Introduction to the Aarhus Convention

Development, aim, main features

The three-pillar structure

The Aarhus Compliance mechanism

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The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, usually known as the Aarhus Convention, was signed on 25 June 1998 in the Danish city of Aarhus. It entered into force on 30 October 2001. The Aarhus Convention is a multilateral environmental agreement through which the opportunities for citizens to access environmental information are increased and transparent and reliable regulation procedure is secured. It is a way of enhancing the environmental governance network, introducing a reactive and trustworthy relationship between civil society and governments and adding the novelty of 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.

The Aarhus Convention

- *the most ambitious venture in environmental democracy undertaken under the auspices of the United Nations* (**Kofi Annan**)
- *the world's foremost international instrument that links environmental and human rights*
- *a unique international treaty regime, combining notions from environmental as well as human rights law*

Almost mature, yet not always respected*

*** by Austria, Bulgaria, Czechia, Romania, Slovakia, Spain, United Kingdom, Croatia, Germany, Lithuania and the European Union**

The adoption of the Aarhus Convention was heralded as a major breakthrough in international law. The then UN Secretary General Kofi Annan described it as "the most ambitious venture in environmental democracy undertaken under the auspices of the United Nations".

Development

Before the 1990's international law did not pay much attention to domestic procedures - domestic law- and policy-making only

- Principle l of the Stockholm Declaration on the Human Environment (1972) – *Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights the right to life itself.*
- UN General Assembly resolutions (1982) on the World Charter for Nature and (1990) on the need to ensure a healthy environment for the well-being of individuals
- Customary international law?
- Human Right treaties – access to justice and effective remedies

The EU:

- **The EIA Directive** (85/337/EEC), **Directive on the freedom of access to information on the environment** (90/313/EEC), **The Habitats Directive** (92/43/EEC),
- **CJEU: elements of individual rights to rely on environmental laws before courts, e.g. with respect to environmental quality standards** (C-59/89, Commission v Germany; C-361/88, Commission v Germany; and C-64/90, Commission v France).

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With the exception of international human rights law, before the 1990's international law did not pay much attention to domestic procedures for decisions-making, citizens' access to documents or citizens' access to court. Today, it may appear surprising that at that time only few multilateral environmental agreements addressed the engagement of members of the public in environmental matters at all; accordingly these matters remained essentially for domestic law- and policy-making only.
The **EU** was a different case. Not only it adopted some pieces of legislation, in particular **Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, and** Directive 90/313/EEC on the freedom of access to information on the environment, which oblige the Member States to promote access to information and some degree of public participation in decision-making. The **European Court of Justice had also highlighted elements of individual rights to rely on environmental laws before courts**, e.g. with respect to environmental quality standards. (C-59/89, Commission v Germany; C-361/88, Commission v Germany; and C-64/90, Commission v France.)

United Nations Framework Convention on Climate Change (1992, 197 Parties):

- *Art. 6 (a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and* ***in accordance with national laws and regulations****, and* ***within their respective capacities****:*
- *(ii) public access to information on climate change and its effects;*
- *(iii) public participation in addressing climate change and its effects and developing adequate responses;*

Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention, 1991, 45 Parties):

Art. 2(2): Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including (...) the establishment of an environmental impact assessment procedure that permits public participation.

Art. 2(6): The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the ***opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin****.*

Art. 3(8): 8. The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.

Art. 4 (2): ... The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected...

Declaration of France: *The Convention implies that it is the responsibility of each Party to ensure the public distribution within its territory of the environmental impact assessment documentation, inform the public and collect its comments, except where different bilateral arrangements apply*

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While international human rights law and EU law was important for the Aarhus Convention, it would not have come into being were it not for two important circumstances.

The first is the outcome of the 1992 UN Conference on Environment and Development in Rio de Janeiro 1992. More specifically, through the Rio Declaration on Environment and Development, Principle 10 (United Nations Declaration on Environment and Development; UN Doc. A/Conf.151/26.), it was agreed at the conference that:

"Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."

Principle 10 nicely frames what was to become the Aarhus Convention; it highlights access to information, public participation in decision-making, and effective access to judicial and administrative proceeding, including redress and remedy, ie access to justice.

The Aarhus Convention: Negotiations

1995: The Third "Environment for Europe" Ministerial Conference **endorsed the UNECE Guidelines** on Access to Environmental Information and Public Participation in Environmental Decision-making, which drew on and developed Principle 10. The Ministerial Conference also decided to consider the drafting of a convention.
1996: The UNECE Committee on Environmental Policy **established the** mandate for an *ad hoc* working group to conduct the negotiations for a new instrument.
June 1996 - March 1998: Over ten sessions of the working group. The NGOs engaged (*'friends of the secretariat'*). **The EU** (EC) did not have a negotiating mandate, but increasing EU coordination and presentation of a single EU position. The **US and Canada** opted out of the negotiations at an early stage. **Russia and Turkey** played an active role, with many of their textual proposals being accommodated by the other negotiating parties, but did not sign or accede to the Convention.
25 June 1998 (Aarhus, Denmark): The Convention was adopted within the framework of the Fourth Ministerial 'Environment for Europe' conference.
30 October 2001: The Convention entered into force.
Since 2012, all EU Member States and the EU itself are parties to the Aarhus Convention.
4 March 2018: Escazú (Costa Rica) - Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters **in Latin America and the Caribbean**

