

Accessing environmental information in and from the European Community

A practical guide to your right to know

A report by FERN, November 2007

The background of the lower half of the cover is a photograph of a bright blue sky filled with large, fluffy white clouds. In the distance, several dark industrial smokestacks or chimneys are visible, some of which appear to be emitting a light mist or smoke. The overall scene suggests a focus on environmental issues and air quality.

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Foreword

A number of NGO campaigners have asked FERN for information about the implementation of the Aarhus Convention both at the EC* institutional level and in the Member States. The questions they have asked touch upon important issues. How is this Convention going to increase transparency, public participation and access to justice? Will we have access to information we were previously denied by institutions such as the European Investment Bank or export credit agencies? How can we get the relevant documents and how do we participate in the decision-making about projects that affect the environment?

Not all the answers to these questions are simple; some are still up in the air while the implementing legislation is being developed. And where it is already in place, the legal framework needs to be interpreted and tested by making requests and sometimes filing court cases. This guide, which focuses on the provisions relating to access to environmental information, hopes to give the reader a starting point for exercising some of the rights enshrined in the Convention.

Other guides exist of course. We have tried not to duplicate the information they provide but to refer to them and complement them where we thought we could bring additional information. You can find the relevant references in the 'For more information' section on page 51.

Finally, this guide is intended to provide general advice and to contribute to the debate about the Convention. We have not analysed how the Convention and the related European Community legislation is transposed in the different Member States. You will need to do your own legal analysis to understand any particular national context, but this guide will give you some pointers. If you have any comments on this guide or would be willing to share your experience, please do contact us.

November 2007

* Throughout this Guide, an asterisk indicates a word that is explained in the Glossary on page 55.

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Overview

I What is the 'Aarhus Convention'?

The 1998 UNECE^{1*} 'Aarhus Convention' – formally known as the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*² – is an international legal agreement concluded between countries. Its significance lies in the fact that it marks a definitive step forward in the field of environmental governance as it seeks to protect the right of 'every person of present and future generations to live in an environment adequate to his or her health and well-being.' (Article 1, Aarhus Convention). To do so, it sets minimum standards empowering members of the public and non-governmental organisations (NGOs) to hold public authorities to account by providing tools to access information, participate in decision-making and obtain redress in matters relating to the environment.

What rights does the Convention give citizens and NGOs?

Concretely, the Aarhus Convention establishes, within signatory countries:

- The right to environmental information for citizens and their associations – regardless of their country of origin, and without providing an interest or a reason. The only constraint is that associations should be recognised as such by their national law. The environmental information which can be requested includes a wide variety of data held by public authorities and some private bodies: on the state of the environment; on policies or measures taken; or on the state of human health and safety where these can be affected by the state of the environment. These authorities must provide the information as soon as possible, usually within one month of receiving the request. In addition, they are obliged, under the Convention, to collect, update and actively disseminate environmental information in their possession.

1 United Nations Economic Commission for Europe. See glossary for more information.

2 Named after the city in Denmark where the final negotiations were held, the Convention entered into force in 2001. For the text of the Convention in various languages, refer to the UNECE website: <http://www.unece.org/env/pp/treatytext.htm>

- The right to public participation, from an early stage, in environmental decision-making. This right is more limited than the right to information, in that the citizens and environmental organisations to which it applies must either be affected by or have an interest in the environmental decision-making. Nevertheless, it explicitly includes NGOs promoting environmental protection if they are recognised under national law. The right enables members of the public to comment, amongst other things, on proposals for specific activities affecting the environment, such as the licensing of a nuclear power plant,³ as well as on plans and programmes relating to the environment.⁴ These comments must be taken into due account during the decision-making process, and feedback and justifications regarding the final outcome must be provided.
- The right of access to justice, meaning that an 'interested person' (again limited) must have access to review procedures before a court of law or some other independent body – either when that person believes his/her rights as mentioned above have been infringed, or when they wish to challenge the acts or omissions of private persons or public authorities which contravene national environmental law. Such a review mechanism provides a means of challenging the authorities' decisions and ensuring the effective implementation of the Convention.

These three rights – the right to know, the right to participate, and the right of access to justice – are sometimes called the three 'pillars' of the Convention. Unfortunately, making use of these rights is less than easy since, depending on the country in which you are interested, all of these terms either have differing definitions or are subject to varying interpretations. This will be examined in more detail in the following sections.

Where does the Convention apply?

As of November 2007, the Convention applies to 40 countries, listed on the Convention's website.⁵ They include all the EC Member States with the exception of Ireland (see Box 1 on page 9). The current list of countries to which the Convention applies is available in Annex I of this Guide (see page 61).

3 The Convention lists in an annex the types of activities for which decisions to approve projects should always be subject to public participation.

4 Participation in the preparation of policies and executive regulations or other legally binding rules is also envisaged but the Parties are not obliged to institute it. (See Articles 7 and 8 of the Aarhus Convention – 'Each Party shall strive ...' or 'Each Party shall endeavour ...')

5 Available at <http://www.unece.org/env/pp/ratification.htm>

Box 1 – What are the consequences of Ireland not ratifying the Convention?

Not all Member States have ratified the Convention: Ireland has signed but so far not ratified it. This means Ireland is not itself internationally bound by the obligations of the Convention.

However, as a Member of the EC, Ireland is obliged to abide by, and transpose, the Directives adopted at EC level to implement the Convention, just like any other Directive and any other Member State.

The differences will arise on issues covered by the Aarhus Convention which are considered to be of Member State competence (Article 9.3), rather than Community competence (see below). In this case, the countries that have ratified the Convention will take the necessary measures to incorporate the obligations of the Aarhus Convention into their national legal system, whereas Ireland has no requirement to do so. Nonetheless, since it has signed the Convention, it is not supposed to do anything that would be contrary to it.

In addition to States, the Aarhus Convention allows regional economic organisations to become Parties to it – which the EC did on 17 May 2005.⁶ The reasons for the EC's doing this are not only that the EC has competence over some of the issues dealt with by the Convention (see below and the section on shared competence on page 10) but also that it wished to apply the Convention to its institutions.

Who decides how the Aarhus Convention should be implemented in the countries of the EC?

To many people, it may seem strange that both the EC and the Member States are Parties to the Convention, as it seems to create an overlap in the Convention's implementation. However, the reason is that, in joining the EC, Member States agree to relinquish part of their national sovereignty on a variety of issues inscribed in the EC Treaties and to deal with them instead at the Community level.

Nevertheless, on a number of topics, the EC and Member States share competence.* The issues dealt with by the Aarhus Convention are one such case, and this has

⁶ As per Council Decision 2005/370/EC of 17 February 2005 on the conclusion on behalf of the European Community of the Convention on access to information, public participation in the decision-making process and access to justice in environmental matters, OJ* L 124 of 17.05.2005. The legal basis on the EC side is that, in accordance with Article 175(1) of the EC Treaty, it is 'competent to enter into international agreements, and implement the obligations resulting there from, which contribute to the pursuit of the objectives listed in Article 174(1) of the EC Treaty', and which include environmental protection.

created conflicts, especially regarding access to justice. The following section below discussed the sharing of competences between the EC and the Member States.

As a result of this dual situation, the implementation of the Aarhus Convention is pursued at two different levels, each with two sub-levels:

- The EC level: For the Member States the EC has developed Directives,* which the Member States must transpose into national law; and, to apply the Convention to its own institutions, the EC has also developed a Regulation.*
- The Member State level: Member States (except Ireland) are developing their own legislation on certain aspects of the Convention; in addition they have also developed legislation transposing the EC Directives.

Important This guide only discusses the legislation developed by the EC, starting with that which applies in Member States and followed by that which applies to the EC institutions.

II The EC and the Aarhus Convention: a shared competence*

The dividing line between what is a Community competence and what is a Member State competence is neither static nor simple, since, more often than not, competences are intertwined depending on how easy it is for States to relinquish a particular competence to the Community institutions.⁷

Access to environmental information

Access to environmental information belongs squarely to the competences transferred by Member States to the Community as part of ensuring environmental protection (Article 174 of the EC Treaty). In fact, the Aarhus Convention was largely inspired by Directive 90/313/EC *regarding freedom of access to information in environmental matters*.⁸ Following the adoption of the Aarhus Convention, the EC repealed this Directive and adopted Directive 2003/4/EC,⁹ with the purpose of improving clarity

7 The Annex to Council Decision 2005/370/EC (mentioned in note 6) gives a few pointers as to how the EC and Member States have agreed to share their competences in the case of the issues covered by the Aarhus Convention. The EC is competent for implementing the obligations of the Aarhus Convention except as regards matters related to 'administrative and judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment'. See Article 9.3 of the Aarhus Convention.

