

# COOPERATION WITH NATIONAL JUDGES IN THE FIELD OF EU ENVIRONMENTAL LAW



## Trainers Manual Module on Participatory and Procedural Rights in Environmental Matters

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## I. Introduction

This training module on **Participatory and Procedural Rights in Environmental Matters**, developed by ERA on behalf of the European Commission, is addressed to judicial training institutes, networks of judges, trainers and end users of European Union member states wishing to organise training sessions in the area of EU environmental law with particular focus on the participatory and procedural rights.

### 1. Objectives

The training module addresses judges dealing with environmental issues (mainly administrative judges) with previous general, and in certain cases specific, knowledge regarding the subject. The module will provide judges with relevant information on the latest developments of the EU environmental law *acquis*, relevant jurisprudence of the Court of Justice of the EU and an in-depth analysis of the topic with a special focus on Participatory and Procedural Rights in Environmental Matters. This training module will also assist national judges to apply, in detail, the relevant EU instruments.

The training module will gather materials in order to conceive a two and a half day workshop with the goal to develop and raise understanding on the key legal aspects of international and EU Law on participatory and procedural rights in environmental matters. The key topics to be covered are:

- Introduction to the participatory and procedural rights in environmental matters – Aarhus Convention and the EU
- Access to information in environmental matters
- Public participation in decision making
- Access to justice

After this training on participatory and procedural rights in environmental matters, participants will have greater knowledge of the international and EU instruments presented. They will have gained a better understanding of the legal aspects related to the Aarhus Convention and the implementing EU instruments and they will be in the position to actively apply the EU rules transposed into their respective national legislations. They will also have had an excellent opportunity to exchange views regarding implementation practices in their respective member states

### 2. Structure

The workshop implementing the training module is designed to last 2.5 days.

The training module consists of 13 interrelated but self-standing units. These units can be combined into an implementing workshop depending on the prior knowledge of the participants, the time available and the specific training approach.

- Unit 1: Setting the scene
- Unit 2: Participatory and procedural rights in environmental matters: Introduction
- Unit 3: Aarhus Convention and the EU: Latest developments
- Unit 4: Access to information in environmental matters – Implementation and application of the Aarhus Convention and the Directive 2003/4/EC at national level
- Unit 5: Case Study on Access to Information
- Unit 6: Public participation in decision making: Scope of application
- Unit 7: Public participation in decision making: Steps of procedure
- Unit 8: Case study on Public Participation
- Unit 9: Access to justice in Public Participation Context: Article 9 (2) Aarhus Convention
- Unit 10: Case study on access to justice in Public Participation Context
- Unit 11: Access to justice: Article 9 (3) Aarhus Convention
- Unit 12: Case study on Access to Justice (Article 9 (3) Aarhus Convention)
- Unit 13: Closing session – evaluation of the workshop

The varying training methods that can be used in future workshops based on this material will also be presented in the module, together with recommendations on how and in which part of the training they may be best employed. Face-to-face presentations can be combined with practical exercises requiring the active contribution of participants, IT-supported learning, allowing participants to familiarise themselves with available e-justice tools and interactive sessions promoting the exchange of good practice and experience.

## II. Methodology

### 1. Time frame

The workshop is designed to last approximately 2.5 days. The exact structure and length will, of course, be decided by the training providers.

Elements that should be taken into account in each instance when finalising the workshop programme and deciding on the allocation of time between the different sub-sessions include the need to effectively cover all the main features of the subject matter and provide sufficient time for participants to ask questions and interact with the trainers and with each other. The fact that long sessions have proven to be less effective in adult training should be borne in mind. Frequent breaks or changes in teaching style should therefore be introduced in the workshop.

➤ An indicative time allocation for each unit will be provided in Part IV of this trainer's manual.

### 2. Trainer profiles

Crucial for the success of the training workshop is the selection of trainers. It has been proven that trainers with a common professional background to that of the participants tend to have a better understanding of their training needs and be more effective when addressing them. For this reason, the composition of the target group is a factor to be considered when selecting the trainers of an implementing workshop.

It is also important to identify the right trainer for each unit. In the units where the emphasis is on practical issues, the involvement of a practitioner, lawyer or judge with personal experience in the issue would be ideal. If the focus of a presentation is the transmission of information or the introduction to concepts or a broader area of law, an academic or a suitable policy officer could also constitute a good option.

➤ More concrete input on the trainer profiles seemingly best fitting to each unit will be provided in Part IV of this trainers' manual.

In addition to professional qualifications, the quality of an implementing workshop will also depend on the individual trainers' didactic competences and pedagogical skills. Trainers should not only be knowledgeable, but also be able to effectively transmit information, assist end users in developing new skills and motivate them to actively follow the training. They would have to provide the necessary information in a clear and structured manner, highlight the links between participants' daily work and the issues being discussed, retain some flexibility in order to adapt to the specific needs and interests of the end users attending the workshop as they become apparent, and be

open and encouraging in discussing and exchanging views with them in the course of the session.

Other skills that potential trainers should ideally possess and which should be considered are the trainers' linguistic skills when workshops are international, and their familiarity with IT products, as the use of technology would be required in at least some parts of the training (IT-training sessions, use of PowerPoint or other audio-visual material, the e-learning course, etc.).

For the successful implementation of the workshop and in order to better address participants' training needs, some diversity among the trainers should be sought. Variety between speakers' professional backgrounds, gender and, in the context of cross-border training, nationality would enrich the event, offering different perspectives on the issues, employing different teaching methods and ensuring a more comprehensive analysis of the planning and nature protection law in Europe.

Finally, although not always easy to assess, the potential trainer's personal motivation could be a factor worth considering. For the implementation of a workshop on the basis of the training module, significant flexibility and commitment, as well as the willingness to interact with end users is expected from the trainers. Engaging experts, who have an interest in the project and are prepared to make the necessary effort for a successful outcome, would bring an added value to the workshop, while further motivating the participants.

#### **Criteria for selecting the workshop trainers:**

- Subject and objectives of each sub-session
- Didactic competences and pedagogical skills
- Linguistic and IT skills
- Professional background similar to that of the workshop's participants
- Diversity in the group of trainers
- Motivation

### **3. Teaching methods**

#### **Frontal (face-to-face) presentation**

The optimal method for the provision of a large amount of information in a limited period of time is face-to-face presentations, conducted in plenary. This method provides the trainer with the necessary time and flexibility to structure and present the content of the sub-session as s/he sees fit.

Supporting material such as outlines and PowerPoint or other presentation tools should be employed during the lecture. This would not only enable participants to follow the presentation better, but constitute a reference document for the future as well, should end users wish to review the main issues of the sub-session.

One of the objectives of the workshop is to familiarise participants with existing legislation. In this context, reference to the material included in the users pack should be made throughout the lecture and participants should be encouraged to go through the legal texts, identify the provisions and acquire a better understanding of their structure and applicability.

Enriching the lecture with practical examples could also be a means of emphasising the link between theory and practice and better illustrating the application of the various legal instruments. Brief exercises or questions could also be formulated by the trainers, requiring participants to reflect and discuss them before presenting the answer. Trainers would thus not only create an atmosphere of dialogue within the group, but also assess whether the concepts have been properly explained.

Time for discussion or Q&A sessions should in all cases be ensured for end users wishing to ask for clarification or further information. Depending on the content and structure of each lecture, questions may be raised during the presentation or in a subsequent discussion session moderated by the trainer or the workshop leader.

Although the key role in front presentations is played by the trainer, end users should also be encouraged to actively contribute to the different sub-sessions. Participants learn not only from the provision of training per se, but also from hearing questions and problems they have not yet found themselves confronted with. For this reason it is important that all end users attending the workshop are encouraged and feel comfortable enough to share thoughts and ideas and contribute their own experiences. This element is of particular importance in international workshops, where participants have the possibility to expand their knowledge with information on the application of EU environmental law in other member states, learning from each other.

### **Workshop exercises**

In addition to information on the Aarhus Convention and EU legal framework, the training also aims at providing participants with some practical experience in the particularities of the cases on the participatory and procedural rights in environmental matters.

In order to further highlight issues requiring special attention and allow participants to develop specific skills, it is important to ensure their involvement in this part of the training. For this reason, specially designed workshop exercises will complement each thematic unit. Another advantage of this method is that the preparation of an exercise constitutes an interactive way of learning. After having listened to face-to-face presentations or read background material, participants would appreciate a change of presentation technique.

- Case studies prepared in working groups



During the workshop exercises, participants will be given the opportunity to use their skills and knowledge to solve case studies related to the participatory and procedural rights in environmental matters.

The exercise should start with a brief session in plenary, with a presentation by the trainer or the workshop leader on the organisational aspects of the exercise. A brief introduction to the case studies and the main issues end users should deal with could also be included.

Participants should subsequently be divided into smaller working groups and working space provided for each of them. Working in smaller groups has significant advantages for participants: the possibility to focus on case studies will enable them to deepen their recently acquired knowledge by applying it to concrete cases. This approximates a real-life scenario and can constitute valuable experience for the future. The working group format would allow participants to be actively involved in the debate and improve their communication skills.