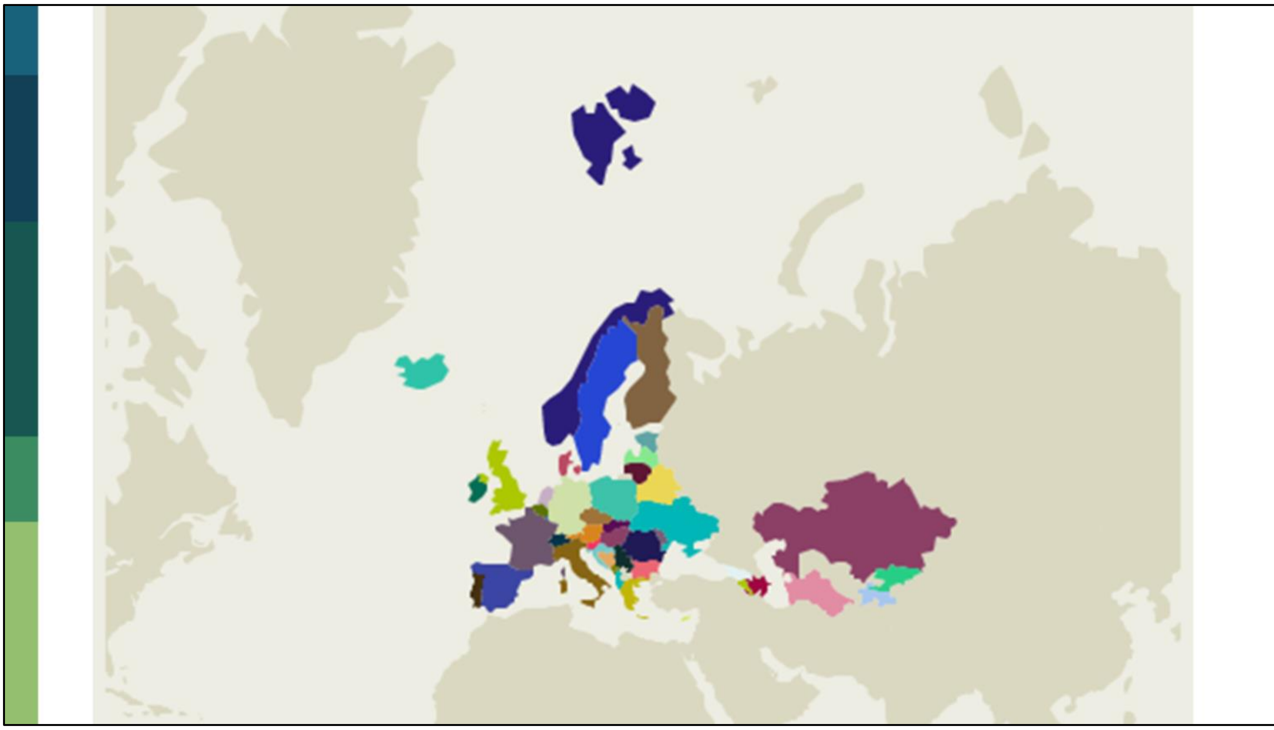
ERA

Soon after the Rio Conference, in 1995, the Third "Environment for Europe" Ministerial Conference endorsed the UNECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-making, which drew on and developed Principle 10. The Ministerial Conference also decided to consider the drafting of a convention.

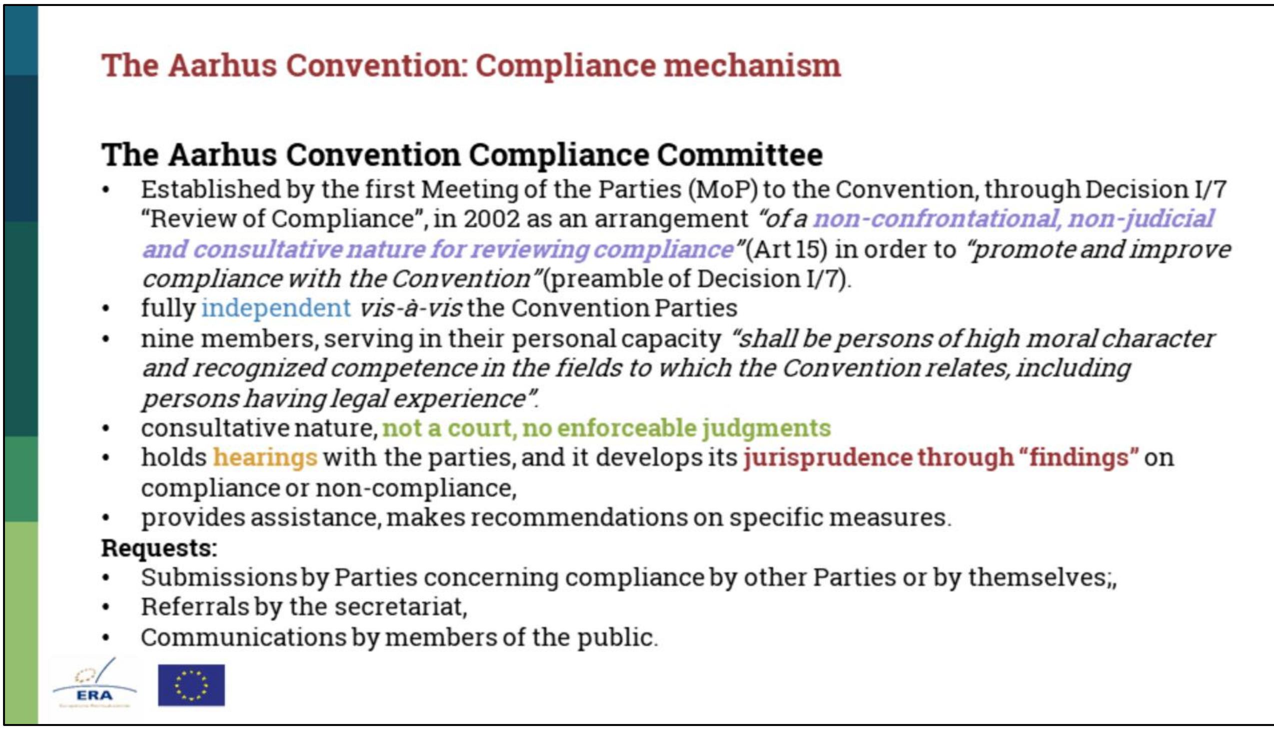
In January 1996, the UNECE Committee on Environmental Policy established the mandate for an ad hoc working group to conduct the negotiations for a new instrument, to be chaired by Willem Kakebeeke, a senior official from the Netherlands. The negotiations took place from June 1996 to March 1998 over ten sessions of the working group. For most of the negotiating period, the EU (then called the European Community) did not have a negotiating mandate and its Member States intervened directly in the negotiations, often with divergent positions. Towards the conclusion of the negotiations (and even more subsequently), there was increasing EU coordination and presentation of a single EU position. The US and Canada opted out of the negotiations at an early stage. Russia and Turkey played an active role, with many of their textual proposals being accommodated by the other negotiating parties, but did not sign or accede to the Convention.

The level and depth of NGO engagement in the negotiations, while following a tradition established in the 'Environment for Europe' process, was unprecedented in the context of the formulation of an international environmental treaty and possibly any legally binding treaty. Even before the formal negotiations began, NGOs were represented in a small ‘friends of the secretariat’ group that assisted the secretariat with preparing draft elements for the Convention text. Thereafter, environmental NGOs were able to be involved not just in the plenary but in every small drafting group. As the NGOs had the relevant experience and would end up being, on behalf of the public, the main ‘clients’ of the Convention, their active participation was not only justified from a principle standpoint but contributed materially to the relevance and robustness of the text.

The Convention was adopted on 25 June 1998 in Aarhus, Denmark, within the framework of the Fourth Ministerial ‘Environment for Europe’ conference. The same day, it was signed at the Conference by 35 States and the European Community, with four more States signing in December 1998 before the Convention was no longer open for signature.



Nowadays, the EU, all the Member States and several non-member states are Parties to the Convention. All of the ratifying states are in Europe and Central Asia.



The Aarhus Convention Compliance Committee was established by the first Meeting of the Parties (MoP) to the Convention, through Decision I/7 "Review of Compliance", in 2002 as an arrangement "of a **non-confrontational, non-judicial and consultative nature for reviewing compliance**" (Art 15 of the Convention) in order to "**promote and improve compliance with the Convention**" (preamble of Decision I/7).