8 Directive 90/313/EC of 7 June 1990, OJ L 158, 23/06/1990, pp. 56–58.

9 Directive 2003/4/EC of 28 January 2003 on public access to environmental information, in OJ L 41 of 14.02.2003, p. 26, which Member States of the EU had to implement by 14 February 2005 at the latest.

through a single, coherent text and of implementing its obligations under the new Convention.

Public participation

This is another area that comes under the EC's competence, and for the same reason. As a result of the Aarhus Convention, the EC adopted Directive 2003/35/EC,¹⁰ which covers issues relating to *public participation with respect to the drawing up of certain plans and programmes relating to the environment*.

Access to justice

Access to justice is a more controversial subject, however. While environmental protection is recognised as an EC competence under Article 174(1) of the EC Treaty, the creation of common rules on access to justice on environmental matters has important consequences for the way national justice and the courts function – something which is generally considered to be in the Member States' competence as it is an issue of national sovereignty. As a result, Member States remain exclusively competent when it comes to access to justice in matters relating to violations of their own environmental laws.

However, in matters of access to justice relating to the first two components of the Aarhus Convention – such as the review procedures available to someone whose request for information was denied or inadequately processed,¹¹ or who wants to challenge the legality of a decision about public participation¹² – competence is shared between the EC and Member States.¹³

The consequence of this is that, on these specific issues, the EC has proposed a Directive¹⁴ to harmonise rights and procedures for all citizens of the EU. The Commission proposal is still pending, however – as a result of the opposition of many Member States who consider that a number of issues in the proposal directly concern their competences and should be left instead to their own legislation. To date, no progress has been made since the First Reading in the European Parliament in March 2004,

10 Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect to 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, in OJ L 156 of 25.06.2003. Member States of the EU had to implement it by 25 June 2005 at the latest.

11 See Article 9.1 of the Convention.

12 See Article 9.2 of the Convention.

13 For more information on competence sharing, see: http://europa.eu/scadplus/glossary/community_powers_en.htm

14 A directive binds the Member States as to the results to be achieved but leaves a margin for manoeuvre as to the specific details of implementation as directives must be transposed into the national legal framework. See FERN's guide to the EU, listed in the bibliography, for more information.

as the Environmental Council seems unwilling to formulate its Common Position in response to the Commission's proposal.

You can read the Commission's proposal, and follow any developments, at:

<http://www.europarl.eu.int/oeil/FindByProcnum.do?lang=2&procnum=COD/2003/0246>.

An inventory of the legislative measures implemented by Member States was published by the European Commission in September 2007.¹⁵ For more information, see: http://ec.europa.eu/environment/aarhus/study_access.htm.

This guide will first look at how the Aarhus obligations have been translated into EC Directives for Member States. The second part will deal with how the EC institutions are to fulfil the Aarhus obligations via the Aarhus Regulations. For each 'level', the guide will also give you pointers as to what you can do if your rights are not respected.

Box 2 – The legislation - a thumbnail guide

Legislation applicable to EC institutions:

- Regulation 1049/2001 is addressed to the Parliament, the Commission and the Council. It rules access to documents in general for these institutions. In its wake, many other EC bodies adopted rules of procedure on access to documents, based on it.
- The 'Aarhus' Regulation (1367/2006) is addressed to EC institutions and bodies more generally and covers disclosure of environmental information, public participation and access to justice.

Legislation applicable to Member States (including Ireland):

- Directive on Access to Environmental Information (2003/4/EC) addresses disclosure of environmental information and provides recourses for cases where that right is not respected.
- Directive on Public Participation in Environmental Decision-making (2003/35/EC) provides for public participation in the drawing up of certain plans and programmes and improves public participation and access to justice in procedures regarding the assessment of the effects on the environment of certain projects and pollution prevention and control.
- A Directive on Access to Justice has been proposed by the Commission but has not been finalised.

¹⁵ The objective of the study was more precisely to 'produce an inventory of national measures implementing Article 9(3) of the Aarhus Convention and related provisions (Articles 2, 3 and 9(4)–(5)) and to assess for the [then] 25 Member States the current situation and recent developments regarding legal measures to implement the requirements of Article 9(3) of the Aarhus Convention'.

Accessing environmental information in Member States

This section guides you through the process of obtaining information that should be available from public authorities in a Member State. It provides an overview of the 2003 Access to Environmental Information Directive and the rights and obligations it contains, and explains how to go about getting the information. It also sets out your options should you be refused the information you are seeking, and what to do if you believe that the transposition legislation of the relevant country has not correctly implemented the Directive.

I Implementation in Member States

The 2003 Access to Environmental Information Directive was designed to bring community law in line with the Aarhus Convention, remedy weaknesses and replacing the previous 1990 Directive on the subject.¹⁶ It entered into force on 14 February 2003, and was supposed to be transposed into national legislation within two years – i.e. by 14 February 2005. The list of transposing legislation, as notified to the Commission by the Member States, is given in Annex II to this Guide.

In implementing the Access to Environmental Information Directive, Member States now have to:

- make environmental information systematically available and disseminate it to the public, for example through the internet;
- adopt a more comprehensive definition of environmental information, close to the one set out in the Aarhus Convention;
- expand the definition of public authorities covered by these obligations so as to include
 - all sectors of government, at national, regional and local level, *whether or not their responsibilities include environmental protection*

16 Directive 90/313/EEC on freedom of access to information on the environment. The 2003 Directive repeals the 1990 Directive.

- all levels of government and state bodies, semi-state bodies and private bodies which are both under the control of governmental bodies and also performing functions or providing services related to the environment under the control of governmental bodies.

This definition thus appears to include export credit agencies (ECAs)* as interpreted by the European ECA Reform Campaign and confirmed by DG Environment.¹⁷ (See Box 3 on page 17.)

- respect a specific timescale within which the public authority must respond to the request for information; and
- limit charges for the information to a reasonable amount (not to exceed the actual costs of producing the material in question).

II How to access information in Member States

Please note that you will also need to refer to the transposition law(s) of the country in which you are interested, as this guide only examines the Community law aspects. Section IV – Problems of national transposition – on page 24 covers what to do if you believe that the transposing legislation is inadequate or incorrect in its implementation of the Directive.

What kind of information can you ask for?

Article 2.1 of the Access to Environmental Information Directive lays out the different types of environmental information which should be supplied to you if you request it. These comprise:

- the state of elements of the environment (including biodiversity and genetically modified organisms);
- factors that affect the environment such as noise or waste;
- measures, policies, plans and activities that affect or protect the environment;
- reports on the implementation of national legislation (a requirement which goes beyond the Aarhus Convention);
- cost–benefit and economic analyses used within the framework of activities and measures affecting or likely to affect the environment; and
- the state of human health and safety.

¹⁷ Letter from DG Environment, Legal affairs Unit, to FERN, 7 July 2005, concluding 'Export Credit Agencies, whether or not belonging to the public administration, qualify as public authorities within the meaning of Directive 2003/4/EC and are obliged to observe the rules laid down in that Directive.' Note that this remains a non legally binding interpretation since only the European Court of Justice can give a binding interpretation of Community law.

This information may exist in any form: written, electronic, visual or audio, etc. The Directive makes no reference to language, so you should expect the information to be delivered in the official language of the country in which you are making a request.

However, public authorities are only obliged to give you information that is *available* – more specifically, that is *held by or for them*. This means, for example, that if there is no information on the state of a particular forest, your request can be rejected. Nevertheless, public authorities are often obliged by other pieces of legislation, or as a result of their mandate, to gather certain types of information such as environmental impact assessments, drinking water quality, etc. It is worth looking into the relevant legislation and finding out whether the information you are seeking should be available. In which case, public authorities are supposed to provide information, guidance and advice in order to facilitate your research.

What information should be automatically made public?

Article 7 of the Access to Environmental Information Directive specifies some types of information that should be made available – progressively in electronic form – and kept updated without a request needing to be made. They include:

- texts of international treaties and legislation relating to the environment; policies, plans and programmes;
- reports on the state of the environment (published at least once every four years).