As one of the key objectives of the exercise is the exchange of opinion between end users, it is important that the workshop leader allocates participants to the working groups to support this interaction: in international implementing workshops and as long as participants working languages allow it, end users from different member states or from jurisdictions with different legal traditions should be brought together in the working groups. If a workshop is organised as national judicial training, judges from different courts could be asked to work together. Further to solving the case, this diversity would allow participants to obtain better insights into how the questions would be dealt with and how the EU directives involved are applied in another country, by a different legal profession, in a different city or court.

➤ As four case studies are recommended for the workshops implementing this training module, altering the composition of the working groups in each exercise would be a way to further increase participant interactivity.

Depending on the time available, the trainer coordinating each exercise will have to decide whether all working groups should deal with all case studies or if specific case studies should be allocated to different groups in order to ensure that end users are able to thoroughly examine all issues.

Once the working groups have been set up, they should organise themselves, develop a working method and identify which member(s) of the group will be responsible for reporting the conclusions of their discussion to the other end users. The trainer leading the exercise should be present, following the interaction in each group to a certain extent, offering advice on time management, being available to provide clarification and answering questions and being prepared to assist participants if they face major difficulties or their discussion becomes derailed.

When the groups have completed their work, all participants should come together again to discuss their conclusions. This will allow them to compare their solutions to the features of the case studies, get further ideas from their colleagues in the other groups and broaden their understanding of the subject matter.

To achieve the objectives of this closing discussion, it is important to ensure that all groups take the floor and present the results of their work. It would be most effective to discuss one case at a time, invite the rapporteur of one of the groups to present their conclusions and the main elements of their discussion and then ask the end users of the other groups for additional comments, different opinions etc. In conclusion, the trainer should summarise the main points raised in the discussion and give his own feedback, so that participants can confirm whether they successfully dealt with the case or whether there could be further improvement.

- IT-supported learning

IT-supported learning can enhance the efficiency of training and give end users the opportunity to gain practical experience by making use of the possibilities the internet offers on issues related to environmental law generally. In this way, end users will have the opportunity of becoming familiar with the various EU websites in the area (such as the E-Justice Portal, the EJTN website, Eur-Lex, the Curia website etc.), where they can acquire further information and advice on how to apply the EU instruments covered by the workshop. By efficiently using these websites, participants will actively learn how to find the relevant legal texts and cases and receive assistance on the practical problems they may face when applying EU law in this area.

#### **4. Documents**

The documents to be made available at the training workshop consist of the contents of the users pack. The users pack will, in particular, include:

- blended e-learning material;
- the workshop reader;
- documentation set;
- workshop programme;
- list of participants;
- list of the trainers;
- CVs of the trainers;
- evaluation form.

### III. User pack: the function of the different elements of the training module

#### 1. Introduction

The term 'user pack' means the entire wealth of material that will be made available to the participants of an implementing workshop. This will consist mostly of the blended e-learning material, training material (related legal documents, links to online sources, trainers contributions and case studies) as well as supporting documents, such as the workshop programme, the list of participants, workshop evaluation forms etc.

It is, of course, at the discretion of the workshop organisers and trainers to use the materials provided in the manner they deem most fitting and to also include additional documents where necessary. All key EU legal instruments required for the provision of training on 'Procedural and Participatory Rights in Environmental Matters' are already part of the users' pack, but as implementing workshops may be structured with a specific focus, further material could be of use.

The materials for inclusion in the users' pack can and should be provided mainly in electronic format, either using a USB stick or by making the content available online and granting all workshop participants access to it. Material that needs to be regularly referred to during the workshop or that would make it easier to follow proceedings should be provided in hardcopy for ease of reference during the event:

- workshop programme;
- list of participants;
- trainers contributions;
- texts of the regulations to be analysed;
- case studies;
- evaluation forms.

➤ When presenting the material that should accompany each unit, distinction should be made between 'necessary material' to be provided in hardcopy and 'additional material' that should be included in the electronic documentation.

#### 2. Blended e-learning

The training module has been structured to include 'blended learning' as a methodological approach, given that it combines the interactivity of face-to-face training during the implementing workshops with the flexibility provided by e-learning material. As the e-learning material has different functions and can be of use to the workshop participants at several stages of their learning process, it is important that they have access to it on different occasions: before the implementation of the workshop, in order to prepare for the meeting, while it takes place, in order to make best use of the available material with the help of the trainers, and after the workshop,

as a point of reference for finding information on European EIA and nature protection issues.

The key function of this e-learning material is to introduce end users to a number of legal instruments with regard to the procedural and participatory rights in environmental matters.

It will include:

- The main international and EU legal instruments as well as case law that will be analysed during the workshop which participants should go through before they attend the course, as well as the corresponding quiz to test their knowledge. The aim is not to replace the face-to-face sessions on these subjects but to complement them by ensuring that all participants have a common basic level of knowledge before they start and can make the most of the discussion to clarify issues in the face-to-face workshops.
- Access to the bibliography of legal instruments and other relevant source material to which participants can refer to at any time.
- Access to the remainder of the e-learning version of the training module would be provided after the face-to-face workshop for participants to use as a refresher and to re-use with their colleagues alongside the face-to-face training materials.

Once the group of participants has been selected, they should receive information on how to access the e-learning materials and be encouraged to go through its content 7-10 days before the implementation of the workshop. In this way, they will have the possibility to refresh or acquire some basic knowledge and be better prepared for the workshop programme.

### **3. Background documentation**

Legal texts will make up the large majority of the content of the training materials: international conventions, treaty articles, regulations, directives, case law of the Court of Justice of the European Union etc. will constitute the background to analysis in the workshop. A comprehensive collection of all background documents, which can be referred to after the conclusion of the workshop, should be included in the electronic documentation. Participants are likely to come back to these texts in order to refresh their memory, find a specific provision or judgment, and seek guidance or inspiration if confronted with a case on procedural and participatory rights in environmental matters at a later stage. This format could also support an easy further dissemination of this material, which workshop participants could forward to their colleagues if requested.

Further to legal texts, links to online databases, tools and sources, such as the E-justice portal, Eur-Lex, Curia and other similar websites should also be included as background material in the electronic documentation.

- Proposals on which specific material to include in this part of the users' pack are included in Part d) on the analysis of each sub-session of the workshop.

The material should be provided in the language of the workshop. When international workshops are organised, links to the EU databases (such as [www.eur-lex.europa.eu](http://www.eur-lex.europa.eu) or [www.curia.europa.eu](http://www.curia.europa.eu)) could be included, so that end users can access EU legal texts in the language of their choice. Further to their inclusion in the electronic documentation, providing the few documents in hard copy that are absolutely essential during the workshop is recommended. Being able to quickly find a provision, see the structure of a legal instrument, make notes etc. could help end users to better follow the training and further familiarise themselves with the legal instruments being discussed.

#### 4. Workshop exercise material

Four workshop exercises are proposed for the workshops implementing the training module on 'Procedural and Participatory Rights in Environmental Matters'. All of them are structured on the basis of case studies. Preparatory material supporting the workshop exercises, such as the facts of the different cases that are to be discussed or additional legal texts that will be needed for solving the cases must be provided for the participants in hardcopy during the workshop.

#### 5. Trainer contributions

In addition to the background documents, every time an implementing workshop on 'Procedural and Participatory Rights in Environmental Matters' is organised, the trainers involved should be asked to prepare their own supporting material, in the form of PowerPoint presentations, outlines, notes or full texts of their lectures. Trainers should be free to structure the material supporting their presentations as they prefer. The main objective would be to help end users attending the workshop to better follow the presentation and, for this reason, emphasis should be given, in particular, to the provision of a clear structure. The trainer's contributions could also be used as a reference document for identifying the main points of the subject matter.

Speakers' contributions should additionally be included in the user pack. They should also be included in hardcopy in the documentation pack.

- Providing some kind of written support of the lectures is always recommended and for this reason always mentioned under 'necessary documents'. Especially an outline of the PowerPoint presentation reflecting the structure of the sub-session allows participants to better understand the structure and follow the lecture.

#### 6. Additional documents

Further to the training material, a number of documents supporting the organisation of the workshop must be made available to participants. These would be of immediate

and continuous use during the workshop and should therefore be provided in hardcopy.

The finalised workshop programme must be provided at the beginning of the training, allowing participants to plan accordingly and better understand the training flow. A list of all workshop participants should be provided, facilitating the interaction between end users attending the workshop. Moreover, by including certain contact details (professional position and postal address) participants are given the opportunity to maintain contact even after the conclusion of the workshop. Finally, in order to achieve an immediate evaluation of the workshop, a questionnaire seeking participant feedback on the workshop content, organisational features and overall effectiveness will be distributed.