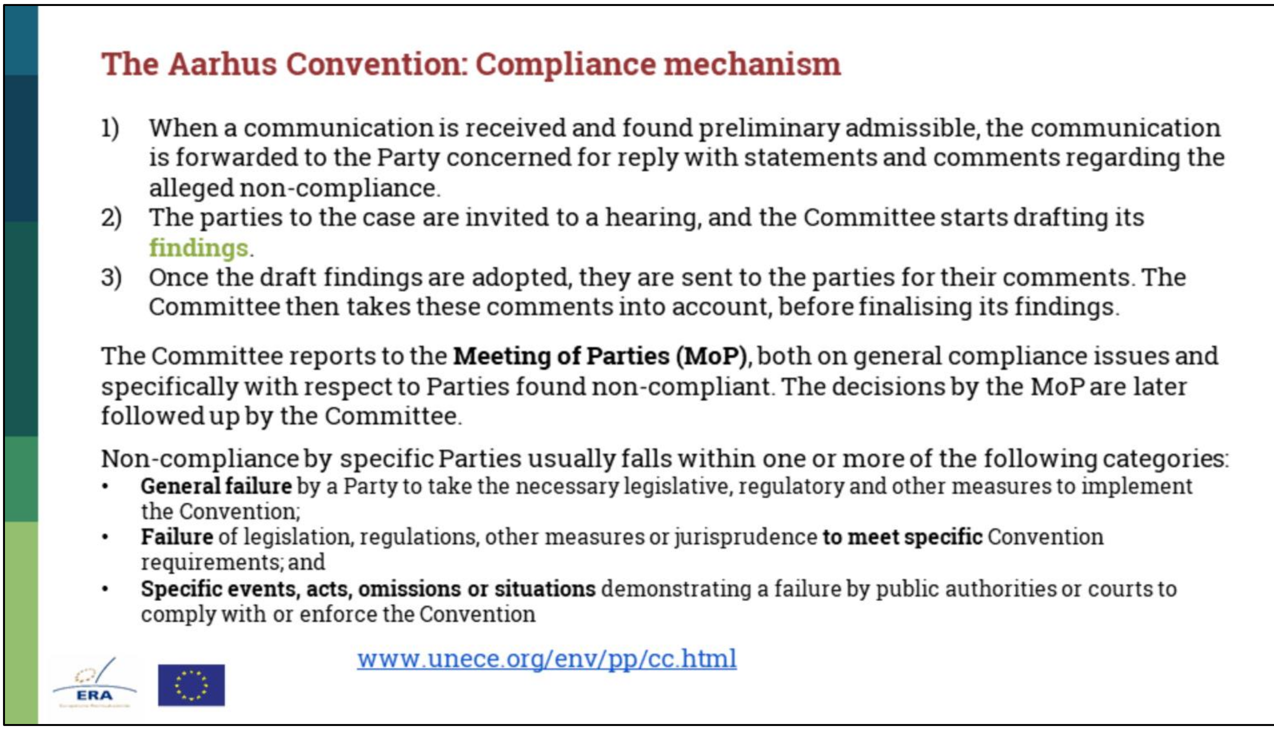
The non-judicial and consultative nature of the Committee is fundamental for its work. The Committee is **fully independent** vis-à-vis the Convention Parties, and the nine members, serving in their personal capacity, "shall be persons of high moral character and recognized competence in the fields to which the Convention relates, including persons having legal experience". Based on Decision I/7 and in the spirit of the Convention, the Committee applies principles of transparency, fairness and due process in its reviews, it maintains strict rules on conflict of interest, it holds hearings with the parties, and it develops its **jurisprudence through "findings" on compliance or non-compliance**. Despite these quasi-judicial elements, the Committee is not a court and delivers no enforceable judgments.

Instead, the Committee's work is forward-looking and intended to promote compliance and get non-compliant Parties in compliance.

The Committee is mandated to ***examine compliance* by the Parties based on different requests**:

• *Submissions* by **Parties** concerning compliance by other Parties or by themselves (thus far, the Committee has received **two submissions**, one of which (S/2, submitted by Lithuania concerning compliance by Belarus) is pending;

• *Referrals* by the **secretariat** (so far the secretariat has brought **no referral** to the Committee); and
• *Communications* by **members of the public** (by 21 June, ie the first day of the Committees 53rd meeting, and the day of the hearing before the EU Parliament, the Committee has received almost **140 communications**).



In addition to examining compliance based on these requests, the Committee may in consultation or agreement with the Party concerned ***advice* and *facilitate assistance*, *make recommendations*** on specific measures and request strategies, including time schedules regarding the achievement of compliance.
When a communication is received and found *preliminary admissible*, the communication is forwarded to the Party concerned for reply with statements and comments regarding the alleged non-compliance. Thereafter, the parties to the case are invited to a hearing, and the Committee starts drafting its findings. Once the draft findings are adopted, they are sent to the parties for their comments. The Committee then takes these comments into account, before finalising its findings.
The Committee reports to the MoP, both on general compliance issues and specifically with respect to Parties found non-compliant. Non-compliance by specific Parties usually falls within one or more of the following categories:
General failure by a Party to take the necessary legislative, regulatory and other measures to implement the Convention;
Failure of legislation, regulations, other measures or jurisprudence to meet specific Convention requirements; and
Specific events, acts, omissions or situations demonstrating a failure by public authorities or courts to comply with or enforce the Convention

So far, the MoP has endorsed all Committee's findings on non-compliance. In so doing, the MoP also decides on recommendations on measures and requests addressed to the Parties concerned. These decisions by the MoP are later followed up by the Committee when examining whether the Parties found non-compliant take the necessary measures to get in compliance with the Convention.

All documents in all cases before the Committee are posted on the Committee's website (www.unece.org/env/pp/cc.html).

The Aarhus Convention: Aim

A floor, not a ceiling - the scope of the Convention is very wide but not all-embracing

- Sets **minimum standards** to be met by the Parties with respect to access to information, public participation in decision-making and access to justice in environmental matters.
- **Defines fundamental concepts and principles** to be applied and complied with by the Parties.

AG Sharpston in C-664/15, para. 34:

> *The Aarhus Convention is a mixed agreement, concluded by the EU on the basis of a competence it shares with the Member States. The provisions of that convention form an integral part of the EU legal order. The Court has already confirmed that it had jurisdiction to interpret different provisions of the Aarhus Convention and has given, in that regard, a significant number of judgments in the context of references for a preliminary ruling and infringement proceedings.*

CJEU in C-182/10 (*Solvay*, para. 27):

> *While the Aarhus Convention Implementation Guide may thus be regarded as an **explanatory document, capable of being taken into consideration if appropriate among other relevant material for the purpose of interpreting the Convention**, the observations in the Guide have no binding force and do not have the normative effect of the provisions of the Aarhus Convention.*

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General features - definitions

- **Defines "public authority" broadly**, so as to include not only governments at different levels, but also private actors performing public administrative functions under national law, or having public responsibilities or functions or providing public services in relation to the environment.
- **Defines "environmental information" broadly** so as to include not only information on the state of elements of the environment, but also on factors, activities, measures, international agreements, laws, policies etc. likely to affect elements of the environment and the state of the human health.

Art 4(4) d): *A request for environmental information may be refused if the disclosure would adversely affect:* ***The confidentiality of commercial and industrial information****, where such confidentiality is protected by law in order to protect a legitimate economic interest. Within this framework,* ***information on emissions which is relevant for the protection of the environment shall be disclosed****.*

- Is intended to provide for wide public participation and wide access to justice. For that reason, it **defines "the public concerned" rather broadly**

"The public" *means* ***one or more natural or legal persons****, and, in accordance with national legislation or practice,* ***their associations, organizations or groups;***

"The public concerned" *means* ***the public affected or likely to be affected by,*** *or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest*

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The Aarhus Convention: Aim

The rights we have already had... or not?