Of particular interest are the elements that didn't specifically appear in the Aarhus Convention:

- progress reports on the implementation of environmental legislation, policies, plans and programmes;
- monitoring data for activities affecting the environment (or summaries of the data);
- authorisations that have been given for activities with significant impact on the environment and the environmental agreements that accompany them (note that nothing is mentioned about the timeframe within which these documents should be disseminated and the likelihood is that this will be once they have been finalised, rather than in their draft form);
- environmental impact studies and risk assessments.

Unfortunately, Article 7 of the Directive omits several important types of documents listed in Article 5.7 of the Convention – e.g. product information and information about the performance of public functions and the provision of public services – which are important for establishing a minimum of transparency and accountability

as well as for improving environmental law implementation. However, this is still an obligation for Member States that have individually ratified the Convention.

The Directive does not specify how 'intelligible' the information needs to be. Information related to the environment can sometimes be quite technical and will not necessarily leave everyone better informed: what may be evident to a forester might not be so to a member of the public. This will have to be tested and potentially challenged if the case arises.

Importantly, the wording of the Directive does not require a direct causal link between the impact on the environment and the factors or the policies, measures and programs that should be disclosed. Moreover, a policy or measure does not have to have the intent of protecting the environment for it to fall under the scope of the Directive. This is particularly important for people who want to access information from finance institutions such as export credit agencies. Until recently, these institutions have often refused to share information on the environmental impact of their activities by arguing that their mandate is not environmental protection.¹⁸ Today, the simple fact that their activity has an impact on the environment means that they are subject to the Directive.¹⁹ See also Box 3 on page 17.

Practical arrangements for making information accessible

The Directive requires Member States to define practical arrangements to ensure that you can exercise your right of access to environmental information effectively.²⁰ It mentions several options but the details are left to the discretion of the Member States in accordance with the principle of subsidiarity.* Options include:

- the designation of information officers;
- the establishment and maintenance of facilities for the examination of the information required;
- registers or lists of the environmental information held by public authorities or information points with clear indications as to where such information can be found.



Look at the national transposition law to see what mechanisms have been chosen by the country that you are interested in.

18 For more information on ECAs and the lack of transparency see: FERN Briefing Note: Blood from a stone. Can the new EU Directive on access to information force ECAs to open up?, November 2004. See: <http://www.fern.org/pubs/briefs/Aarhus%20Oct%2004.pdf>

19 This interpretation was adopted by the Berlin Administrative Court in the settlement judgement of January 2006 regarding export credits. See the unofficial translation of the German original by the Climate Justice Programme, 3 February 2006 of Order VG 10 A 215.04, Verwaltungsgericht Berlin, in the case of BUND and Germanwatch v. Federal Republic of Germany represented by the Federal Ministry of Economics and Labour (BMWA), 10 January 2006, p. 6, available at: <http://www.climatelaw.org/media/2006Feb03/>

20 See Article 3.5 of the 2003 Access to Environmental Information Directive.

Box 3 – Are ECAs ‘public authorities’ covered by the Aarhus Convention and the 2003 Access to Environmental Information Directive?

Most of the world's large infrastructure projects are made possible through the financial and political backing of export credit agencies (ECAs). Many of these projects pose great risks for the local environment and communities; there remains an almost complete lack of public information about them.

The expansion of the definition of public authorities under the Access to Environmental Information Directive has meant huge progress in the battle to obtain information from ECAs. The fact that ECAs, or the ministries of economics or finance that oversee them, do not have environmental responsibilities is no longer a reason to avoid disclosure of information or the compilation of certain types of documents.

In a July 2005 letter (see note 17), DG Environment confirmed the interpretation of the ECA Campaign that these bodies ‘qualify as “public authorities” within the meaning of the Directive and are obliged to observe the rules laid down therein’. This interpretation was also applied by the Berlin Administrative Court in the case of Bund and Germanwatch against the Federal Ministry of Economics, settled in January 2006 (see note 19).

Until this is confirmed by the European Court of Justice, some court battles might still lie ahead, but in the meantime, it is generally accepted that ECAs are covered by this law.

To whom can you apply for information?

You may request environmental information from any ‘public authority’ that has environmental information. Under the Access to Environmental Information Directive, these come under three definitions:²¹

- local, regional and national public administration authorities are obliged to respond to requests, whether or not their responsibilities relate to the environment. These agencies will include, for example, ministries with responsibilities for environmental protection; but other agencies, such as health or economic ministries may also have relevant information. It appears that export credit agencies also fall under this definition of public authorities and are thus bound by the obligations contained in the Directive (see Box 3 above).

²¹ See Article 2.2 of the 2003 Access to Environmental Information Directive.

- private persons or organisations (companies or NGOs for example), which carry out public administrative functions;
- private persons or organisations with public responsibilities or functions, or providing public services, in relation to the environment and under the control of either of the other two types of body.

The underlying principle behind this provision is that, as the functions and services carried out by public authorities are increasingly privatised, your access to environmental information should not be affected by any delegation of responsibility by a public authority to other bodies. These functions, responsibilities and services will generally be defined under national law, but could include, for example, a private company responsible for maintaining a public forest or a water utility. A non-governmental organisation could also be considered to constitute such a public authority if, for example, it is responsible for managing a protected area under the control of the environment ministry. Again, this will depend on national law.

Box 4 – Why are public authorities exempt from Aarhus obligations when they act in a judicial or legislative capacity?

One might wonder why these types of institutions should not be held to account in the same way as other public authorities. However the exclusion is a response to the often fundamentally different character of decision-making in these cases. In democracies, elected representatives who act in a legislative capacity are directly accountable to the public through the election process. Meanwhile, tribunals, courts, judges and anyone else who holds a judicial responsibility must apply the law impartially and professionally without regard to public opinion. It is also considered that many provisions of the Convention should not apply to bodies acting in a judicial capacity in order to guarantee an independent judiciary and to protect the rights of parties to judicial proceedings.

Nevertheless, there is nothing in the Convention that would prevent parliaments or other legislative bodies from applying the rules of the Convention to their own proceedings. The Access to Environmental Information Directive – which is addressed to Member States – makes this restriction optional; whereas Regulation 1367/2006, on the application of the provisions of the Aarhus Convention to European Community institutions and bodies, decided to take the most restrictive road.

Public authorities are excluded when they act in a judicial or legislative capacity (see Box 4 above). However, under the Directive's definition, even if a body sometimes acts in a judicial or a legislative capacity, it does not mean that it will never have to

respond to information requests – the exclusion is restricted specifically to judicial or legislative acts. Moreover, the Directive states that this exclusion is optional for Member States, so check the text of the national law of the country you are looking at to see if the exception stands.

Note that the right of access to environmental information includes any information that is held for public authorities. If, for example, an environment ministry contracted out a study on the implementation of a law on forest management, the fact that it is an outside party that holds the information from the study does not mean that it cannot be requested. However, some limitations apply to this right, as will be examined below.

Who can ask for information?

Under the Access to Environmental Information Directive, anyone and everyone has the right to access information, and an applicant can be either a physical person or a legal person, such as an NGO or private company.

An important point, however, is that associations, organisations and groups must be recognised as such by the national law or practice of their country.

You do not need to be a citizen or a resident of the country about which you are enquiring or in which the authorities you are approaching are located. For example, if the French Ministry of Foreign Affairs has information about forests in Cameroon, a Cameroonian can request that information from the Ministry directly, or that same Cameroonian could ask for information about a timber licensing procedure in Paris.

You do not need to justify why you want the information, nor what you want to do with it.

How should a request be written?

Requests for information should be clear, concrete, and reasonable. It is not necessary to know the exact title of a document but, of course, precision helps. See if the public authority you think has the information has a register of available documents.

The most important thing is that your request should not be too general, broad, or vague, otherwise this will give the authority grounds for rejecting it. However, before it does so, it is supposed to ask you, within one month of your request, to be more specific about the information you are looking for, as well as to assist you in making it so.

How quick should a response be?

A response is supposed to be given as soon as possible, or at most within one month of receiving your request. So make sure you send the request as a registered letter with proof of receipt, in case your request is not attended to properly. You can also ask to receive the information within a certain timeframe. If, for example, you need the information in order to provide comments on an environmental impact assessment by a certain date, then the public authority is supposed to take that into account.

In certain cases, this deadline can be extended by another month when large numbers of documents have been requested or when the information requested is particularly complex. However, the authority should inform you of the delay before the end of the first month.