#### **IV. Organising an implementing workshop: structure, content and methodology**

For the training module on 'Procedural and Participatory Rights in Environmental Matters' and its implementing workshops, a structure on the basis of thematic units is proposed. Each thematic unit will focus on a specific topic of International and EU law in this area. Each implementing workshop will thus consist of several units, ensuring the alternation of theoretical and practical parts. The final structure will, however, have to be decided by taking into consideration end users prior knowledge and training priorities. With the addition of opening and closing units, serving both pedagogical and organisational purposes, an implementing workshop of 2.5 days could be designed as detailed below:

- Unit 1: Setting the scene
- Unit 2: Participatory and procedural rights in environmental matters: Introduction
- Unit 3: Aarhus Convention and the EU: Latest developments
- Unit 4: Access to information in environmental matters – Implementation and application of Aarhus Convention and the Directive 2003/4/EC at national level
- Unit 5: Case Study on Access to Information
- Unit 6: Public participation in decision making: Scope of application
- Unit 7: Public participation in decision making: Steps of procedure
- Unit 8: Case study on Public Participation
- Unit 9: Access to justice in Public Participation Context: Article 9 (2) Aarhus Convention
- Unit 10: Case study on access to justice in Public Participation Context
- Unit 11: Access to justice: Article 9 (3) Aarhus Convention
- Unit 12: Case study on access to justice (Article 9 (3) Aarhus Convention)
- Unit 13: Closing session – evaluation of the workshop

## Unit 1: Setting the scene

### Short description of the contents

The workshop should always start by welcoming the participants and providing a brief introduction and explanation of the contents of the programme.

### General objectives

The main objective of this first session is to welcome trainers and participants to the workshop, to set the scene by reminding them of the framework of the training course and to encourage their interaction and active participation in the course.

### Specific learning points

#### Introduction of participants and trainers

The opening session should also be used in order to allow participants to introduce themselves, present their national and professional background and illustrate their expectations from the workshop. In this way, end users will be familiar with addressing the group, which should facilitate their active participation in the following sessions and they will also get to know their colleagues' background a little better. Making trainers and participants aware of which nationalities and professional groups are represented in the workshop can be of great relevance in the discussion and an asset in ensuring an effective exchange of information and experience. The possibility to discover from participants the experience which they bring with them to the training course and what they are primarily seeking to achieve by their participation could help the workshop leader to better adapt the programme to meet participants specific needs, by emphasising certain aspects, making adjustments on the time allocated in the different sub-sessions, etc.

- This may be achieved by inviting participants to ask a key question they expect to see addressed during the workshop or to indicate which element made them apply for the course.

#### Presentation of the workshop's programme

The workshop should include, at the beginning, a presentation of its programme, scope and objectives. The focus of each unit will be indicated and the expected contribution of the participants in each part of the programme emphasised. It is important that end users realise the goal of each unit and the flow of the workshop programme in order to be better equipped to follow the discussions and make sure they do not miss the opportunity to raise questions or clarify any ambiguity.



### **Presentation of the training material**

The opening session is also the opportunity to present the material included in the user pack and explain its function, so that end users may use it throughout the workshop. The content of the electronic documentation should be outlined (all related legal texts, links to online sources, suggested solutions to the case studies, etc.) and explanations provided on the documents that will have been made available to the participants in hardcopy for reference during the workshop (e.g. trainers presentations and outlines, key legal texts, the case studies for the workshop exercises, documents such as the list of participants, the workshop assessment tools etc.).

### **Presentation of the workshop's organisational aspects**

Further to this, all logistical aspects of the workshop will be presented. The locations that will be used during the workshop for the different sessions, the exercises and the lunch and coffee breaks will be indicated, the possibility to use computers, Wi-Fi, a library, a business station etc. laid out and information on the organised lunches and dinners provided. It is important here to ensure that end users are reminded of and able to profit from all measures taken to facilitate their participation in the workshop, and of the importance of the joint activities in allowing a less formal interaction between trainers and fellow participants.

### **Methodology**

While participants will be in plenary; everyone is invited to introduce themselves. The programme of the workshop will be presented by the leader of the workshop.

After welcoming participants and trainers to the workshop, they will be given the opportunity to introduce themselves and express their expectations regarding the workshop. This will improve the atmosphere of the workshop from the very beginning, which is a key element for its success. Participants are more likely to be active during the event if they know their colleagues' backgrounds.

Furthermore, the outline and main objectives of the workshop will be presented. This introduction will contain information on both the programme and the logistics (e.g. which rooms will be available for the participants during the workshop, library, availability of computers and Wi-Fi, coffee breaks and meals, evening programme).

### **Duration**

The time allocated to the opening session will depend on the number of participants attending the workshop. Taking into account that the workshop should ideally have 20 to 30 participants, the opening session should last approximately 45 minutes, in order to ensure sufficient time for all trainers and participants to present themselves and for the provision of all necessary information on the event.

## Documentation

### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	The final version of the workshop programme
<b>02</b>	The list of trainers
<b>03</b>	Trainers CV's
<b>04</b>	List of participants

The workshop leader should demonstrate the entire user pack in this unit, including the electronic documentation, in order to inform participants of all the different features of the pack.

### Trainer profile

The opening session will be held in plenary and coordinated by the workshop manager, the person responsible for ensuring the coherent management of the workshop. There would be an added value in assigning the role of the 'workshop manager' to the person responsible for the organisation of the workshop. He or she would be most suitable to present the programme's structure and main objectives, having made all related decisions and given priority to specific features of the training over others.

## **Unit 2: Participatory and procedural rights in environmental matters: Introduction**

### **Short description of the contents and general objectives**

The aim of this presentation is to introduce the participants to participatory and procedural rights in environmental matters. During this presentation the genesis and the historical development of these rights should be explained. Further, the focus should be put on the functioning of the Aarhus Convention and implementation of the Aarhus Convention into EU law

### **Specific learning points**

- Genesis and historical development
- Functioning of the Aarhus Convention
- Implementation of the Aarhus Convention into EU law
- Organisational structure of the Aarhus Convention
- Three pillar structure:
  - Pillar I – access to information
  - Pillar II – public participation
  - Pillar III – access to justice
- Most important provisions of the Aarhus Convention:
  - Article 2 definitions
  - Article 3 principles
  - Articles 4 and 5 on information
  - Articles 6, 7 and 8 on participation
  - Article 9 (1), (2), (3), (4), (5)
- Access to justice covering access to information, participation and general environmental topics
- Main objectives of the Aarhus Convention
- Main definitions of the Aarhus Convention

### **Methodology**

As the focus of this unit lies in the provision of information and a number of different provisions of Aarhus Convention need to be covered, the best option would be to organise it as face-to-face frontal training.

The scope of this unit is rather large and a great deal of information that is required for effectively comprehending the rest of the programme needs to be provided. For this reason it is essential that this unit is effectively structured. Participants must acquire the knowledge and skills that will allow them to have an overview for the rest of the workshop dealing with each of three “pillars”. In order to achieve this, it is essential

that the trainer ensures that there is sufficient time for participants to raise questions or discuss any unclear points.

### Duration

The duration of this session should be 45-60 minutes (including lecturing time and discussion sessions with the participants).

### Documentation

#### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation 'Participatory and procedural rights in environmental matters: Introduction'
<b>02</b>	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</u></a>
<b>03</b>	<a href="#"><u>DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</u></a>
<b>04</b>	<a href="#"><u>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</u></a>

#### Additional material (to be included in the electronic documentation – USB stick):

<b>05</b>	<a href="#"><u>COUNCIL DIRECTIVE of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (85/337/EEC)</u></a>
<b>06</b>	<a href="#"><u>Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment</u></a>
<b>07</b>	<a href="#"><u>Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control</u></a>

### Trainer profile

The trainer/facilitator in this session should be, where possible, an expert from DG Environment, European Commission, an academic with practical experience of the application and implementation of Aarhus convention or an official from a relevant national public authority who is familiar with the implementation of it.

## Unit 3: Aarhus Convention and the EU: Latest developments

### Short description of the contents and general objectives

During this presentation the latest developments with regard to the implementation of the Aarhus Convention at the EU level and in the Member States should be discussed. Particular focus should be devoted to the case-law of the CJEU, national trends and considerations of judges applying EU law and political signals and recent trends at the EU level. During this presentation the national judges' perspective as an EU judge should be highlighted, including the obligation to the preliminary references under certain conditions.

### Specific learning points

Introduction to the main provisions of the Aarhus Convention and EU law governing the procedural and participatory rights in environmental matters:

- For the EU: Regulation 1367/2006
- For the member states:
  - Pillar I + Art. 9(1) Aarhus Convention: Directive 2003/4
  - Pillar II + Art. 9(2), 9 (4) Aarhus Convention: Directive 2003/35, EIA, IPPC, SEVESO III
  - Pillar III - Art. 9(3) & 9(4) Aarhus Convention: COM(2003)624 – still existing gap in implementation

Recent political signals

- Political signals from EU Institutions including the Council
- Access to justice gap being filled in by court case-law (member state and EU level) and follow-up by the European Commission
- Recent developments of the CJEU case-law
- Recent developments of the national case-law
- Cooperation with judges programme.

### Methodology

This unit should be conducted as a frontal presentation in plenary. The order in which the different points of the unit are presented should be defined by the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

### Time frame

The time allocated to this unit will be approximately 45-60 minutes and should include some time for discussion with the participants.

