use-electronic-information-tools> .