If, however, the information would enable the public to prevent or mitigate harm arising from an environmental or health threat, it should be disseminated immediately.

In what form should information be given?

The information should normally be given to you in the form you requested. You may want to ask for an environmental impact assessment in the form of a CD-ROM, for example, rather than as bulky volumes of paper. Not only can it be easier to study in this format but it is also likely to be cheaper as the authority may charge for reproduction and mailing costs (see below).

The public authority can only refuse to supply information in your preferred format if:

- it has the information publicly available in another form that is easily accessible to you; or
- it is more reasonable to provide it in another form or format. For example, it could send the information on a CD-ROM, even though you requested it in a paper format because you don't have a computer. In such a case, the reason for the different form must be explained to you.

Is it necessary to pay for the information?

The Directive specifies that access to information in publicly accessible lists, registers and files, as well as examination on site at the offices of the public authority should be provided free of charge.

In other cases, public authorities may charge for supplying the information, but the

amount should be 'reasonable'. The Directive specifies that, as a general rule, the charges may not exceed the actual costs of producing the material in question.²² As a result of cases brought under the earlier 1990 Directive, the practice is that, at most, you should only be charged for reproduction and mailing costs and not, for example, for any administrative costs incurred in researching the information. If the information is made available on a commercial basis, the Access to Environmental Information Directive stipulates that a market-based fee is all the public authority should ask for. Any level of costs that would put someone off asking for the information would not be considered reasonable.²³

When a fee is requested, the authority is to indicate in advance in how much will be charged and for what (for example: photocopying, mailing, etc.).

Public authorities are not entitled to charge you in cases where the requested information is refused.²⁴

What are the limits?

Your right of access to environmental information is not unlimited. The Access to Environmental Information Directive includes a number of provisions that exempt authorities from disclosing information in order to protect certain interests. These range from international relations and public security to the confidentiality of commercial and personal data. These exceptions have been worded in the new Directive to prevent broad interpretation – particularly on what is considered 'confidential information' – however, in practice, this is where NGOs have encountered, and will probably continue to encounter, the most difficulties.

To deal with this conflict, the Access to Environmental Information Directive introduced the obligation to weigh the public interest served by disclosure against the particular interest served by non-disclosure in each case. This means that access to information should be granted if, as result of striking the balance between the interests at stake, the general public interest outweighs the interest protected by the non-disclosure.

Other exceptions included in the Directive are of two kinds: technical or discretionary.

22 Recital 18 of the 2003 Access to Environmental Information Directive.

23 Ibid.

24 See: Judgment of the Court (Sixth Chamber) of 9 September 1999, *Commission of the European Communities v Federal Republic of Germany*, Case C-217/97, § 47 and following.

From a technical point of view, grounds for refusal include:

- *if the authority doesn't have the information*

In this case, there is no obligation on the public authority to try and obtain it. If the information is available somewhere else, however, the authority must either transfer your request to the appropriate body (and inform you it has done so), or tell you where it thinks you should redirect your request.

- *if your request is too general or 'manifestly unreasonable'*

This includes requests that would involve the public authority a disproportionate cost or effort, or would obstruct, or significantly interfere with, the normal course of its activities.²⁵

- *if you are requesting a document or material that is not finished*

In this case, the public authority is to inform you of the name of the body preparing the material and when it will be completed.

From a discretionary perspective, information may be refused to you when other interests would be *adversely* (word added by the Access to Environmental Information Directive) affected by the disclosure. These other interests include:

- *confidentiality of proceedings of public authorities protected by national law*

For this reason, authorities can refuse to disclose internal communications. The Commission justified this in its proposal, saying that 'public authorities should be allowed to think in private'.²⁶

- *international relations, national defence, or public security*

These are common reasons for non-disclosure of public documents and are too entrenched to be lifted even for environmental protection reasons. They can be used, for example, to block disclosure of information on energy projects.

- *confidentiality of certain commercial or industrial information, and intellectual property rights*

This is self-explanatory. The Directive adds, however, that when the information requested relates to emissions into the environment, even if the information would otherwise be treated as commercial or industrial or protected by intellectual property rights, that information must always be disclosed. Nothing is specified regarding the types of emissions, so you can presume that any kind of emission is covered by this blanket requirement.

On the issue of intellectual property rights, note that receiving information that is covered by such rights does not release you from respecting those rights when you use the information. This generally means that you cannot reproduce or exploit it for

²⁵ According to an explanatory note of the Commission, 'manifestly unreasonable' requests would include those, variously described in national legal systems as vexatious or amounting to an *abus de droit*. See Proposal for a Directive of the European Parliament and of the Council on public access to environmental information" COM(2000) 402 final 2000/0169 COD, Brussels, 29.06.2000, p. 13.'

²⁶ *Ibid.*, p. 13.

any economic purpose without the prior authorisation of the person who holds the property right.

- *the interest or protection of any person who supplied the information without being legally obliged to do so*

This could be a problem for campaigners who need to obtain certain studies that might be prepared by outside consultants, other institutions or private clients when these studies are not legally mandatory, for example. Again, this will have to be tested.

- *the course of justice and similar proceedings*
- *the confidentiality of personal data/files relating to a person*
- *protection of the environment*

This provision added by the Aarhus Convention aims to use non-disclosure as a protection mechanism. It would cover, for example, the refusal to disclose information on breeding sites of rare species so as not to facilitate their disruption.

However, even if any one of these exceptions applies, this should not be a reason for outright refusal to supply any information at all. Where feasible, authorities are to separate out the 'sensitive' information from the rest of the information and give you as much of the requested information as possible.²⁷ This can be done by blacking out the names of the companies or people involved, for example.

If information is to be refused, the public authority must notify you of its reasons for doing so, either in writing or electronically – but only if your request was in writing or if you requested notification.²⁸ The response should be made within one month of receiving your request (or two months if the information requested is particularly complex or voluminous). Therefore, always make your request in writing and always ask that an explanation be given in case of refusal. Having the authority's explanation in writing will make things a lot easier if you need to appeal the decision. Remember that if the response is that your request is too general, the public authority is supposed to help you make it more precise.

III What if your request for information is refused by a public authority in a Member State?

First, it is worth continuing to press for proper treatment of your request. Try quoting the Directive, or complaining to someone higher in the hierarchy.

²⁷ See Article 4.4 of the Access to Environmental Information Directive.

²⁸ See Article 4.5 of the Access to Environmental Information Directive.

Second, the Access to Environmental Information Directive provides for a two-stage review procedure in cases of refusal. Whether your request is ignored, wrongfully refused, inadequately answered, or the charge is too high, you have a right to appeal the decision of the public authority.

Stage 1 This is an administrative 'appeal', which is a review either by the public authority itself, by another public authority, or by an independent and impartial body established by law (such as an Ombudsman*). The choice of reviewing body and other practicalities are determined by national law, so check the transposition legislation. The administrative review has the advantage of being quick, at least theoretically, and free of charge.

Stage 2 If you are not satisfied with the result of the administrative review, a more judicial procedure should be available. You can have the public authority's decision reviewed either by a court of law or by, at the very least, an independent and impartial body – depending either on what the transposition legislation has set up or upon what already exists. Upon this second review, the decision as to whether to disclose the information becomes final; any reasons for refusal are to be stated in writing.

The specifics of the procedure will vary from country to country. You should look at the transposition law and probably have some understanding of the legal system and competences in the country from which you are seeking information.

If you have concerns about the adequacy of the review procedure in the country concerned, it is worth taking a look at Regulation 1049/2001 for EC institutions. The review procedure established under the Regulation is far more detailed than what is included in the Access to Environmental Information Directive (because it applies directly, whereas the Directive only gives the general gist and leaves it to the Member States to develop the fine print). It could therefore be helpful to compare the quality of the review procedure in the Member State with that of the EC and to use that comparison to press for improvements as needed.

iv Problems of national transposition

If your request is refused, it could also be that the Member State is not correctly implementing or interpreting its obligations.

In order to implement obligations under the Convention in Member States, the EC adopted two Directives in 2003:

- Directive 2003/4/EC,²⁹ which deals with access to environmental information and repeals the existing regime of Directive 90/313/EC;
- Directive 2003/35/EC,³⁰ which covers issues related to public participation with respect to the drawing up of certain plans and programmes relating to the environment. It amends other pieces of environmental legislation (the Environmental Impact Assessment Directive³¹ and Integrated Pollution Prevention and Control Directive³²) by introducing provisions on public participation and access to justice.