## Documentation

### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation 'Aarhus Convention and the EU: Latest developments'
<b>02</b>	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</u></a>
<b>03</b>	<a href="#"><u>DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</u></a>
<b>04</b>	<a href="#"><u>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</u></a>

### Additional material (to be included in the electronic documentation – USB stick):

	<b>EU Documents</b>
<b>05</b>	<a href="#"><u>CONSOLIDATED VERSION OF THE TREATY ON EUROPEAN UNION</u></a>
<b>06</b>	<a href="#"><u>CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION (2010/C 83/02)</u></a>
<b>07</b>	<a href="#"><u>REGULATION (EC) No 1367/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 6 September 2006 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</u></a>
<b>08</b>	<a href="#"><u>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on access to justice in environmental matters, Brussels, 24.10.2003 COM(2003) 624 final, 2003/0246 (COD)</u></a>
<b>09</b>	<a href="#"><u>CONSOLIDATED VERSION OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION</u></a>
<b>10</b>	<a href="#"><u>COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Improving the delivery of benefits from EU environment measures: building confidence through better knowledge and responsiveness, Brussels, 7.3.2012 COM(2012) 95 final</u></a>

11	<a href="#">DECISION No 1386/2013/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 November 2013 on a General Union Environment Action Programme to</a>
12	<a href="#">European Parliament Report of 29 February 2012 (Document A7-0048/2012)</a>
	<b>Selected CJEU Case Law</b>
13	<a href="#">JUDGMENT OF THE COURT (Grand Chamber) of 8 March 2011. Lesoochránárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky. Case C-240/09.</a>
14	<a href="#">Judgment of the Court (Second Chamber) of 16 July 2009. Commission of the European Communities v Ireland. Case C-427/07.</a>
15	<a href="#">Judgment of the Court (Second Chamber) of 15 October 2009. Djurgården-Lilla Värtans Miljöskyddsförening v Stockholms kommun genom dess marknämnd. Case C-263/08.</a>
16	<a href="#">Judgment of the Court (Fourth Chamber) of 12 May 2011. Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg. Case C-115/09.</a>
17	<a href="#">Judgment of the Court (Grand Chamber) of 18 October 2011. Antoine Boxus and Willy Roua (C-128/09), Guido Durllet and Others (C-129/09), Paul Fastrez and Henriette Fastrez (C-130/09), Philippe Daras (C-131/09), Association des riverains et habitants des communes proches de l'aéroport BSCA (Brussels South Charleroi Airport) (ARACH) (C-134/09 and C-135/09), Bernard Page (C-134/09) and Léon L'Hoir and Nadine Dartois (C-135/09) v Région wallonne. Joined cases C-128/09 to C-131/09, C-134/09 and C-135/09.</a>
18	<a href="#">Judgment of the Court (Fourth Chamber) of 16 February 2012. Marie-Noëlle Solvay and Others v Région wallonne. Case C-182/10.</a>
19	<a href="#">Judgment of the Court (Grand Chamber) of 15 January 2013. Jozef Križan and Others v Slovenská inšpekcia životného prostredia. Case C-416/10.</a>
20	<a href="#">Judgment of the Court (Fourth Chamber) of 14 March 2013. Jutta Leth v Republik Österreich and Land Niederösterreich. Case C-420/11.</a>
21	<a href="#">Judgment of the Court (Fifth Chamber) of 7 January 2004. The Queen, on the application of Delena Wells v Secretary of State for Transport, Local Government and the Regions. Case C-201/02.</a>
22	<a href="#">Judgment of the Court (Fourth Chamber) of 11 April 2013. The Queen, on the application of David Edwards and Lilian Pallikaropoulos v Environment Agency</a>

	<a href="#">and Others. Case C-260/11.</a>
<b>23</b>	<a href="#">Judgment of the Court (Second Chamber) of 13 February 2014. European Commission v United Kingdom of Great Britain and Northern Ireland. Case C-530/11.</a>
<b>24</b>	<a href="#">Judgment of the Court (Second Chamber) of 7 November 2013. Gemeinde Altrip and Others v Land Rheinland-Pfalz. Case C-72/12.</a>
<b>25</b>	<a href="#">Judgment of the Court (Second Chamber) of 25 July 2008. Dieter Janecek v Freistaat Bayern. Case C-237/07.</a>
<b>26</b>	<a href="#">Judgment of the Court (Grand Chamber) of 8 March 2011. Lesoochránárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky. Case C-240/09.</a>
<b>27</b>	<a href="#">Judgment of the Court of 5 February 1963. NV Algemene Transport- en Expeditie Onderneming van Gend &amp; Loos v Netherlands Inland Revenue Administration. Case 26-62.</a>
<b>28</b>	<a href="#">Judgment of the Court of 4 December 1974. Yvonne van Duyn v Home Office.. Case 41-74.</a>
<b>29</b>	<a href="#">Judgment of the Court of 5 April 1979. Criminal proceedings against Tullio Ratti. Case 148/78.</a>
<b>30</b>	<a href="#">Judgment of the Court of 15 July 1964. Flaminio Costa v E.N.E.L. Case 6-64.</a>

### Trainer profile

As for Unit 2, the trainer in this session should be, where possible, an expert from DG Environment, European Commission, an academic with practical experience of the application and implementation of the Aarhus Convention or an official from a relevant national public authority who is familiar with the implementation of it.



## Unit 4: Access to information in Environmental Matters – Implementation and application of Aarhus convention and the Directive 2003/4/EC at National Level

### Short description of the contents and general objectives

During this presentation the participants should deepen their knowledge on the Aarhus Convention and Directive 2003/4/EC not only theoretically, but also in a practical way by analysing real cases. They should examine their own role as a national judge by identifying disputes and finding ways to solve these problems.

### Specific learning points

- Introduce Aarhus Convention and EU law provisions governing the right of access to environmental information at Member State level
- Examine Directive 2003/4/EC on public access to environmental information
- Analyse CJEU case law on Directive 2003/4/EC
- Consider the role of the national judge in environmental information disputes & the enforcement of information rights
- Identify and explore current issues around implementation and enforcement of Directive 2003/4/EC

### Methodology

This unit should be conducted as a frontal presentation in plenary. The order in which the different points of the unit are presented should be defined by the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

### Time frame

The time allocated to this unit will be approximately 45-60 minutes and should include some time for discussion with the participants.

### Documentation

#### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation 'Access to information in environmental matters – Implementation and application of Aarhus convention and the Directive 2003/4/EC at national level'
<b>02</b>	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS</u></a>

	<a href="#">done at Aarhus, Denmark, on 25 June 1998</a>
<b>03</b>	<a href="#">DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</a>
<b>04</b>	<a href="#">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</a>

**Additional material (to be included in the electronic documentation – USB stick):**

	<b>EU Documents</b>
<b>05</b>	<a href="#">REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT ON THE EXPERIENCE GAINED IN THE APPLICATION OF DIRECTIVE 2003/4/EC ON PUBLIC ACCESS TO ENVIRONMENTAL INFORMATION, Brussels, 17.12.2012 COM(2012) 774 final</a>
	<b>Selected CJEU Case Law</b>
<b>06</b>	<a href="#">Judgment of the Court (Grand Chamber) of 19 December 2013. Fish Legal and Emily Shirley v Information Commissioner and Others. Case C-279/12.</a>
<b>07</b>	<a href="#">Judgment of the Court (Fourth Chamber) of 16 December 2010. Stichting Natuur en Milieu and Others v College voor de toelating van gewasbeschermingsmiddelen en biociden. Case C-266/09.</a>
<b>08</b>	<a href="#">Judgment of the Court (Grand Chamber) of 14 February 2012. Flachglas Torgau GmbH v Bundesrepublik Deutschland. C-204/09.</a>
<b>09</b>	<a href="#">Judgment of the Court (Second Chamber) of 18 July 2013. Deutsche Umwelthilfe eV v Bundesrepublik Deutschland. Case C-515/11.</a>
<b>10</b>	<a href="#">Judgment of the Court (Third Chamber) of 28 July 2011. Office of Communications v Information Commissioner. Case C-71/10.</a>
<b>11</b>	<a href="#">Judgment of the Court (Grand Chamber) of 15 January 2013. Jozef Križan and Others v Slovenská inšpekcia životného prostredia. Case C-416/10.</a>

**Trainer profile**

The expert presenting the case study on Access to Information should be an expert of all aspects with regard to the Aarhus Convention and access to information issues and

fully familiar with the CJEU case law in this field. Ideally the speaker would be a judge or an attorney who has practical experience in this field.

## Unit 5: Case Study on access to information

### Short description of contents and general objectives

During this unit, a case study on access to information in environmental matters raising difficult questions of procedural rights should be presented. Participants will be able to deepen their knowledge regarding the Aarhus Convention and the Directive 2003/4/EC in a practical manner and also to further their grasp of the knowledge gained with regard to the challenges faced by Member States when transposing, implementing and enforcing the Directive 2003/4/EC, including issues such as review of the public authority's decision the medium of a case study. These case studies should also enable judges to facilitate discussion on how they would solve the problems presented.