- One of the many objectives of the Aarhus Convention was to spread the notion of the rule of law to Eastern Europe, the Caucasus region and Central Asia.

Only procedural rights ... or is there a substantive right involved?

- Protection of the environment is generally supported... within the division of the powers between the Commission and the Member States
- High level of protection = from the Commissions (subjective) perspective
- Art. 37 of the EU Charter of Fundamental Rights:

  A high level of environmental protection (...) must be integrated into the policies of the Union...
- Although the Convention is not written in the same "rights-language" as the European Convention on Human Rights, it is apparent that it is intended to ensure rights for members of the public.
- It is also apparent that compliance with the Convention requires appropriate legislative and regulatory frameworks, which must be clear, transparent and consistent.
- Strengthening the role of the NGOs.

Not directly applicable...is there an EU law involved?

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From the EU perspective, one of the many objectives of the Aarhus Convention was to spread the notion of the rule of law to Eastern Europe, the Caucasus region and Central Asia.

From the perspective of these regions, civil society saw the Convention as a vehicle for democracy. Soon after the Convention had entered into force, in 2001, it would be shown that not only states in Eastern Europe, the Caucasus region and Central Asia, but also some EU Member States (old and new) as well as the EU itself had difficulties in complying with all parts of the Convention.

Although the Convention is not written in the same "rights-language" as the European Convention on Human Rights, it is apparent that it is intended to ensure rights for members of the public with respect to access to information, participation in decision-making and access to justice. It is also apparent that compliance with the Convention requires appropriate legislative and regulatory frameworks, which must be clear, transparent and consistent.

Aim – The Aarhus' cosmopolitanism

"driving force for ***environmental democracy"*** (Wates, 2005)

"at the forefront" of developing the ***legal framework*** *in this respect worldwide* (Ebbeson, 2007)

"The significance of the Convention does not end with those provisions which are legally binding or the decisions of the Compliance Committee; as it becomes an increasingly ***established part of the legal landscape, it is also developing an indirect influence****."*

(Lidbetter and Depani, 2014)

"Aarhus' cosmopolitanism, yielding a moderating influence on sovereignty, ***will not emerge without a stable framework*** *in which states institutionalise it."* (Weaver, 2018)

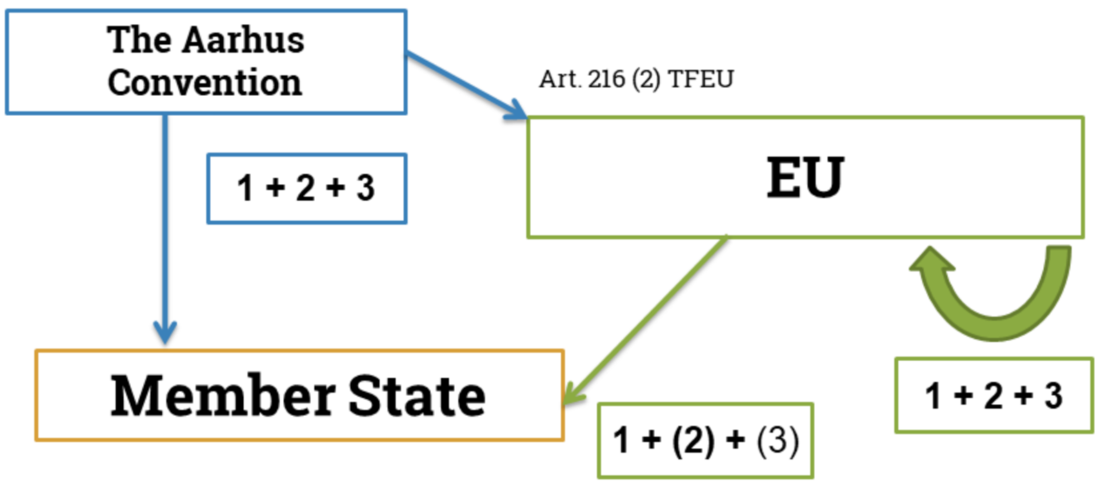
"assumption regarding ***"vigorous enforcement"*** *of the Convention by the European Court of Justice (or now the Court of Justice of the European Union) has not yet proved to be the case."*

(Jendrośka, 2011)

"Community inaction in relation to the implementation of the "access to justice" pillar means that it will not be able to comply with its international obligations. It would prevent the Community from ratifying the Århus Convention, with a resulting lack of credibility at international level. In this way, ***the credibility of the Community with respect to good governance*** *would also be at stake."*

[COM (2003) 624 final]

The Aarhus Convention and the EU law



The Aarhus Convention implemented by EU law

Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on **public access to environmental information**

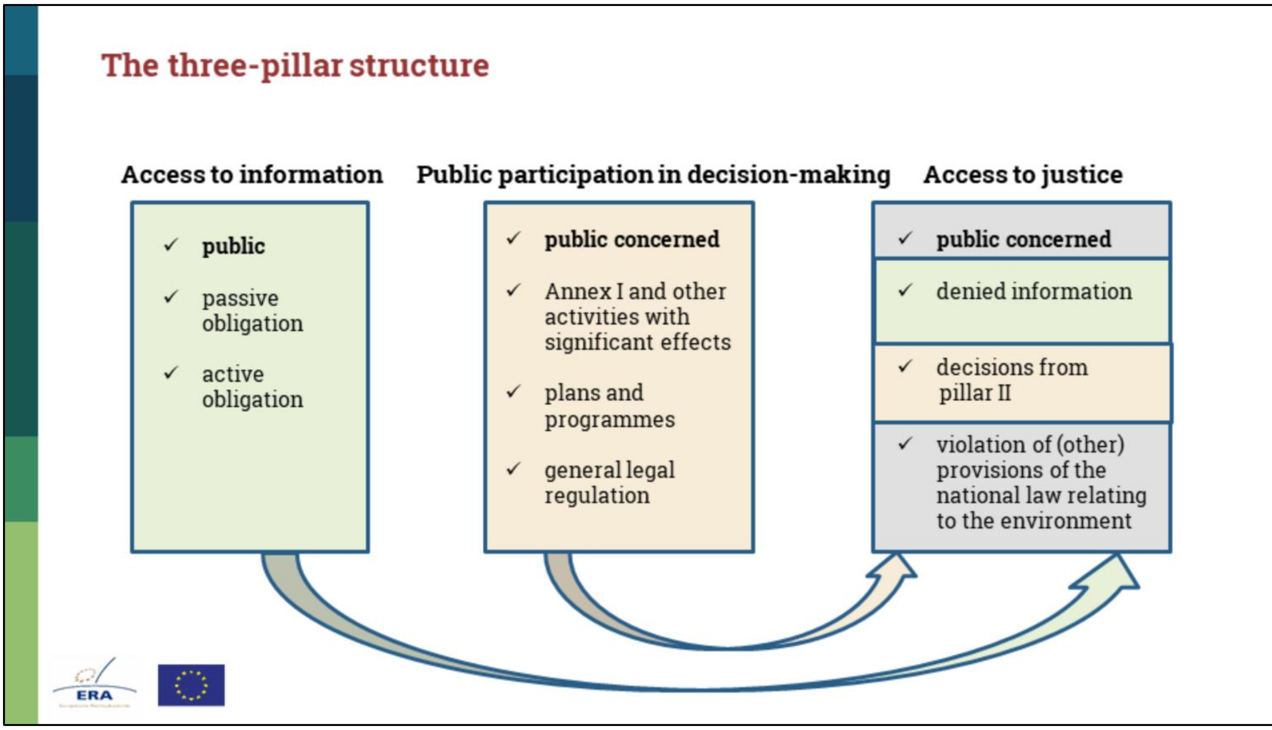
Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for **public participation** in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives **85/337/EEC** and **96/61/EC**