To implement the third pillar of the Convention regarding access to justice, several elements have been, or are in the process of being developed:

- the two Directives mentioned above each contain access to justice mechanisms linked to the violation of the rights they set out;
- a Commission proposal for a *Directive on access to justice in environmental matters*³³ has been put forward to create a harmonised minimum set of requirements across the EU – although the legislative process to implement this has stalled (see page 11).

Legislative changes should have been made both to align national legislation with the new obligations under the Aarhus Convention³⁴ and to ensure that Member States can achieve the results laid out in the EC Directives mentioned above. Member States should have adopted legislation by 14 February 2005 regarding the obligations contained in the Access to Environmental Information Directive, and further legislation by 25 June 2005 regarding the Public Participation Directive (and the two Directives it modifies). Unfortunately, not only are the Directives themselves not always as clear as may be desired, but the process of transposing them into national law can also limit the rights they were intended to provide. As a result of tardy or inadequate transposition, the Commission has already started a number of infringement procedures (see Box 5 on page 26).³⁵

29 Directive 2003/4/EC of 28 January 2003 on public access to environmental information, in OJ L 41 of 14.02.2003, p. 26, which Member States of the EU had to implement by 14 February 2005, at the latest.

30 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, in OJ L 156 of 25.06.2003. Member States of the EU had to implement it by 25 June 2005, at the latest.

31 Council Directive 85/337/EEC of 25 June 1985 on the assessment of certain public and private projects on the environment, in OJ L 175, 5.7.1985, p. 40. Directive as amended by Directive 97/11/EC, OJ L 73, 14.3.1997, p. 5.

32 Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, in OJ L 257, 10.10.1996, p. 26.

33 Proposal for a Directive of the European Parliament and of the Council on access to justice environmental matters [COM (2003) 624], available at: <http://www.europa.eu.int/comm/environment/aarhus/index.htm>.

34 There is generally no deadline as to when national legislation must be modified (if necessary) to apply obligations under an international convention, although for some countries this must be done before the country in question can ratify the convention.

35 See also: http://ec.europa.eu/community_law/infringements/infringements_decisions_en.htm for the current status of infringement procedures.

Box 5 – Status of infringement proceedings for inadequate transposition of the two ‘Aarhus’ Directives:

As of 13 November 2007 (last report at the time of writing), the Commission had:

- submitted a reasoned opinion to:
 - Germany (28.06.2006) regarding the transposition of the Access to Environmental Information Directive. A Land referred the case to the Court (12.12.06);
 - Italy (13.12.2005), Belgium (04.04.06) and the UK (12.10.06) regarding the transposition of the Public Participation Directive.
- referred to the Court of Justice:
 - Austria and Ireland (28.06.06) regarding the Access to Environmental Information Directive;
 - Germany (04.04.06, withdrawn 24.01.07), Spain (04.04.06, withdrawn 12.12.06), Finland (28.06.06, withdrawn 12.12.06), Luxembourg (28.06.06), Belgium and Italy (12.12.06), UK and Ireland (21.03.2007), regarding the Public Participation Directive.
- closed cases relating to:
 - Netherlands (12.10.2005), Denmark, Greece, Italy, Spain and Slovenia (13.12.2005), Hungary and Luxembourg (4.04.2006), France (28.06.2006) and Portugal and Belgium (12.10.2006) regarding the Access to Environmental Information Directive;
 - Portugal, Sweden, Slovenia (13.12.2005), Netherlands, Slovakia and Cyprus (04.04.06), Czech Republic, France, Hungary and Malta (28.06.2006) regarding the Public Participation Directive.

The dates in parentheses refer to the date of the Commission’s reports mentioning these proceedings.

If your ability to obtain the information you need is being hindered by inadequate transposition of the Convention or the Access to Environmental Information Directive in your country, there are avenues you can go down to remedy the situation. We will look at two levels: first, what you can do if you believe the Convention is not properly implemented using the Aarhus Convention Compliance Mechanism, and second, what you can do if the Access to Environmental Information (or another Directive) is not properly transposed into national law.

The Aarhus Convention Compliance Mechanism

Article 15 of the Aarhus Convention contains provisions for a compliance review mechanism, which has taken the shape of a Compliance Committee, established in October 2002. Like the European Ombudsman (see page 45), it takes a non-confron-

tational and non-judicial approach and cannot impose sanctions on a non-compliant Party, but it can be useful in that it can focus attention on particular problems, publicise non-compliance and issue recommendations to the Party concerned.

The most useful aspect of the Compliance Committee is the ability of members of the public to make a 'communication' to the Committee about a Party's compliance with the Convention. A detailed information sheet (available in both English and Russian) setting out how to make a communication, an explanation of the Committee's procedures for dealing with communications, and the criteria for the admissibility of communications can be obtained at: <http://www.unece.org/env/pp/pubcom.htm>. In general, communications can be about:

- the general failure of a Party to introduce the necessary measures to implement the Convention;
- specific deficiencies in the measures taken;
- and/or specific instances of a person's rights under the Convention being violated.

Note, however, that the goal is to improve compliance with the Convention and not to give redress in specific cases. The members of the Committee can only either make recommendations to the Meeting of the Parties, or 'provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention' but in consultation with the country concerned. Nevertheless, over ten cases have already been brought to the attention of the Committee via such communications and bringing your 'case' forward will certainly increase attention and therefore pressure on your country.

Problems with transposition of the Directive

Two things are worth bearing in mind before attempting to address problems with the transposition of the 2003 Access to Environmental Information Directive.

First, even if your country has not transposed the Access to Environmental Information Directive, it still should have legislation which implements the old Directive 90/313/EEC – so a number of elements of the new Directive should already be in ongoing practice.

In addition, some of the provisions of the Access to Environmental Information Directive may be considered by the Court of Justice to have *direct effect*. In other words, they confer rights on individuals which can be enforced before the national courts, without the need for an implementation measure. However, the provisions in question must fulfil the following conditions which have been determined by the Court of Justice:

- the provision must establish a clear obligation on the part of the Member States;
- the obligation must be unconditional and not dependent on further implementing measures by the institutions of the community or the Member States;
- the Member States must not be left with any discretion in the implementation of the obligation.

Discretionary powers in the implementation of a provision of Community law will prevent it from having direct effect. This is the case when provisions allow a degree of freedom of choice or leave the exercise of powers to the discretion of public authorities.

Addressing problems of transposition

If you do decide that there are problems with the transposition of the Directive which need to be addressed, the situation is as follows.

Each Member State is responsible for the implementation of Community law within its own legal system. In other words, it is responsible for:

- adoption of implementing measures before a specified deadline;
- conformity with the Directive; and
- correct application of the legislation.

However, under the Treaties, the Commission is in charge of ensuring that Community law is properly applied by, for example, supervising implementation, receiving and investigating complaints, and potentially launching an infringement procedure at the Court of Justice.³⁶

Therefore, if access to environmental information is a problem in your country (no matter which public authority has refused to disclose information), you should raise your concerns with the Commission and eventually lodge a complaint against the Member State.

Who can file a complaint?

As stated on the Commission's website, 'Anyone may lodge a complaint with the Commission against a Member State about any measure (law, regulation or admin-

³⁶ While implementation of EU environmental law by Member States has improved in recent years, in 2004 the environment sector still accounted for slightly less than a third of all complaints and infringement cases concerning non-compliance with Community law investigated by the Commission. The environment sector still has the biggest number of open investigations by the Commission: 1,220 open cases out of 4,508. See: The European Commission – DG Environment, Sixth Annual Survey on the implementation and enforcement of Community environmental law 2004, Commission Staff Working Paper, SEC (2005) 1055, Brussels, 17.8.2005.

istrative action) or practice which they consider incompatible with a provision or a principle of Community law.³⁷ You do not have to demonstrate a formal interest in bringing proceedings nor that you are principally and directly concerned by the violation of the provisions of the Directive.

Note that you can request your identity to be kept confidential by the Commission.

How to file a complaint?

To formulate your complaint, you can either use the form provided by the Commission on its website³⁸ or you can submit a complaint by ordinary letter to the following address: Secretary-General, Commission of the European Communities, B-1049 Brussels, Belgium

It is in your interest to include as much relevant information as possible, so remember to include not only as many facts as you can to substantiate your claim but also the details of any efforts you have made to solve the issue with the national authorities and through national recourse mechanisms.