### Specific learning points

- Review of the public authority's decision to refuse access to certain information and to charge a fee for the supply of information
- Compliance of a fee for the supply of information with the requirements of Directive 2003/4/EC and, in particular, Article 4
- Scope of member state discretion under Directive 2003/4/EC
- Compatibility of a fee amount which is payable to make an appeal to the Environmental Information Tribunal with Article 6 of Directive 2003/4/EC
- Access to justice, effective remedies and Article 9(4) Aarhus Convention

### Methodology

The cases will be distributed to the participants at the beginning of the workshop. Then the trainer will explain the factual background of the case. After the short presentation, participants will be divided into working groups of 6-8 persons. The groups should appoint a moderator and a rapporteur. The groups will discuss the case on the basis of the applicable directives.

After the group discussion, participants will reconvene in a plenary session. Each group will have a rapporteur to explain the results of their discussion. The trainer will comment on their findings during the debriefing of the case study. The trainer will also invite comments from other groups or individuals and seek to stimulate a debate where differences of opinion, approach or interpretation are apparent.

### Time frame

The presentation of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case should take 60 minutes, the following discussion in the plenary including the debriefing should take another 30-45 minutes.

The time allocated to this sub-session should be approximately 45-60 minutes and should include some time for discussion.

## Documentation

### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation 'Habitats Directive in the case law of CJEU'
<b>02</b>	<a href="#">CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</a>
<b>03</b>	<a href="#">DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</a>
<b>04</b>	<a href="#">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</a>

### Additional material (to be included in the electronic documentation – USB stick):

<b>05</b>	<a href="#">UN ECE, The Aarhus Convention: An Implementation Guide (2nd ed) (2013)</a>
<b>06</b>	<a href="#">UN ECE, Guidance Document on the Aarhus Convention Compliance Mechanism (undated)</a>
<b>07</b>	<a href="#">UN ECE, Protecting your Environment – The Power is in your Hands: A Quick Guide to the Aarhus Convention (April, 2014)</a>
<b>08</b>	<a href="#">Andrusevych, A et al., Case Law of the Aarhus Convention Compliance Committee (2004 – 2011) (2<sup>nd</sup> ed)</a>
	COM Documents
<b>09</b>	<a href="#">European Commission, Report from the Commission: Aarhus Convention Implementation Report COM (2014) 2506 final, 16.4.2014</a>
<b>10</b>	<a href="#">European Commission, Report from the Commission to the Council and the European Parliament on the experience gained in the application of Directive 2003/4/EC on public access to environmental information COM (2012) 774 final, 17.12.12</a>
<b>11</b>	<a href="#">European Commission, Improving the delivery of benefits from EU</a>

	<a href="#">environment measures: building confidence through better knowledge and responsiveness COM (2012) 95 final, 7.3.12</a>
	Jurisprudence CJEU
<b>12</b>	<a href="#">Judgment of the Court (Sixth Chamber) of 17 June 1998. Wilhelm Mecklenburg v Kreis Pinneberg - Der Landrat. Case C-321/96.</a>
<b>13</b>	<a href="#">Judgment of the Court (Sixth Chamber) of 9 September 1999. Commission of the European Communities v Federal Republic of Germany. Case C-217/97.</a>
<b>14</b>	<a href="#">Judgment of the Court (Fifth Chamber) of 12 June 2003. Eva Glawischnig v Bundesminister für soziale Sicherheit und Generationen. Case C-316/01.</a>
<b>15</b>	<a href="#">Judgment of the Court (Sixth Chamber) of 26 June 2003. Commission of the European Communities v French Republic. Case C-233/00.</a>
<b>16</b>	<a href="#">Judgment of the Court (Second Chamber) of 21 April 2005. Pierre Housieaux v Délégués du conseil de la Région de Bruxelles-Capitale. Case C-186/04.</a>
<b>17</b>	<a href="#">Judgment of the Court (Fourth Chamber) of 17 February 2009. Commune de Sausheim v Pierre Azelvandre. Case C-552/07.</a>
<b>18</b>	<a href="#">Judgment of the Court (Fourth Chamber) of 16 December 2010. Stichting Natuur en Milieu and Others v College voor de toelating van gewasbeschermingsmiddelen en biociden. Case C-266/09.</a>
<b>19</b>	<a href="#">Judgment of the Court (Fourth Chamber) of 22 December 2010. Ville de Lyon v Caisse des dépôts et consignations. Case C-524/09.</a>
<b>20</b>	<a href="#">Judgment of the Court (Third Chamber) of 28 July 2011. Office of Communications v Information Commissioner. Case C-71/10.</a>
<b>21</b>	<a href="#">Judgment of the Court (Grand Chamber) of 14 February 2012. Flachglas Torgau GmbH v Bundesrepublik Deutschland. C-204/09.</a>
<b>22</b>	<a href="#">Judgment of the Court (Grand Chamber) of 15 January 2013. Jozef Križan and Others v Slovenská inšpekcia životného prostredia. Case C-416/10</a>
<b>23</b>	<a href="#">Judgment of the Court (Second Chamber) of 18 July 2013. Deutsche Umwelthilfe eV v Bundesrepublik Deutschland. Case C-515/11.</a>
<b>24</b>	<a href="#">Judgment of the Court (Grand Chamber) of 19 December 2013. Fish Legal and Emily Shirley v Information Commissioner and Others. Case C-279/12.</a>
<b>25</b>	<a href="#">Order of the Court (Ninth Chamber) of 8 May 2014. Ferdinand Stefan v Bundesministerium für Land- und Forstwirtschaft, Umwelt und</a>

	<a href="#">Wasserwirtschaft. Case C-329/13.</a>
	Background Reading
<b>26</b>	Lee, M and Abbot, C, "The Usual Suspects? Public Participation under the Aarhus Convention" (2003) 66 Modern Law Review 80
<b>27</b>	Lee, M, EU Environmental Law, Governance and Decision-making (2nd ed) (Oxford: Hart Publishing, 2014), in particular chapter 7
<b>28</b>	<a href="#">Oliver, P, "Access to Information and to Justice in EU Environmental Law: The Aarhus Convention" 36, Fordham International Law Journal 1423</a>
<b>29</b>	Ryall, Á, "Access to Environmental Information in Ireland: Implementation Challenges" (2011) 24 Journal of Environmental Law 45

### Trainer profile

As for the Unit 4, the expert presenting the case study on Access to Information should be an expert of all aspects with regard to the Aarhus Convention and access to information issues and fully familiar with the CJEU case law in this field. Ideally the speaker would be a judge or an attorney who has practical experience in this field. The expert should be available during the group discussion and to assist participants if they need him/her. At the debriefing the expert should be available for an interactive discussion with all the participants.

## Unit 6: Public participation in decision making: Scope of application

### Short description of content and general objectives

The general objective of this presentation is to introduce the participants to Aarhus Convention and the EU Law provisions providing the right to public participation in environmental decision making process at member state level. The participants should be introduced to the historical development, the public participation pillar in the Aarhus Convention and the legal nature of its obligations as well as EU legal instruments implementing this right on EU level.

### Specific learning points

- Genesis and historical development
- Public participation pillar in the Aarhus Convention
- Activities covered
- Decisions covered
- Subjects of obligations
- Subjects of rights
- Requirement for "early public participation, when all options are open"
- Approach to judicial review

### Methodology

This unit should be conducted as a frontal presentation in plenary. The order in which the different points of the unit are presented should be defined by the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

### Time frame

The time allocated to this unit will be approximately 45-60 minutes and should include some time for discussion with the participants.

### Documentation

**Necessary material (to be made available in hardcopy during the sub-session):**

01	PowerPoint Presentation 'Public participation in decision making: Scope of application'
02	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</u></a>



03	<a href="#">DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</a>
04	<a href="#">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</a>

**Additional material (to be included in the electronic documentation – USB stick):**

	<b>EU documents</b>
05	<a href="#">DIRECTIVES DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification)</a>
06	<a href="#">DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions (integrated pollution prevention and control)</a>
07	<a href="#">DIRECTIVE 2014/52/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment</a>
08	<a href="#">DIRECTIVE 2008/50/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008 on ambient air quality and cleaner air for Europe</a>
	<b>International documents</b>
09	<a href="#">UN ECE, Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters, 26 May 2014</a>
10	<a href="#">Andrusevych, A et al., Case Law of the Aarhus Convention Compliance Committee (2004 – 2011) (2nded)</a>
	<a href="#">UN ECE, The Aarhus Convention: An Implementation Guide (2nd ed) (2013)</a>
	<b>Selected case law of the CJEU</b>
11	<a href="#">C-142/07 - Ecologistas en Acción-CODA, Judgment of the Court (Third Chamber) of 25 July 2008, Ecologistas en Acción-CODA v Ayuntamiento de Madrid.</a>
12	<a href="#">C-50/09 - Commission v Ireland, Judgment of the Court (First Chamber) of 3</a>

	<a href="#"><u>March 2011, European Commission v Ireland.</u></a>
<b>13</b>	<a href="#"><u>C-121/11 - Pro-Braine and Others, Judgment of the Court (Third Chamber) of 19 April 2012, Pro-Braine ASBL and Others v Commune de Braine-le-Château.</u></a>
<b>14</b>	<a href="#"><u>C-215/06 - Commission v Ireland, Judgment of the Court (Second Chamber) of 3 July 2008, Commission of the European Communities v Ireland.</u></a>

### **Trainer profile**

The expert presenting the public participation in decision making should be an all round expert in all aspects of procedural and participatory rights in environmental matters and fully familiar with the CJEU case law in this field, as well as with the decisions of the Aarhus Compliance Committee. A possible speaker could be a judge or attorney experienced in International and European environmental law.