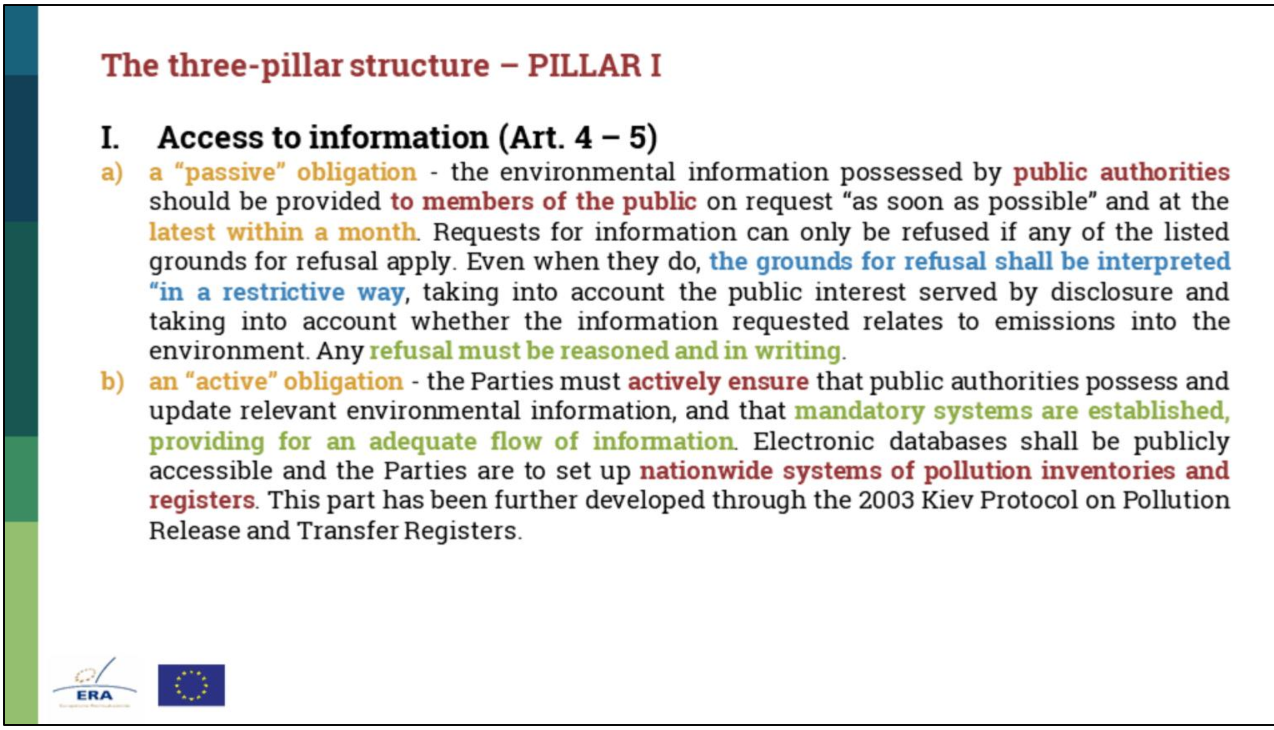
+ number of other environmental directives

Proposal for a Directive of the European Parliament and of the Council on **access to justice**

Regulation (EC) N° 1367/2006 of the European Parliament and of the Council on the **application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies**

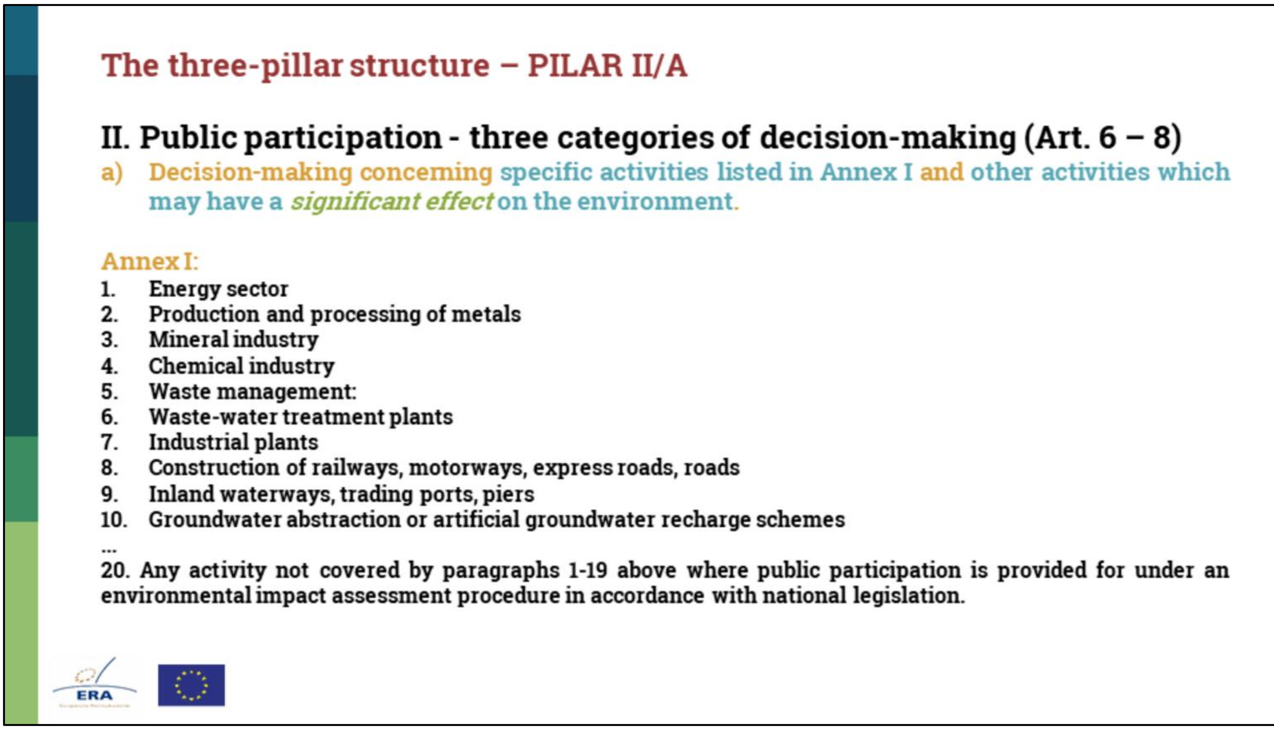
(information - extends Regulation (EC) No 1049/2001)