What result can you expect?

It is the Commission that decides whether or not action should be taken about your complaint in the light of the rules and priorities that it has laid down. If it does decide to take action, the procedure usually takes some time, as the Commission is obliged to try to deal with the infringement directly with the Member State before referring a case to the Court of Justice.³⁹

Any finding of an infringement by the Court of Justice has only an indirect impact on the rights of the complainant, since the Court does not serve to resolve individual cases but merely obliges the Member State to comply with Community law. Nonetheless, the Member State is then supposed to correct its legislation or risk being fined. With such a judgement in hand, you should be able to request the information again and obtain it. However, several years will have probably passed since your original request.

37 See: http://ec.europa.eu/community_law/your_rights/your_rights_en.htm

38 See: http://ec.europa.eu/community_law/your_rights/your_rights_forms_en.htm

39 The Commission says it endeavours to take a decision on the substance (either to open infringement proceedings or to close the case) within twelve months of registration of the complaint with its Secretariat-General.

Accessing environmental information from EU institutions

Some of the environmental information you are looking for might be available directly from the EU institutions, including the European Investment Bank. In signing and approving the Aarhus Convention, the EC formally declared that the Community institutions would implement the Convention's provisions 'within the framework of ... existing and future rules on access to documents and other relevant rules of Community law.'⁴⁰ However, the rules that apply to the EC institutions are not the same as those that apply to authorities in Member States, both formally and substantively.

Following an overview of how the Aarhus Convention is being implemented at the EC level, this section will explain how to obtain environmental information via the two Regulations on the subject, as well as what you can do should you be refused that information.

I Implementation of the Convention at the EC level

Accessing environmental information from the EC is not completely new either. The first decisions to grant access to documents were taken as early as 1993 for the Council, 1994 for the Commission and 1997 for the Parliament. Shortly after that, the Amsterdam Treaty, in Article 255, confirmed that citizens and residents of the EU have a right of access to documents from these three institutions.

In response, the EC legislature adopted Regulation 1049/2001⁴¹ regarding *public access to European Parliament, Council and Commission Documents* to specify the conditions of implementation of this right, while each institution (and other

⁴⁰ See Declaration of the EC upon signing and approving the Convention, annexed to the Council Decision 2005/370/EC of 17 February 2005, OJ 17.05.2005, L 124, note 5.

⁴¹ OJ 31.5.2001, L 145, p. 41.

EC agencies and bodies in addition to the three mentioned in the Regulation) adopted specific provisions regarding access to its documents in its own rules of procedure.⁴²

However, these provisions contained some important limitations compared to the obligations under the Aarhus Convention. In signing the Convention, the EC made a formal commitment to implement its provisions within any public institution, body, office or agency established by, or on the basis of, the EC Treaty and performing public functions, except when they act in a judicial or legislative capacity.⁴³

To extend the Aarhus obligations to all the EC institutions and bodies, a new Regulation *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* (Regulation 1367/2006) was adopted on 6 September 2006 and entered into force on 28 September 2006. It has been applicable since 28 June 2007.

To a large extent, the rules laid down in the 'Aarhus' Regulation do not significantly change the status quo for the institutions that were already applying the old Regulation 1049/2001 regarding access to documents. However, what is significant is that in extending the right of access to all Community bodies and institutions, the rules now cover, for example, the European Economic and Social Committee, the Committee of the Regions, the Court of Auditors and the European Investment Bank.

In addition, in some areas the wording of the 'Aarhus' Regulation is aligned with that of the 2003 Access to Environmental Information Directive. Of particular relevance is the definition of 'environmental information'.

How the 2006 Regulation relates to the 'three pillars' of the Convention

Access to environmental information

As mentioned above, the new Regulation aims to apply the old Regulation 1049/2001 *regarding public access to European Parliament, Council and Commission documents* to all of the Community's institutions and bodies. The details of its provisions are

⁴² See Recital 17 of Regulation 1049/2001. For a critique of the implementation of Regulation 1049/2001, particularly of its register (Article 11 of the regulation), see: <http://foi.missouri.edu/internatfoinews/euannual.html>. Note that many EC institutions, such as the European Environment Agency, the Committee of the Regions and the Economic and Social Committees, or even the European Investment Bank, had some rules based on Regulation 1049/2001 before the new Regulation was adopted.

⁴³ See Article 2.1(c) of Regulation 1367/2006.

described in the section ‘Getting environmental information from EC institutions’ on page 34.

Public participation

The new ‘Aarhus’ Regulation only deals with the preparation of ‘plans and programmes relating to the environment’;⁴⁴ nothing is mentioned about the obligations as regards ‘decisions on specific activities’ that are detailed in Article 6 of the Aarhus Convention. The Regulation states that:

- The institutions are to provide opportunities for participation in the preparation, modification or review of the plans and programmes ‘when all options are still open.’⁴⁵
- Concrete timeframes of at least four weeks of prior notification before meetings or hearings, and at least eight weeks to receive comments are established. Be careful, however, because these timelines can be shortened in ‘urgent cases’ (which are not defined) and in cases where the public has already had the opportunity to comment.⁴⁶
- The public that must be informed of the opportunity to participate is identified more narrowly than the general definition given at the beginning of the Regulation. It is up to the institutions and bodies themselves to identify the public ‘affected or likely to be affected or having an interest in the plan or programme.’⁴⁷ The institutions are only obliged to inform this group of draft proposals, relevant information or assessments as well as practical arrangements for participation. Note, however, that this restrictive definition of the public doesn’t appear in the reception of comments, so presumably anyone should be able to submit comments about the relevant documents.
- The ‘Aarhus’ Regulation imposes a duty on institutions or bodies to produce and publicise a document at the end of any decision-making process that not only takes into account public input, but also has to justify the reasons for rejecting any input/suggestions.

Access to justice

Regulation 1049/2001 specified that an applicant whose document request had been refused by an institution could institute court proceedings or file a complaint with

⁴⁴ Defined in Article 2.1(e). It refers to documents which, inter alia, are required under legislative, regulatory or administrative provisions and impact the achievement of the objectives of Community environmental policy, such as laid down in Environment Action Programmes.

⁴⁵ Article 9.1 of Regulation 1367/2006/EC.

⁴⁶ See Article 9.4 of the Regulation. This follows the text of Article 7 of the Aarhus Convention.

⁴⁷ See Articles 9.2 and 9.3 of the Regulation.

the Ombudsman under the conditions established in the EC Treaty. In addition, the 'Aarhus' Regulation specifies that *NGOs that meet certain criteria* (see Box 8 on page 45) are able to request an 'internal review', by the institution concerned, of any 'administrative act' (or failure to act), such as the decision to publish certain information or calling for public review, for example.

An *administrative act* is defined in the 'Aarhus' Regulation as 'any measure of individual scope under environmental law, taken by a Community institution or body and having legally binding and external effect'.⁴⁸ The phrase 'individual scope' was added in the last rounds of negotiations, unfortunately restraining the type of act that can be reviewed.

Be aware that the request for review must be lodged within a strict time limit of six weeks from when the act was adopted, notified or published (whichever is the latest) or when the act was required in the case of an omission. NGOs must justify the reasons for the review. The institution then has a maximum of twelve weeks from the receipt of the request to respond; and if it can't, it must inform the NGO.

The request for an internal review must precede any NGO proceedings before the European Court of Justice (ECJ). A complaint before the ECJ must still abide by Articles 230 and 232 of the EC Treaty (otherwise the Treaty would be modified, something a Regulation cannot do). This is, unfortunately, an important restriction as it means that the Regulation does not confer on NGOs an automatic right to challenge a decision. In other words, to file a complaint to the Court, the NGO must still establish that it is 'directly and individually' concerned within the meaning of Article 230 of the EC Treaty.

II Getting environmental information from EC institutions

Disclosure of documents in the Community is not new, at least for some of the EC institutions, since Regulation 1049/2001 granted access to the documents of the Parliament, Commission and Council and a number of other EC bodies adopted rules of procedure for access to documents based on it. The difference now is that, under the 'Aarhus' Regulation, access is broader – to information and not just to documents (see Box 6 on page 36) – and that most of the institutions and bodies of the EC are covered.