## Unit 7: Public participation in decision making: steps of procedure

### Short description of content and general objectives

The aim of this presentation is to lead the way through the different phases and difficulties of the procedure of public participation in environmental matters. During the unit the participants from the national judiciaries should increase their knowledge on the different steps of the procedure of public participation. They should be provided with guidance with regard to the legal basis of each requirement and the problems that can arise during each step of the way.

### Specific learning points

- Reasonable time-frames – Article 6 (3) Aarhus Convention
- Notification – Article 6 (2) Aarhus Convention
- Provision of information – Article 6 (6) Aarhus Convention
- Submission of comments – Article 6 (7) Aarhus Convention
- Consideration of comments ("due account") – Article 6 (8) Aarhus Convention
- Informing about the decision – Article 6 (9) Aarhus Convention

### Methodology

This unit should be conducted as a frontal presentation in plenary. The order in which the different points of the unit are presented should be defined by the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

### Time frame

The time allocated to this unit will be approximately 45-60 minutes and should include some time for discussion with the participants.

### Documentation

#### Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation 'Public participation in decision making: steps of procedure'
02	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</u></a>
03	<a href="#"><u>DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and</u></a>

	<a href="#">repealing Council Directive 90/313/EEC</a>
<b>04</b>	<a href="#">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</a>

**Additional material (to be included in the electronic documentation – USB stick):**

	<b>EU documents</b>
<b>05</b>	<a href="#">DIRECTIVES DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification)</a>
<b>06</b>	<a href="#">DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions (integrated pollution prevention and control)</a>
<b>07</b>	<a href="#">DIRECTIVE 2014/52/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment</a>
<b>08</b>	<a href="#">DIRECTIVE 2008/50/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008 on ambient air quality and cleaner air for Europe</a>
	<b>International documents</b>
<b>09</b>	<a href="#">UN ECE, Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters, 26 May 2014</a>
<b>10</b>	<a href="#">Andrusevych, A et al., Case Law of the Aarhus Convention Compliance Committee (2004 – 2011) (2nded)</a>
<b>11</b>	<a href="#">UN ECE, The Aarhus Convention: An Implementation Guide (2nd ed) (2013)</a>
	<b>Selected case law of the CJEU</b>
<b>12</b>	<a href="#">C-142/07 - Ecologistas en Acción-CODA, Judgment of the Court (Third Chamber) of 25 July 2008, Ecologistas en Acción-CODA v Ayuntamiento de Madrid.</a>
<b>13</b>	<a href="#">C-50/09 - Commission v Ireland, Judgment of the Court (First Chamber) of 3 March 2011, European Commission v Ireland.</a>
<b>14</b>	<a href="#">C-121/11 - Pro-Braine and Others, Judgment of the Court (Third Chamber) of</a>

	<a href="#">19 April 2012, Pro-Braine ASBL and Others v Commune de Braine-le-Château.</a>
<b>15</b>	<a href="#">C-215/06 - Commission v Ireland, Judgment of the Court (Second Chamber) of 3 July 2008, Commission of the European Communities v Ireland.</a>

**Trainer profile**

As for the Unit 7, the expert presenting the public participation in decision making should be an all round expert in all aspects of procedural and participatory rights in environmental matters and fully familiar with the CJEU case law in this field, as well as with the decisions of the Aarhus Compliance Committee. A possible speaker could be a judge or attorney experienced in international and European environmental law.

## Unit 8: Case study on public participation

### Short description of content and general objectives

During this unit, a case study on public participation in environmental decision making raising difficult questions of participatory rights in environmental matters should be presented. The case is meant to facilitate discussion amongst the participants on how they would solve the problems presented. Its main purpose is to make the participants aware of the legal problems with regard to public participation in a transboundary EIA procedure and showing the participants possible ways to react to the questions presented during the case study.

The purpose of this unit is to assemble and discuss the most important rulings of the European Court of Justice related to the provisions of the public participation and the codified EIA Directive.

### Specific learning points

Participants should be able to identify both the possibilities and the problems for national courts in solving conflicts with regard to public participation in decision making and try to answer following questions:

- Who should be considered as public concerned?
- Who should have standing under Article 9 (2) Aarhus Convention
- Which claims and how should they be addressed?

### Methodology

The cases will be distributed to the participants at the beginning of the workshop. Then the trainer will explain the factual background of the case. After the short presentation, participants will be divided into working groups of 6-8 persons. The groups should appoint a moderator and a rapporteur. The groups will discuss the case on the basis of the applicable directives.

After the group discussion, participants will reconvene in a plenary session. Each group will have a rapporteur to explain the results of their discussion. The trainer will comment on their findings during the debriefing of the case study. The trainer will also invite comments from other groups or individuals and seek to stimulate a debate where differences of opinion, approach or interpretation are apparent.

## Time frame

The presentation of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case should take 60 minutes, the following discussion in the plenary including the debriefing should take another 30-45 minutes.

The time allocated to this sub-session should be approximately 45-60 minutes and should include some time for discussion.

## Documentation

### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation 'Case study on public participation'
<b>02</b>	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</u></a>
<b>03</b>	<a href="#"><u>DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</u></a>
<b>04</b>	<a href="#"><u>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</u></a>

## Trainer profile

The expert presenting the case study should be an expert of all aspects of the public participation in decision making issues, in particular with regard to the planning and Environmental Impact Assessment (EIA) procedures. The expert should have relevant experience in moderating discussions and should be available during the group discussion to assist participants if they need him/her. At the debriefing, the expert should be available for an interactive discussion with all the participants and capable of moderating such a discussion.

## **Unit 9: Access to justice in the public participation context – Article 9 (2) Aarhus Convention**

### **Short description of content and general objectives**

The general objective of this presentation is to introduce the participants to the Aarhus Convention and the EU Law provisions governing access to justice to enforce the right to participate in environmental decision-making at member state level. The CJEU case law on the access to justice clauses in the EIA Directive and the Industrial Emissions Directive should be analysed. Finally, the role of the national judge in delivering access to justice under EIA Directive and Industrial Emissions Directive should be discussed.

### **Specific learning points**

- Access to Justice in the public participation context
- Articles 9(2), (4) and (5) of the Aarhus Convention
- Directive 2003/35/EC: introduction of access to justice clauses to EIA Directive and Industrial Emissions Directive
- CJEU Jurisprudence on access to justice clause in EIA directive & IED
- CJEU Jurisprudence: Remedies where member state is found to be in breach of EU environmental law
- National measures and review procedures designed to transpose Aarhus and EU law obligations
- EU Law: General Principles applicable to access to Justice in the public participation context
- National procedural autonomy
- Impact of Charter of Fundamental Rights of the EU
- Role of the National Judge

### **Methodology**

This unit should be conducted as a frontal presentation in plenary. The order in which the different points of the unit are presented should be defined by the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

### **Time frame**

The time allocated to this unit will be approximately 45-60 minutes and should include some time for discussion with the participants.



## Documentation

### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation 'Access to Justice in the Public Participation Context'
<b>02</b>	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</u></a>
<b>03</b>	<a href="#"><u>DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</u></a>
<b>04</b>	<a href="#"><u>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</u></a>

### Additional material (to be included in the electronic documentation – USB stick):

<b>05</b>	<a href="#"><u>DIRECTIVES DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification)</u></a>
<b>06</b>	<a href="#"><u>DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions (integrated pollution prevention and control)</u></a>
<b>07</b>	<a href="#"><u>DIRECTIVE 2014/52/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment</u></a>
<b>08</b>	<a href="#"><u>DIRECTIVE 2008/50/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008 on ambient air quality and cleaner air for Europe</u></a>
	Selected case law of the CJEU
<b>09</b>	<a href="#"><u>Judgment of the Court (Second Chamber) of 15 October 2009. Djurgården-Lilla Värtans Miljöskyddsförening v Stockholms kommun genom dess marknämnd. Case C-263/08.</u></a>
<b>10</b>	<a href="#"><u>Judgment of the Court (Grand Chamber) of 8 March 2011. Lesoochránárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky. Case C-240/09.</u></a>