The three-pillar structure
Access to information
Public participation in decision-making
Access to justice
✓ public
✓ passive obligation
✓ active obligation
✓ public concerned
✓ Annex I and other activities with significant effects
✓ plans and programmes
✓ general legal regulation
✓ public concerned
✓ denied information
✓ decisions from pillar II
✓ violation of (other) provisions of the national law relating to the environment
ERA



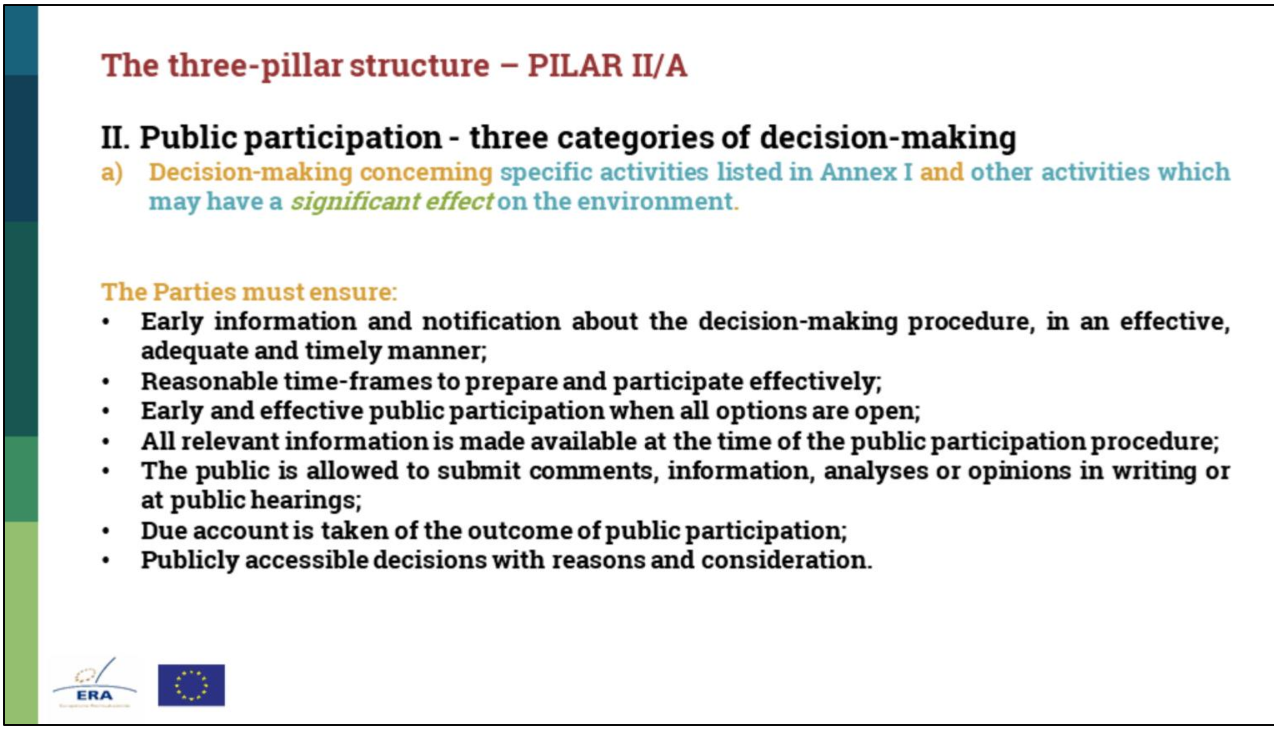
Two obligations: a "passive" obligation, which means that the Parties must ensure that public authorities make available the environmental information they possess. The presumption is that the environmental information possessed by public authorities should be provided to members of the public on request "as soon as possible" and at the latest within a month. Requests for information can only be refused if any of the listed grounds for refusal apply. Even when they do, the grounds for refusal shall be interpreted "in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment" (Art 4(4)). Any refusal must be reasoned and in writing (Art 4(7)).

Second, the Parties must actively ensure that **public authorities *possess and update* relevant environmental information**, and that **mandatory systems are established**, providing for an adequate flow of information. Electronic databases shall be publicly accessible and the Parties are to set up nationwide systems of pollution inventories and registers. This part has been further developed through the 2003 Kiev Protocol on Pollution Release and Transfer Registers.



The Convention provides for public participation with respect to three categories of decision-making.

First, most **detailed provisions apply to <u>decision-making concerning *specific, listed activities*</u> and to <u>*other activities* which may have a *significant effect* on the environment</u>.** For all these activities, the Parties must ensure:
Early information and notification about the decision-making procedure, in an effective, adequate and timely manner;
Reasonable time-frames to prepare and participate effectively;
Early and effective public participation when all options are open;
That *all relevant information* is made available at the time of the public participation procedure;
That the public is *allowed to submit comments, information, analyses or opinions* in writing or at public hearings;
That *due account* is taken of the *outcome* of public participation; and
Publicly accessible *decisions* with *reasons* and *considerations* (Art 6).