48 See Article 2.1(g).

Nevertheless, disclosure of environmental information is still determined by both Regulations, since the latest 'Aarhus' Regulation refers back to the provisions of Regulation 1049/2001. While this section will focus on practical advice for applying the new Regulation, some details and comments will be made about the 2001 Regulation, especially as some of the information you seek might not fall under the definition of 'environmental information'. Finally, a few words will be said about accessing environmental information from the EIB.*

What kind of information can you obtain?

Under the 'Aarhus' Regulation, an applicant can request the disclosure of environmental information held by Community institutions and bodies.⁴⁹ The definition of what constitutes 'environmental information' is exactly the same as the one contained in the Access to Environmental Information Directive (see page 14 for details).

In addition, if it is available, you can also request information on measurement procedures, methods of analysis, etc.⁵⁰

Note that the right to access environmental information extends to the information which *is held by* these institutions, regardless of who has produced this information, whether Member States or third parties (at least in theory, see below for exceptions to disclosure).

Article 5 specifies that institutions are to ensure that the information that is compiled by them, or on their behalf, is *up to date, accurate and comparable*. The meaning of what is 'up to date' varies depending on the issue, but if you are concerned about the state of a particular forest, for example, a request for information might encourage the institutions to ensure that their information is current.

If the information you are looking for does not fall under the definition of environmental information, you will need to seek access under the old Regulation 1049/2001 (and/or the rules of procedure of the institution or agency you are addressing). Indeed, under this Regulation, the principle is that *all* documents are considered to be potentially accessible as long as they refer to policies, activities and decisions falling within the sphere of the institutions' responsibilities,⁵¹ in any and all areas of activity of the European Union.⁵² The Regulation also, however, seeks to protect certain public

49 See Article 3 of Regulation 1367/2006.

50 See Article 5.2 of Regulation 1367/2006.

51 See Article 1(a) stating that the purpose of this Regulation is 'to ensure the widest possible access to documents' and the definition of 'document' in Article 3(a) of Regulation 1049/2001.

52 See Article 2.3 of Regulation 1049/2001.

and private interests by way of exceptions, which will also apply to environmental information (see below).

As regards specifics such as the list of available document types, each institution lays down its own provisions for access to its documents in its rules of procedures.

What kind of information should automatically be made public and where can you find it?

Under both Regulations, some documents are to be made directly available to the public without the need to make a request.

Public information

Under Regulation 1049/2001, the relevant institutions must proactively prepare and disseminate different types of documents to ensure that information is accessible to the public (see Box 6 page 37 on the difference between access to documents and access to information). The list of types of documents is the same as the one in Article 7.2 of the Access to Environmental Information Directive (see page 15).

The 'Aarhus' Regulation adds one element, however, which is that 'steps taken in proceedings for infringements of Community law from the stage of reasoned opinion' will also be published. Note, however, that the reasons for initiating the infringement proceedings or the reasoned opinion of the Commission itself for example, are not mentioned and will probably not be disclosed.⁵³

Public documents

Regulation 1049/2001 does not give a specific list of the documents that must be made directly accessible to the public. However, the institutions themselves have set up electronic registers listing the documents available,⁵⁴ which include documents drawn up or received in the course of the legislative procedure for legally binding acts (such as Regulations, Directives and Decisions)⁵⁵ as well as, where possible, other documents such as those relating to the development of policy or strategy.

⁵³ See Article 6.1 of Regulation 1367/2006.

⁵⁴ For the Parliament, for example, the Register offers you access to many different kinds of documents relating to parliamentary activity (calendars, agendas, verbatim reports of proceedings, amendments, motions, texts adopted, etc.), relating to Members' activities, committee documents (e.g. agenda, minutes, working documents), studies and fact sheets, documents forwarded by the other institutions (including Council and Commission, EIB, etc.) and third parties.

⁵⁵ See Article 2.4 and Article 12 of Regulation 1049/2001.

Box 6 – Access to information vs access to documents

As the guide to accessing documents from the EU institutions points out, there is a difference between access to information and access to documents. When the institutions receive your application, they will provide existing documents in the form in which they are available: written on paper or stored in electronic form as sound, visual or audiovisual recording.

However, the Aarhus Convention and the associated Directive and Regulation are about access to *information*. The EU institutions are also supposed to prepare a number of publications (papers, reports, studies, leaflets and brochures, etc.) to collect and communicate this information. A second step is then to make this information available on the internet and through a network of information centres to help you obtain information on issues or on their activities as they impact the environment.

If you are looking for a specific piece of legislation or a report you have heard about, you can use these online databases or registers, free of charge, which allow you to track down documents in the different official languages (not for all documents though and mostly only for documents from 2001 onwards). The databases contain information such as titles, authors, dates and reference numbers. In general, you can access the registers directly from the website of each institution or through the joint Europa portal: www.europa.eu.int.

Unfortunately, using these registers is not always easy as there is an overwhelming amount of information to go through – not always presented in the most user-friendly manner – and it does require a fair amount of familiarity with EU jargon and document types. Having the letter and number of the document will make your research quite a bit easier, as using a keyword can easily give you too many results.

If you are looking for something older than 2001, or you can't find the information in the register, you may need to make a request to the institution concerned (see below).

 Consult the 'For more information' chapter for a list of links to the registers and other important websites.

Finally, be aware that the contents of the register are not legally binding. Only the versions of documents published in the Official Journal may be considered authentic.

Which institutions are covered?

The 'Aarhus' Regulation applies to all EC institutions and agencies which exist by virtue of a community legal act taken on the basis on the EC Treaty. As a result, bodies such as the European Environment Agency⁵⁶ are covered along with those that are referred to directly in the Treaty, such as the EIB. (See Box 7 on page 39 for more details)

Who can request information?

Under the 'Aarhus' Regulation, anyone can request information, regardless of citizenship, domicile, etc. And unlike requests made under the 2003 Access to Environmental Information Directive, the Regulation does not restrict the definition of associations to those recognised by national law.

As mentioned above, some information is accessible directly online to anyone who has the use of a computer and an internet connection. For documents that are not directly accessible, you may need to formulate a request (see below).

If the information you seek is not covered by the definition of 'environmental information' and so you are using Regulation 1049/2001, the right of access is limited to citizens of the EU and natural or legal persons residing or having their registered office in a Member State. However, the Regulation adds that the institutions may grant access to other people, under the same conditions, though this appears to be relatively discretionary.

How should a request be made?

Requests made under either Regulation 1049/2001 or the 'Aarhus' Regulation must be in writing, but can be sent by mail, fax or email.⁵⁷ Moreover, you must use one of the official EU languages: Danish, Dutch, English, Finnish, French, German, Greek, Italian, Irish, Portuguese, Spanish or Swedish.⁵⁸

⁵⁶ For example, the European Environment Agency was founded by Council Regulations (EC) No. 933/1999 of 29 April 1999 and No. 1641/2003 of 22 July 2003 amending Regulation (EEC) No. 1210/90 on the establishment of the European Environment Agency and the European Environment Information and Observation Network.

⁵⁷ See Access to European Parliament, Council and Commission Documents. A User's Guide, Office for Official Publications of the European Communities, Luxembourg, 2002.

⁵⁸ The Regulation cites, in its Article 6.1, Article 314 of the EC Treaty which mentions these languages. However, it should be also possible to make a request in one of the other official EU languages: Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovakian and Slovenian.

Box 7 – To which institutions does the new Regulation apply? A three-point definition.

Article 2.1 (c) of the 'Aarhus' Regulation defines 'Community institution or body' as: 'any public institution, body, office or agency established by, or on the basis of, the Treaty'. This means that the regulation covers not only the institutions listed in Article 7 of the EC Treaty (the Commission, the Council, etc.) but also other bodies, such as the European Investment Bank (Article 9) or subordinate agencies, such as the European Environment Agency.

Like the Aarhus Convention (Article 2.2), the regulation limits this definition by excluding institutions when they are '... acting in a judicial or legislative capacity'. Therefore, for example, the Court of Justice does not fall under the scope of the regulation in most of its activities.

A third element of this definition, however, clarifies that the obligations relating to access to information do apply to institutions and bodies even if they are acting in a legislative capacity. In short, this means that when they are developing legislation, the Parliament and the Council only have to give access to documents, but not to consult the public.

Your request should be as specific as possible. If you have identified a document in a register, you only have to include the appropriate reference in your application. If you are seeking access to a document that does not appear in the register, formulate your application as precisely as possible, providing as much information as you can to enable its identification. In cases of uncertainty, the institution is supposed to ask you to clarify your request if necessary and to assist you in doing so.

