

PUBLIC PARTICIPATION IN ENVIRONMENTAL PROTECTION

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PUBLIC PARTICIPATION IN ENVIRONMENTAL PROTECTION



- 1998 Aarhus convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental matters
- 2003 Protocol on the Pollution Release and Transfer Register (Kijev)

ACCESS TO ENVIRONMENTAL INFORMATION



- 1990 Directive 90/313/EEC on the freedom of access to information on the environment
- 2003 Directive 2003/4/EC on public access to environmental information and repealing Council Directive 90/313/EEC

AARHUS CONVENTION



- Public - natural or legal persons as well as their associations, organizations or groups
- Public concerned - those who are affected or likely to be affected by or having an interest in the environmental decision-making

AARHUS CONVENTION



The Aarhus Convention stands on three "pillars":

- access to information
- public participation
- access to justice.

ACCESS TO INFORMATION



- **Active access** - the right of the public to receive information and the obligation of authorities to collect and disseminate information of public interest without the need for a specific request.
- **Passive access** - the right of the public to seek information from public authorities and the obligation of public authorities provide information in response to a request

PUBLIC PARTICIPATION



- participation of the public that may be affected by or is otherwise interested in decision-making on a specific activity (Article 6)
- participation of the public in the development of plans, programmes and policies relating to the environment (Article 7)
- participation of the public in the preparation of laws, rules and legally binding norms. (Article 8)

ACCESS TO JUSTICE



- Enforcement of the right to environmental information
- Enforcement of the right to participation of public
- Enforcement of environmental law

ARTICLE 9/1



- **Enforcement of the right to environmental information:**

Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

ARTICLE 9/2



- **Enforcement of the right to participate in environmental decision-making**

.Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

- (a) Having a sufficient interest or, alternatively,
- (b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, **have access to a review procedure** before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

ARTICLE 9/3



- **Enforcement of environmental law:**

In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive.