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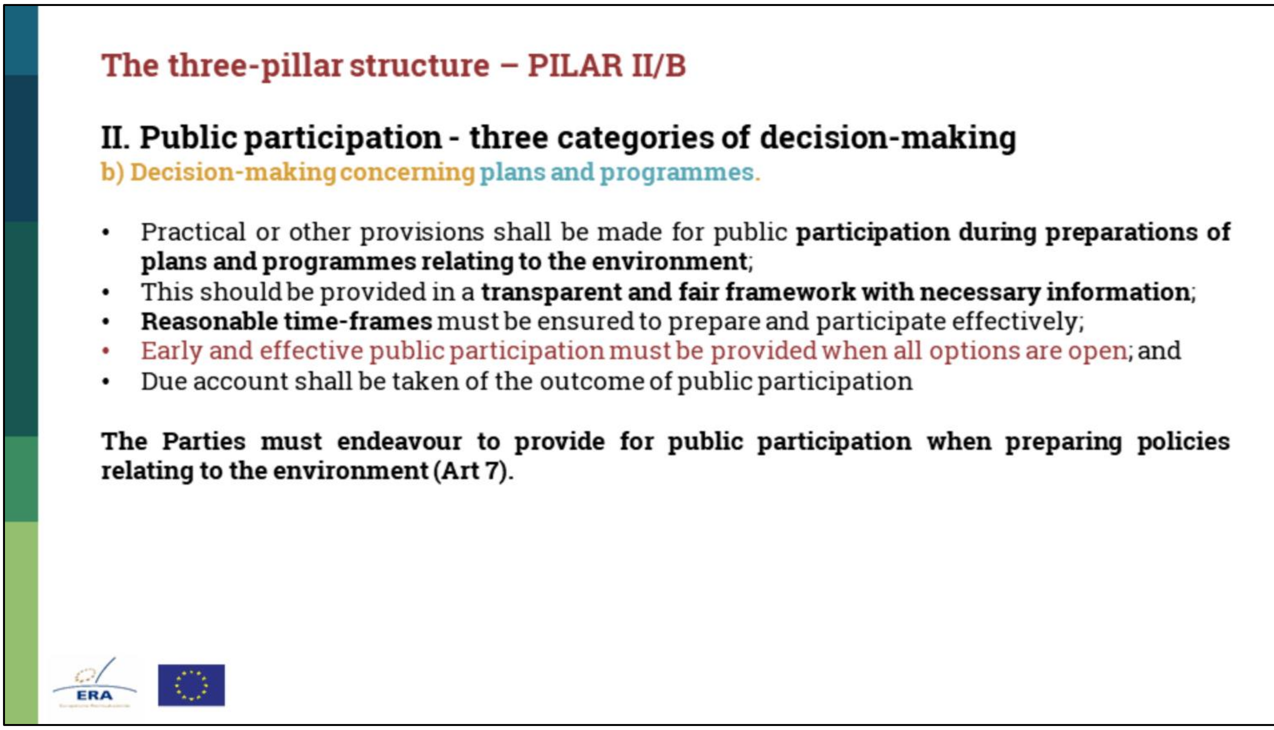
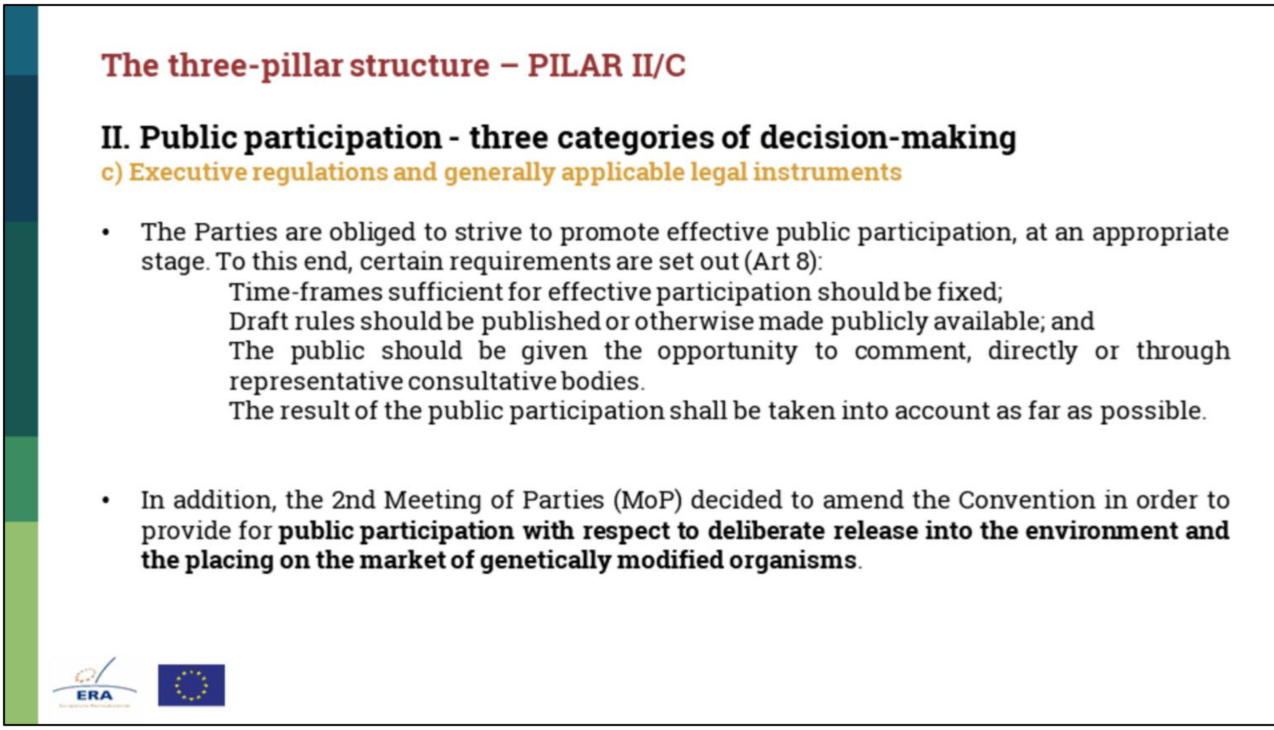
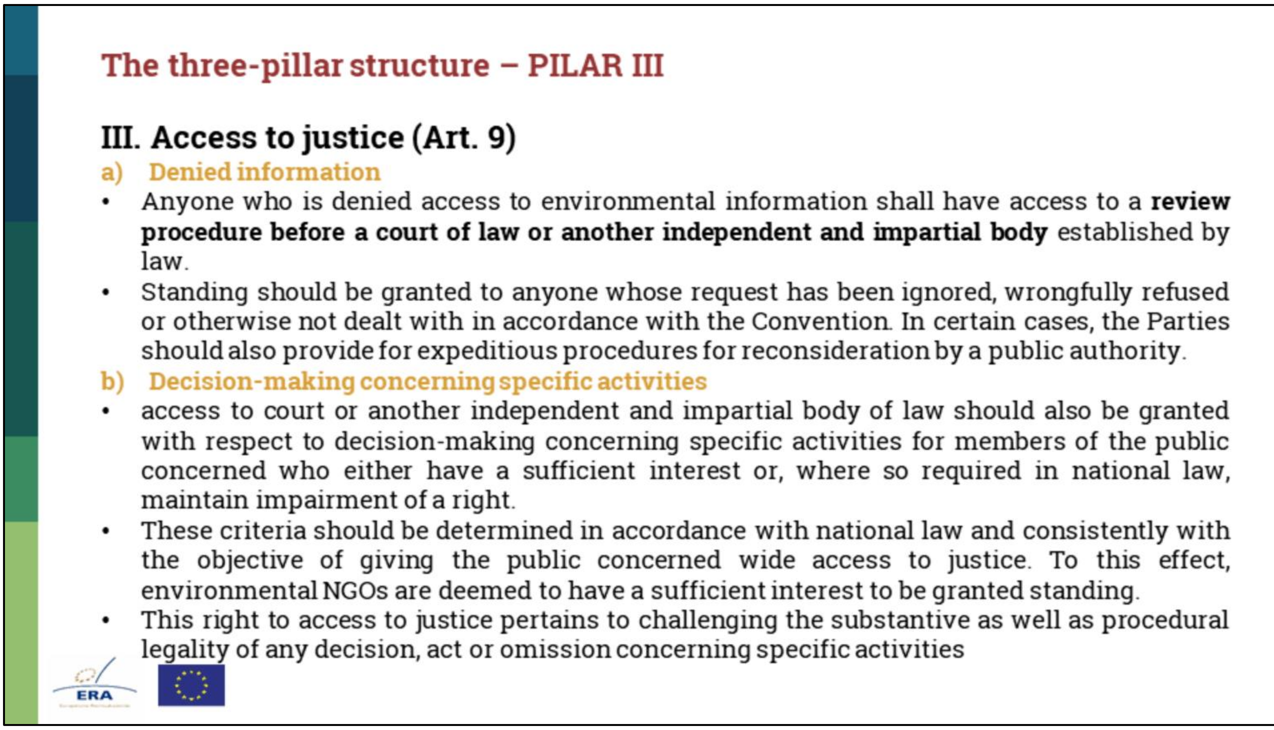


Second, rather similar, although to some extent less detailed, requirements for public participation apply to decision-making concerning ***plans and programmes***. Thus:
Practical or other provisions shall be made for public participation during *preparations* of plans and programmes relating to the environment;
This should be provided in a *transparent* and *fair framework* with necessary *information;*
Reasonable time-frames must be ensured to prepare and participate effectively;
Early and *effective* public participation must be provided when all options are open; and
Due account shall be taken of the *outcome* of public participation

The Parties must endeavour to provide for public participation when preparing *policies* relating to the environment (Art 7).