<b>11</b>	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 12 May 2011. Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg. Case C-115/09.</u></a>
<b>12</b>	<a href="#"><u>Judgment of the Court (Grand Chamber) of 18 October 2011. Antoine Boxus and Willy Roua (C-128/09), Guido Durllet and Others (C-129/09), Paul Fastrez and Henriette Fastrez (C-130/09), Philippe Daras (C-131/09), Association des riverains et habitants des communes proches de l'aéroport BSCA (Brussels South Charleroi Airport) (ARACH) (C-134/09 and C-135/09), Bernard Page (C-134/09) and Léon L'Hoir and Nadine Dartois (C-135/09) v Région wallonne. Joined cases C-128/09 to C-131/09, C-134/09 and C-135/09.</u></a>
<b>13</b>	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 16 February 2012. Marie-Noëlle Solvay and Others v Région wallonne. Case C-182/10.</u></a>
<b>14</b>	<a href="#"><u>Judgment of the Court (Grand Chamber) of 15 January 2013. Jozef Križan and Others v Slovenská inšpekcia životného prostredia. Case C-416/10</u></a>
<b>15</b>	<a href="#"><u>Judgment of the Court (Second Chamber) of 16 July 2009. Commission of the European Communities v Ireland. Case C-427/07.</u></a>
<b>16</b>	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 11 April 2013. The Queen, on the application of David Edwards and Lilian Pallikaropoulos v Environment Agency and Others. Case C-260/11.</u></a>
<b>17</b>	<a href="#"><u>Judgment of the Court (Second Chamber) of 13 February 2014. European Commission v United Kingdom of Great Britain and Northern Ireland. Case C-530/11.</u></a>
<b>18</b>	<a href="#"><u>Judgment of the Court (Second Chamber) of 7 November 2013. Gemeinde Altrip and Others v Land Rheinland-Pfalz. Case C-72/12.</u></a>
<b>19</b>	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 14 March 2013. Jutta Leth v Republik Österreich and Land Niederösterreich. Case C-420/11.</u></a>
<b>20</b>	<a href="#"><u>Judgment of the Court (Tenth Chamber) of 6 March 2014. Cruciano Siragusa v Regione Sicilia - Soprintendenza Beni Culturali e Ambientali di Palermo. Case C-206/13.</u></a>
<b>21</b>	<a href="#"><u>Judgment of the Court (Second Chamber) of 19 November 2014. The Queen, on the application of ClientEarth v The Secretary of State for the Environment, Food and Rural Affairs. Case C-404/13.</u></a>

**Trainer profile**

Apart from training abilities and knowledge on the Aarhus Convention, the expert should have the necessary experience with issues of judicial review proceedings at national level. An ideal speaker could therefore be a judge experienced in environmental law and access to justice issues.

## Unit 10: Case study – Access to justice in the public participation context

### Short description of content and general objectives

In this unit a case study will be presented, regarding an NGO which seeks to bring judicial review proceedings to challenge the legality of development consent for a major development project under the EIA Directive. The case study is based on a hypothetical scenario with questions regarding the standing of the NGO, public participation issues, legal aid and possible remedies.

### Specific learning points

- Standing of the NGO
- Compatibility of the rules governing NGO standing in member state X with the Aarhus Convention and EU law
- Member state's claim to insist on participation in the development consent procedure as a pre-condition to having standing to bring judicial review proceedings
- Member state's entitlement to limit the grounds on which an individual or NGO may challenge the legality of a development consent to the specific points that they raised during the development consent procedure
- Compatibility of national time limits for bringing judicial review proceedings with Aarhus Convention and EU law
- Legal Aid for an NGO
- Damages as a precondition to the grant of interim relief
- Possible remedies for an NGO

### Methodology

The trainer will present the case by raising some difficult points on the relevance of the access to justice in the public participation in national court proceedings. After the short presentation, participants will be divided into groups of 6-8 persons. The groups will discuss the case on the basis of the directives. After the group discussion, participants will return to the plenary. Each group will have a rapporteur to explain the results of their discussion and the trainer will comment on their findings.

### Time frame

The presentation of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case will take 60 minutes, the following discussion in the plenary including the debriefing will take another 45-60 minutes.

## Documentation

### Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation Case study 'Access to justice in the public participation context'
02	<a href="#">CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</a>
03	<a href="#">DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</a>
04	<a href="#">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</a>

### Additional material (to be included in the electronic documentation – USB stick):

	<b>EU documents</b>
05	<a href="#">European Commission, Report from the Commission: Aarhus Convention Implementation Report, COM(2014) 2506 final, 16.4.2014</a>
06	<a href="#">European Commission, Improving the delivery of benefits from EU environment measures: building confidence through better knowledge and responsiveness COM(2012) 95 final (7.3.12)</a>
07	<a href="#">European Commission, "Explanatory Consultation Text" – for the purposes of public consultation on Access to Justice in Environmental Matters – Options for Improving Access to Justice at Member State Level (2013)</a>
	<b>Selected case law of the CJEU</b>
09	<a href="#">Joined cases C-401/12 P to C-403/12 P, Judgment of the Court (Grand Chamber) of 13 January 2015 and AG Jääskinen opinion</a>
10	<a href="#">Judgment of the Court (Fifth Chamber) of 7 January 2004. The Queen, on the application of Delena Wells v Secretary of State for Transport, Local Government and the Regions. Case C-201/02.</a>
11	<a href="#">Judgment of the Court (Second Chamber) of 16 July 2009. Commission of the</a>

	<a href="#"><u>European Communities v Ireland. Case C-427/07.</u></a>
	<a href="#"><u>Judgment of the Court (Second Chamber) of 15 October 2009. Djurgården-Lilla Värtans Miljöskyddsförening v Stockholms kommun genom dess marknämnd. Case C-263/08.</u></a>
	<a href="#"><u>Judgment of the Court (Grand Chamber) of 8 March 2011. Lesoochranárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky. Case C-240/09.</u></a>
	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 12 May 2011. Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg. Case C-115/09.</u></a>
	<a href="#"><u>Judgment of the Court (Grand Chamber) of 18 October 2011. Antoine Boxus and Willy Roua (C-128/09), Guido Durllet and Others (C-129/09), Paul Fastrez and Henriette Fastrez (C-130/09), Philippe Daras (C-131/09), Association des riverains et habitants des communes proches de l'aéroport BSCA (Brussels South Charleroi Airport) (ARACH) (C-134/09 and C-135/09), Bernard Page (C-134/09) and Léon L'Hoir and Nadine Dartois (C-135/09) v Région wallonne. Joined cases C-128/09 to C-131/09, C-134/09 and C-135/09.</u></a>
	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 16 February 2012. Marie-Noëlle Solvay and Others v Région wallonne. Case C-182/10.</u></a>
	<a href="#"><u>Judgment of the Court (Grand Chamber) of 15 January 2013. Jozef Križan and Others v Slovenská inšpekcia životného prostredia. Case C-416/10</u></a>
	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 11 April 2013. The Queen, on the application of David Edwards and Lilian Pallikaropoulos v Environment Agency and Others. Case C-260/11.</u></a>
	<a href="#"><u>Judgment of the Court (Fourth Chamber) of 14 March 2013. Jutta Leth v Republik Österreich and Land Niederösterreich. Case C-420/11.</u></a>
	<a href="#"><u>Judgment of the Court (Second Chamber) of 7 November 2013. Gemeinde Altrip and Others v Land Rheinland-Pfalz. Case C-72/12.</u></a>
	<a href="#"><u>Judgment of the Court (Second Chamber) of 13 February 2014. European Commission v United Kingdom of Great Britain and Northern Ireland. Case C-530/11.</u></a>
	<a href="#"><u>Judgment of the Court (Tenth Chamber) of 6 March 2014. Cruciano Siragusa v Regione Sicilia - Soprintendenza Beni Culturali e Ambientali di Palermo. Case C-206/13.</u></a>

**Trainer profile**

As for the Unit 9, apart from training abilities and knowledge on the Aarhus Convention, the expert should have the necessary experience with issues of judicial review proceedings at national level. An ideal speaker could therefore be a judge experienced in environmental law and access to justice issues.

## Units 11: Access to justice: Article 9 (3) Aarhus Convention

### Short description of content and general objectives

The aim of this presentation is to identify and to explain the relevance and the consequences of access to justice for environmental NGOs, since access to justice for environmental NGOs can act to prevent damage to the environment and thus contribute also and thereby to preventing or reducing economic loss. During this unit an overview on the legal situation should be provided and most important administrative and other judicial environmental law proceedings brought to court by environmental associations should be discussed. It is important to mention, that access to justice is the only pillar of the Aarhus Convention on which the EU has not yet adopted any provisions yet, therefore there is no uniform legal framework that would regulate access to environmental justice in the foregoing circumstances and would harmonize the systems used by the 28 member states.

### Specific learning points

- Access to Justice in Environmental Matters: the Aarhus Convention and Legislative Initiatives for its Implementation
- Understanding the wording and the criteria of Article 9 (3) Aarhus Convention
- Practical application of Article 9 (3) Aarhus convention
- Recent case law of the CJEU on access to justice

### Methodology

As the focus of this unit lies in the provision of information with regard to the most important aspect of the whole training – access to justice – and a number of different CJEU rulings need to be covered, the best option would be to organise it as face-to-face frontal training.

The scope of this unit is rather large and a great deal of information that is required for effectively comprehending the rest of the programme needs to be provided. For this reason it is essential that this unit is effectively structured. In order to achieve this, it is essential that the trainer ensures that there is sufficient time for participants to raise questions or discuss any unclear points.

### Time frame

The duration of this presentation should be at least 60 minutes. With regard to the large scope of this unit it is essential that the trainer ensures that there is sufficient time for participants to raise questions or discuss any unclear points in relation to the access to justice in environmental matters.



