



Aarhus Convention
Best Bits meeting
João Pessoa, 8 November 2015

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Convention on Access to Information,
Public Participation in Decision-Making
and Access to Justice in Environmental
Matters

Aarhus, Denmark, 25 June 1998



What is the Aarhus Convention?

- Multilateral environmental agreement through which the opportunities for citizens to access environmental information are increased and transparent and reliable regulation procedure is secured
- Has a mechanism created to empower the value of public participation in the decision making process and guarantee access to justice: a "governance-by-disclosure" that leads a shift toward an environmentally responsible society.



Parties and signatories

As of 16 January 2015, there were 47 Parties to the Convention, 33 Parties to the Protocol on Pollutant Release and Transfer Registers (PRTRs) and 28 Parties to the amendment on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms (GMOs).



Parties and signatories and the Protocol

Parties are states but private bodies can volunteer to participate

...and in case of the Kiev Protocol on Pollutant Release and Transfer Registers (PRTRs) there are indirect obligations on private enterprises to report annually to their national governments on their releases and transfers of pollutants.



Compliance Committee

Can be triggered in four ways:

1. Party makes a submission concerning its own compliance,
2. Party makes a submission concerning another Party's compliance,
3. Convention Secretariat makes a referral to the Committee, or
4. a member of the public makes a communication concerning the compliance of a party.



Approach

Rights-based approach: assumes that the public, both in the present and in future generations, have the right to know and to live in a healthy environment.



Actors

A distinction is made between "the public", all civil society's actors, and the "public concerned", those persons or organisations affected or interested in environmental decision-making (e.g. environmental NGOs).



Actors

"Public authorities" are the addressees of the convention, namely, governments, international institutions, and privatized bodies that have public responsibilities or act under the control of public bodies. The private sector, for which information disclosure depends on voluntary, non-mandatory practices, and bodies acting in a judicial or legislative capacity, are excluded.



Jurisdiction

"Non-discrimination" principle (all the information has to be provided without taking account of the nationality or citizenship of the applicant), the international nature of the convention, and the importance attributed to the promotion of environmental education of the public.



3 pillars

Access to information

Public participation in decision making

Access to justice



Access to information

Any citizen should have the right to get a wide and easy access to environmental information. Public authorities must provide all the information required and collect and disseminate them and in a timely and transparent manner. They can refuse to do it only under particular situations (such as national defence)



Public participation in decision-making

The public must be informed over all the relevant projects and it has to have the chance to participate during the decision-making and legislative process. Decision makers can take advantage from people's knowledge and expertise; this contribution is a strong opportunity to improve the quality of the environmental decisions, outcomes and to guarantee procedural legitimacy.



Access to justice

Access to justice: the public has the right to judicial or administrative recourse procedures in case a Party violates or fails to adhere to environmental law and the convention's principles.



Critiques

- “proceduralisation of environmental regulation”
- focuses more on setting and listing procedures rather than establishing standards and specifying outcomes
- risk could lay in a loss of time and resources that could be otherwise invested in defining the outcomes
- unequal access in resources impacts on use



APC CoE UNECE Code of Good Practice

- 2005 – start process with APC member from Bulgaria, Bluelink
- First draft 2009
- Testing: national process South African broadband policy international ICANN... not much interest from ICANN as they felt they had sufficient internal processes
- Second draft 2010
- Status: Integrated into Council of Europe instruments



APC CoE UNECE Code of Good Practice

Principles and guidelines for good practice in IG:

- Access to information
- Participation

Process and background research and text of Code <http://www.apc.org/en/node/9507/>



Looking forward...

- APC still believes there is a role for such an instrument
- Link to NETmundial?





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