

Statement by Mr. Luc Lavrysen
Chair of the Task Force on Access to Justice
Aarhus Convention Working Group of the Parties

Twenty-eighth meeting
Geneva, 2–4 July 2024

Tuesday, 2 July, 3.10— 3.40 p.m.

(see [the Chair's Note](#))

Distinguished Chair, distinguished Delegates,

I am honoured to have another opportunity today to take the floor to share key elements of my Note on future directions for the work on access to justice. Let me recall that Sustainable Development Goal 16 (peace, justice and strong institutions) with its target 16.3 (promoting the rule of law and ensuring equal access to justice) undergoes in-depth review this year. However, the progress in attaining them in environmental domain remains limited and, in some cases, even deteriorating.

As we acknowledged this morning, there are still a number of challenges at the legislative, policy and practical levels to enable effective access to justice for environmental NGOs and other members of the public in environmental cases. The challenges relate to: (a) standing; (b) scope of review; (c) burden of proof, the use of scientific evidence and independent environmental expertise; (d) jurisdiction, (e) financial and other barriers; (f) lack of timeliness in review procedures; (g) inadequate remedies, including injunctive relief, and their enforcement; and (h) strategic lawsuits against public participation (SLAPPs). We also heard that these challenges can disproportionately affect the ability of children, youth, women, and other people in vulnerable situations to seek justice.

Despite these challenges, there is a noticeable upward trend in the use of litigation to protect environmental public interests and human rights regarding climate, energy, land use, biodiversity and forestry, air and water quality, chemicals and wastes and greenwashing matters. There is also a strong call to improve the compliance with environmental law and combat environmental crimes that can be done only by joining the efforts by environmental law enforcement and the public.

Additionally, many speakers today highlighted that the legal frameworks of the Parties concerning these matters are evolving rapidly, impacting the admissibility and resolution of such cases. It remained crucial to achieve compatibility between provisions implementing access to information, public participation and access to justice, in line with the Convention. Particularly, it concerns the multistage decision-making procedures involving strategic environmental assessment, environmental impact assessment or other assessments so that the environmental disputes can be resolved at the earlier possible stage.

Although legal frameworks for judicial and administrative review in environmental matters vary among Parties, sharing experiences, raising awareness, learning from good practices and developing support material on issues of common interest can promote advanced implementation of this Convention pillar.

To address these challenges and share solutions, the Task Force on Access to Justice continued providing a vital forum for experts from governments, members of the judiciary and review bodies, civil society, Aarhus centres, public litigation lawyers, other legal professionals, academia, international and regional organizations and other stakeholders.

The activities of the Task Force were guided by decision VII/3¹ on promoting effective access to justice. Let me recall that the Task Force held its fourteenth and fifteenth meetings in Geneva in 2022² and in 2023³ respectively. The next sixteenth meeting of the Task Force will be held in February 2025.

The Task Force meetings helped to identify good practices and possible measures to promote effective access to justice. The following issues were covered: climate change; energy-related decision-making; air quality; biodiversity protection; and spatial planning (*para. 14 (a) (iii)*). The Task Force meeting in 2025 will focus on cases related to chemicals and waste management, water quality and noise pollution.

To facilitate the analysis of growing number of energy-related cases, the Task Force discussed the scope and methodology of such analysis that could help to improve the implementation of the Convention.

The Task Force also took stock of recent developments related to standing, scope of review, costs and access to assistance mechanisms, remedies and timeliness (*para. 14 (a) (i)*) and continued promoting public interest litigation and collective redress (*para. 14 (a) (ii)*).

To support this work, the Task Force carried out a survey on measures to enable effective access to justice in environmental matters which outcomes supported the discussion at the thematic session today.

Furthermore, the Task Force took stock of measures that could promote effective access to justice such as multi-stakeholder dialogues, e-justice initiatives, specialization of judiciary and other legal professionals in environmental law; access to independent environmental expertise; prevention of strategic lawsuits against public participation (SLAPPs) and relevant capacity-building initiatives.

Pursuant to decision VII/3, the network of the judiciary, judicial training institutions and other independent review bodies in the pan-European region has significantly expanded in close cooperation with partner organizations and other relevant networks and initiatives. To ensure that justice system can meet demands of the public to adjudicate increasingly complex and technical environmental cases, it remains crucial to promote this initiative. The organization of periodical Judicial Colloquia and subregional meetings with engagement of judiciary from all Parties and interested Member States, with a particular focus on the judiciaries of South and Eastern Europe, Caucasus and Central Asia, should continue due to the lack of structural co-operation in environmental matters in this part of the UNECE region. However, the continuation of these activities in the next intersessional period would depend on the availability of resources. Partner organizations will need to consider allocation of the required resources well in advance of the start of activities.

Turning to the next intersessional period, the Task Force can specifically focus on access to justice in cases concerning activities subject to environmental impact assessments; plans and programmes relating to the environment; land use; forestry; environment-related product information; environmental damage and environmental crimes. Given the increasing number of litigation and criminal cases in certain areas, the Task Force can continue monitoring and assessing further developments concerning access to justice in cases related to climate change; air and water quality; chemicals and waste management; and biodiversity protection.

At the same time, it is important that the Task Force continue combining the theme chosen with a horizontal focus on the key elements: standing, jurisdiction, especially in transboundary cases, scope of review, burden of proof, the use of scientific evidence and access to environmental expertise, costs, remedies, and timeliness. We also need to be mindful of the application of the Convention in different judicial systems.

¹ See <https://unece.org/environment/documents/2022/02/pp-aarhus-convention-mop7-decision-vii3-access-justice>

² See meeting webpage: <http://www.unece.org/index.php?id=47184>

³ See meeting webpage: <http://www.unece.org/index.php?id=50570>

The Task Force may furthermore continue to promote tools supporting effective access to justice, including multi-stakeholder dialogues, e-justice initiatives and the use of artificial intelligence and other digital technologies, collective redress, specialization of judiciary and other legal professionals in environmental law, alternative dispute resolution methods, assistance mechanisms and the availability of relevant data and statistics.

Finally, I would like to thank all who contributed in the past to the work of the Task Force and I hope to see you all back here in Geneva in February 2025 for the next Task Force meeting.

Thank you for your attention!