## Documentation

### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation 'Access to justice: Article 9 (3) Aarhus Convention'
<b>02</b>	<a href="#"><u>CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</u></a>
<b>03</b>	<a href="#"><u>DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</u></a>
<b>04</b>	<a href="#"><u>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</u></a>

### Additional material (to be included in the electronic documentation – USB stick):

<b>05</b>	<a href="#"><u>Joined cases C-401/12 P to C-403/12 P, Judgment of the Court (Grand Chamber) of 13 January 2015 and AG Jääskinen opinion</u></a>
<b>06</b>	<a href="#"><u>C-115/09, Judgment of the Court (Fourth Chamber) of 12 May 2011, Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg.</u></a>
<b>07</b>	<a href="#"><u>C-240/09, Judgment of the Court (Grand Chamber) of 8 March 2011, Lesoochránárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky.</u></a>
<b>08</b>	<a href="#"><u>BVerwG 7 C 21.12, Darmstadt case, Judgment of Federal Administrative Court (Bundesverwaltungsgericht) of 5 September 2013.</u></a>

## Trainer profile

As this constitutes one of the most important sessions of the workshop, it is particularly important to identify a trainer with strong didactic competences and the ability to clearly transmit information and explain complex concepts.

Ideally, the trainer should have some practical experience matching that of the end users attending the workshop, but of utmost importance would be his or her sound knowledge of the issues related to access to justice issues. An expert from DG Environment, EU Commission could thus constitute a good option, particularly for

workshops organised on a Europe-wide basis. Alternatively, an experienced professor of law or a national administrative judge represents an appropriate substitute.

## Unit 12: Case study – Access to justice

### Short description of the content and general objectives

In this unit a case study will be presented, regarding an NGO which filed an application to the national competent authority and seeks to challenge the national air quality plan. The case presented is a hypothetical case in which all kinds of doctrinal and practical problems are 'hidden' regarding the effects of the access to justice in environmental matters in cases handled by national courts with questions regarding the standing of the plaintiff as a NGO, possibility to review an administrative act and remedies in case of administrative omission. The case is meant to facilitate discussion amongst the participants on how they would solve the problems presented. Important to note is that the case is not meant to provide 100% right or wrong answers to the legal questions, problems and dilemmas presented. Its main purpose is to make the participants aware of the legal problems and showing the participants possible and impossible routes to react to these questions.

### Specific learning points

Participants should be able to identify both the possibilities and the problems for national courts in solving conflicts with regard to the access to justice issues and discuss aspects:

- Review of acts or omissions by public authorities by or other legal and natural persons
- Environmental proceedings
- Administrative acts and omissions
- Request for action
- Legal standing
- The public concerned
- Citizens' groupings
- Environmental non-governmental organisations
- Legal standing for municipal or regional administrative bodies
- Criteria for recognising environmental non-governmental organisations
- Procedural aspects with respect to the recognition of non-governmental organisations
- Interim Relief
- Effectiveness and costs

### Methodology

The trainer will present the case by raising some difficult points on the relevance of the access to justice in environmental matters in national court proceedings. After the short

presentation, participants will be divided into groups of 6-8 persons. The groups will discuss the case on the basis of the directives. After the group discussion, participants will return to the plenary. Each group will have a rapporteur to explain the results of their discussion and the trainer will comment on their findings.

### Duration

The presentation of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case will take 60 minutes, the following discussion in the plenary including the debriefing will take another 45-60 minutes.

### Documentation

#### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	PowerPoint Presentation & Case Study Documents of 'Case study on access to justice
<b>02</b>	<a href="#">CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS done at Aarhus, Denmark, on 25 June 1998</a>
<b>03</b>	<a href="#">DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</a>
<b>04</b>	<a href="#">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</a>

#### Additional material (to be included in the electronic documentation – USB stick):

<b>05</b>	<a href="#">C-237/07 – 'Janecek', Judgment of the Court (Second Chamber) of 25 July 2008, Dieter Janecek v Freistaat Bayern.</a>
<b>06</b>	<a href="#">C-240/09, Judgment of the Court (Grand Chamber) of 8 March 2011, Lesoochránske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky.</a>
<b>07</b>	<a href="#">BVerwG 7 C 21.12, Darmstadt case, Judgment of Federal Administrative Court (Bundesverwaltungsgericht) of 5 September 2013.</a>

**Trainer profile**

The person presenting the case study should be an expert on EU law with an advanced knowledge of procedural and participatory rights in environmental matters as well as the EU doctrines of direct effect and consistent interpretation. If possible, the expert should also have practical experience in this field as a national judge dealing with judicial review. The expert should be available during the group discussion and to assist participants if they need him/her. At the debriefing, the expert should be available for an interactive discussion with all the participants.

## Unit 13: Closing session – evaluation of the workshop

### Short description of content

In the final session of the workshop, conclusions will be drawn and participants will be invited to evaluate the event.

### General objectives

Participants will provide feedback on the whole event, the preliminary information, the workshop documentation, the e-learning module and the usefulness of the workshop for their daily work.

### Specific learning points

- Summing up the event
- Obtaining feedback
- Use the feedback and the evaluations to improve the training module (for organisers)

### Methodology

Participants will be in plenary. Before the final discussion and evaluation of the event is actually opened, each participant should have already filled in the evaluation form. If possible, all participants, i.e. including the speakers and the leader of the workshop, should participate in this final evaluation session. The workshop manager should encourage the participants to speak openly about their impressions of the workshop.

### Time frame

The closing session should take approx. 20-30 minutes.

### Documentation

#### Necessary material (to be made available in hardcopy during the sub-session):

<b>01</b>	Evaluation form
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### Trainer profile

The closing session will be chaired by the workshop manager.

## Speakers

### Objective

The goal of this two and a half day workshop is to develop and raise understanding on the key legal aspects of European participatory and procedural rights in environmental matters.

### Key topics

- Introduction to the participatory and procedural rights in environmental matters – Aarhus Convention and the EU
- Access to information in environmental matters
- Public participation in decision making: Scope of application and steps of procedure
- Access to justice in the public participation context – Article 9 (2) Aarhus Convention
- Access to justice in general – Article 9 (3) Aarhus Convention

### Who should attend?

Judges from all EU Member States/ National judges from member state X who are interested in environmental law.

**For further information:**



## PARTICIPATORY AND PROCEDURAL RIGHTS IN ENVIRONMENTAL MATTERS

**Venue, Date**

**Organiser:**

**Language:**



## First day of the workshop

08:45 Arrival and registration of participants

09:15 **Setting the scene**

### I. OPENING SESSION

09:30 **Participatory and procedural rights in environmental matters: Introduction**

10:30 **Aarhus Convention and the EU: Latest developments**

11:30 Coffee break

### II. ACCESS TO INFORMATION

12:00 **Access to information in environmental matters – Implementation and application of Aarhus convention and the Directive 2003/4/EC at national level**

13:00 Lunch break

14:00 **Case Study on access to information: Introduction to the facts of the case & working groups**

14:45 Coffee break

15:15 **Case Study on access to information: Discussion of the results**

### III. PUBLIC PARTICIPATION

16:00 **Public participation in decision making: Scope of application**

17:00 End of the first workshop day

## Second day of the workshop

09:00 **Public participation in decision making: steps of procedure**

10:00 **Case study on public participation: Introduction to the facts of the case & working groups**

11:15

11:45 **Case study on public participation: Discussion of the results**

12:45 Lunch break

### IV. ACCESS TO JUSTICE IN THE PUBLIC PARTICIPATION CONTEXT Article 9 (2) Aarhus Convention

14:00 **Access to justice**

15:00 **Case study on access to justice: Introduction to the facts of the case & working groups**

15:45 Coffee Break

16:15 **Case study on access to justice Discussion of the results**

17:00 End of the second workshop day

## Third day of the workshop

### V. ACCESS TO JUSTICE IN GENERAL Article 9 (3) Aarhus Convention

09:00 **Access to justice: Article 9 (3) Aarhus Convention**

10:00 **Case study on access to justice (Article 9 (3) Aarhus Convention): Introduction to the facts of the case & working groups**

11:00 Coffee Break

11:30 **Case study: Discussion of the results**

12:30 **Evaluation of the workshop**

13:00 End of the workshop



# Documentation



## WORKSHOP ON PARTICIPATORY AND PROCEDURAL RIGHTS IN ENVIRONMENTAL MATTERS



### III. Background Documentation

	<b>International documents</b>	
1	<a href="#">CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS, Aarhus, Denmark, 25 June 1998</a>	1
	<b>EU Documents</b>	
2	<a href="#">DIRECTIVE 2014/52/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment</a>	27
3	<a href="#">DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (IED)</a>	ONLINE
4	<a href="#">REGULATION (EC) No 1367/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 6 September 2006 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</a>	45
5	<a href="#">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</a>	53
6	<a href="#">DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</a>	61
7	<a href="#">REGULATION (EC) No 1049/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2001 regarding public access to European Parliament, Council and Commission documents</a>	69
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<b>23</b>	<a href="#">T-233/09, Judgment of the General Court (Third Chamber) of 22 March 2011, Access Info Europe v Council of the European Union.</a>	ONLINE
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