Third, as far as *executive regulations* and *generally applicable legal instruments* are concerned, the Parties are obliged to strive to promote effective public participation, at an appropriate stage. To this end, certain requirements are set out (Art 8).
In addition, the 2nd Meeting of Parties (MoP) decided to amend the Convention in order to provide for public participation with respect to deliberate release into the environment and the placing on the market of *genetically modified organisms*.



The last “pillar” of the Convention focuses on access to justice. Here too, the Convention distinguishes between three categories of decisions, acts and omissions.

First, **anyone who is *denied access to environmental information* shall have access to a review procedure before a court of law or another independent and impartial body** established by law. For these cases, standing should be granted to anyone whose request has been ignored, wrongfully refused or otherwise not dealt with in accordance with the Convention. In certain cases, the Parties should also provide for **expeditious procedures** for reconsideration by a public authority (Art 9(1)).

Second, **access to court or another independent and impartial body of law should also be granted with respect to *decision-making concerning specific activities* for members of the public concerned** who either have a sufficient interest or, where so required in national law, maintain impairment of a right. These criteria should be determined in accordance with national law and consistently with the objective of giving the public concerned wide access to justice. To this effect, **environmental NGOs** are deemed to have a sufficient interest to be granted standing. This right to access to justice pertains to challenging the substantive as well as procedural legality of any decision, act or omission concerning specific activities (Art 9(2)).

Finally, each Party shall ensure **access to administrative or judicial procedures to**

members of the public, meeting the criteria in national law, “if any”, **to challenge *other acts and omissions* by private persons and public authorities “which contravene provisions of its national law relating to the environment”** (Art 9(3)). In this regard, the Committee has concluded that for EU Member States applicable European Union law relating to the environment should also be considered to be part of the domestic, “national law”.

The three-pillar structure – PILAR III

III. Access to justice (Art. 9)

c) Violation of provisions of the national law relating to the environment

- Access to administrative or judicial procedures to members of the public, meeting the criteria in national law, "if any", **to challenge other acts and omissions by private persons and public authorities "which contravene provisions of its national law relating to the environment"** (Art 9(3)).
- EU law relating to the environment should also be considered to be part of the domestic, "national law".
- Contrary to the first and the second categories, **it may suffice to ensure access to administrative review procedures** to challenge acts and omissions in the third category.

- Access to justice must not be *pro forma* only. Therefore, all procedures referred to above under the three categories, including any administrative procedure, ***must provide "adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive"***

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Why do you need to know (more) about the Aarhus Convention?

The Parties refer to the Aarhus Convention and the Court is required to provide an answer = you need to understand the law applicable.

Example: An NGO challenges a regional spatial plan. As regards *locus standi*, the national law stipulates that the applicant must have sufficient interest. The NGO refers to the Aarhus Convention.

1) Is the Aarhus Convention applicable? PILLAR III?
See ACCC/C/2005/11 and ACCC/C/2011/58 – Art. 9(3)

2) How does the NGO prove sufficient interest?
*See C-134/14, C-115/09 or GA in 263/008: Such organisations therefore have an **automatic right of access to justice**. The presumption in favour of environmental organisations introduced by Article 1(2), when applied in conjunction with Article 10a, means that they benefit from a more advantageous regime than natural or legal persons who are not committed to promoting environmental protection.*
***Aarhus Convention:** Non-governmental organizations promoting environmental protection and meeting any requirements under national law **shall be deemed to have an interest**.*

In comparison: Czech Constitutional Court (I. ÚS 59/14): *To contest a spatial plan, the environmental NGO has to prove sufficient interest...*

Why do you need to know (more) about the Aarhus Convention?

You are dealing with legal concepts related to public participation = you need to interpret the law applicable to be consistent with the objectives laid down in the Aarhus Convention

Example: The Ministry of Economic Affairs **refused to provide information** to an NGO because the national law exempts public authorities from the requirement to provide environmental information where they are **engaged in the preparation of a regulatory instrument**.

1) Is the Aarhus Convention applicable? PILLAR I?
2) Can you implement the national law in compliance with the Aarhus Convention?
(Is there a CJEU case law? ACCC case? Guidance? Principles?)
See C-515/11:
*...it is clear that both the wording of the first sentence of the second subparagraph of Article 2(2) of Directive 2003/4 and the **aim pursued by the Aarhus Convention** and by that directive (...) Indeed, **it is the specific nature of the legislative process and its particular characteristics that justify the special rules** relating to acts adopted by bodies acting in a legislative capacity in connection with the right to information, as provided for both by the Aarhus Convention and Directive 2003/4. It follows that the nature of the act in question, and in particular **the fact that it concerns an act of general application, is not, in itself, capable of exempting** a body which adopts that act from the obligations to provide information under that directive.*

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Why do you need to know (more) about the Aarhus Convention?

You are dealing with public participation in the context of EU environmental law = you need to solve the case from the perspective of the Aarhus Convention.

Example: In your country, an NGO did not obtain the status of a party to the **administrative procedure for the grant of a permit to cut a tree in a common residential area**. It contests the decision that it is not a party to the procedure.

1) Is the Aarhus Convention applicable? PILLAR II?
2) Can you implement the national law in compliance with the Aarhus Convention?
3) Can the NGO rely on the direct applicability of the EU law?

The NGO contests the **permit to cut the tree**.

1) Is the Aarhus Convention applicable? PILLAR III?
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Why do you need to know (more) about the Aarhus Convention?

You are dealing with public participation in the context of EU environmental law = you need to solve the case from the perspective of the Aarhus Convention.

Example: In your country, an NGO did not obtain the status of a party **to the administrative procedure for the grant of a permit in respect of a project that may be contrary to the obligation to prevent the deterioration of the status of bodies of water under Article 4 of Directive 2000/60**. It contests the decision that it is not a party to the procedure.

1) Is the Aarhus Convention applicable? PILLAR II?
2) Can you implement the national law in compliance with the Aarhus Convention?
3) Can the NGO rely on the direct applicability of the EU law?

The NGO contests the **permit to carry out the project**.

1) Is the Aarhus Convention applicable? PILLAR III?
2) Can you implement the national law in compliance with the Aarhus Convention?
3) Can the NGO rely on the direct applicability of the EU law?
See C-664/15

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THANK YOU FOR YOUR ATTENTION!

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