What does it cost?

Regulation 1049/2001 specifies that in principle, access to documents – and by extension to environmental information under the 'Aarhus' Regulation – is free. If the document exceeds 20 pages, there may be a charge, but only for the real cost of copying and sending it.⁵⁹

How long does it take and what's the process?

The timeframe and process follow the provisions of Regulation 1049/2001.

⁵⁹ See Article 10.1 of Regulation 1049/2001.

Once the institution receives your application, it is registered and you will be sent an acknowledgement of receipt.

After registration, the institution has 15 working days to reply. In exceptional circumstances this may be extended for an additional 15 working days – for example if the document or the environmental information requested is very long or if you have asked for a very large number of documents – but if this is the case, you must be notified in advance.⁶⁰ This is faster than the one or two months' timeframe given by the Access to Environmental Information Directive.⁶¹

If the application is accepted: You will generally receive the document as a paper copy or in electronic form. Alternative formats such as Braille, large print or tape may be provided if you request it and if it is available. You may also be asked to go and consult the document at the institution.

On what grounds can a request be refused?

Unfortunately, the new 'Aarhus' Regulation applies the same exceptions (i.e. grounds on which disclosure can be refused) as those listed in Article 4 of Regulation 1049/2001, with the addition of a few instances as set out in its Article 6.

The grounds for refusal are therefore more extensive than those adopted in the Access to Environmental Information Directive. However, small improvements were conceded as the new Regulation specifies that grounds for refusing access to information are to be *interpreted in a restrictive way* and also take into account whether the requested information relates to emissions.⁶²

Disclosure of *information on emissions into the environment* cannot be refused as in every case 'an overriding public interest in disclosure shall be deemed to exist.'⁶³

Under Regulation 1049/2001, the institutions are to refuse to disclose a document if this disclosure would 'undermine the protection of':

- the *public interest* as regards public security, defence, relations with third countries, or economic and financial policy;
- *privacy* and the integrity of the individual;
- the *commercial interests* of a person or undertaking;
- *court proceedings* and *legal advice*;

60 See Article 7 of Regulation 1049/2001.

61 See Article 3 of Directive 2003/4/EC.

62 See Article 7.1 of Regulation 1367/2006/EC.

63 *Ibid.*

- the purpose of *inspections, investigations and audits*;
- an institution's *decision-making process*.

With the exception of the first two reasons (protection of public interest and privacy), the document is supposed to be made available if the public benefit from disclosure is greater than the potential harm.

Non-disclosure for reasons of commercial interest⁶⁴ will continue to pose a problem, as information will have to be released only if it relates to emissions into the environment (see above). In any case, if the document was prepared by a third party, the institution has to consult with it on whether or not to disclose the document or the information. Similarly, Member States continue to be able to veto the disclosure of information which originated from them.

Regulation 1049/2001 provides for the treatment of 'sensitive' documents classified as top secret, secret or confidential, normally because they relate to essential 'public' interests as listed above, such as public security, defence and military matters.⁶⁵ However one could also include documents relating to energy security and therefore ECA-supported pipeline projects, for example. These documents may originate from the institutions concerned, or from agencies established by them, from Member States, third countries or international organisations. The existence of these sensitive documents may or may not be recorded in the registers of the concerned institutions depending on the consent of the institution of origin. In any case, an institution that refuses access to such a document must justify its decision.

For documents which are over 30 years old, the only exceptions concerning right of access will concern:

- protection of privacy;
- protection of commercial interests;
- documents classified as confidential, secret or top secret, to protect the public interest as explained above.

Finally, the 'Aarhus' Regulation introduces another 'exception' to disclosure which was also mentioned in the Access to Environmental Information Directive⁶⁶ and in the Aarhus Convention:⁶⁷ the *protection of the environment* (see page 23).

⁶⁴ Inspections and audits as well. See Article 4.2, indents 1 and 3 of Regulation 1049/2001, and the first sentence of Article 7.1, Regulation 1367/2006.

⁶⁵ See Article 9 of Regulation 1049/2001.

⁶⁶ See Article 4.2(h) of Directive 2003/4/EC.

⁶⁷ See Article 4.4(h) of Aarhus Convention.

In all cases, if the reasons for refusal concern only part of the document, the other parts will be communicated.⁶⁸ And if your request is refused either partially or totally, the institution has to give you the reasons.⁶⁹

What if the institution does not hold the document or the information you are looking for?

The 'Aarhus' Regulation provides that if a concerned institution does not hold the information you have requested, the institution in question is to inform you, as promptly as possible and within a maximum of 15 working days, as to where it 'believes' you may request the information. Alternatively, the institution might transfer your request directly while informing you that it has done so.⁷⁰

Regulation 1049/2001 does not set up such a precise process and only indicates that the institutions are to provide information and assistance to citizens on how and where the request can be sent.⁷¹

A few words about the European Investment Bank

On 12 April 2006, barely a few months before the 'Aarhus' Regulation was finally passed, the EIB adopted a new public disclosure policy⁷² which closely follows Regulation 1049/2001.⁷³ It announced, however, that it would adjust it once the new Regulation was adopted⁷⁴ as it was not clear whether or not the new Regulation would actually include the EIB as one of the 'concerned institutions'.

During the development of the new Aarhus Regulation, various drafts, including the Commission's proposal and the Council's opinions specifically excluded banking activities from the scope of the Regulation. The Commission justified this exclusion⁷⁵

68 See Article 4.6 of Regulation 1049/2001.

69 See Article 7.1 of Regulation 1049/2001.

70 See Article 7 of Regulation 1367/2006.

71 See Article 6.4 of Regulation 1049/2001.

72 Available at: www.eib.org/Attachments/strategies/public_disclosure_policy_en.pdf. While NGOs and citizens will need to test the policy to evaluate how much of an improvement towards transparency and environmental protection it really represents, it is a positive step in that it contains a presumption in favour of disclosure (point 22 of the new policy). However, it has developed a distinction between public sector and private sector projects – and, in the case of the latter, information designated as confidential by business counterparts cannot be disclosed (see point 30).

73 However it adds one more exception to the presumption of disclosure: information typically forming part of the Bank's confidential relationship with its business partners including the financing request by a project promoter.

74 See also point 20 of the EIB's new disclosure policy which states that: 'The EIB will also respect the tenor, aims, and provisions of the European Parliament and Council Regulation 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 EC institutions and bodies (the 'Aarhus' Regulation).

75 See the Commission's opinion on the European Parliament's amendments to the Common Position, COM(2006)0081 17.02.06. Available at: http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0081en01.pdf

arguing that the Aarhus Convention requires public participation only for the process of *permitting* projects, and that there is no such requirement concerning decisions on *funding* and considering that 'as the permitting takes place at Member States level, public participation would be provided for at this level.'⁷⁶ However, it made no mention of what happens – as is the case for many export credit financed projects – when the project is financed by institutions from within the EC but the permitting takes place in the country where the project is located, which may not be a member of the Convention. In this case, environmental information may be accessible,⁷⁷ but effected and other interested parties have no right to participate in the decision-making process.

Victory over the 'banking' exception?

Finally, after much back and forth, the new Regulation's definitions no longer exclude the activities of the EIB. However, in spite of this apparent victory, two sentences in the new Regulation suggest that increased transparency and accountability – as well as reduced environmental impacts – on the part of the EIB will probably not make as much progress as had been hoped:

- The new Regulation's definitions exclude plans or programmes 'laying down how particular projects or activities should be financed'.⁷⁸ How this clause is interpreted will have to be tested in reality, but presumably one can assume that much information on the role of the EIB in financing, insuring or guaranteeing the construction of a dam or a pipeline will not be disclosed.
- Recital 15 of the new Regulation specifies that the term 'commercial interests' covers 'confidentiality agreements concluded by institutions or bodies acting in a banking capacity'.

Please refer to the EIB's policy for details on what information can be requested, how to request the information, and its appeals procedure. Citizens and residents from both EU and non-EU countries may request information and appeal if necessary. In particular, where citizens or residents from non-EU countries wish to appeal against non-disclosure of EIB information, appeal can be made to the Bank's Secretary General via a simple written letter or via email to complaints@eib.org. In carrying out his task, the Secretary General is supposed to act independently from the management of the Bank. His reports are sent to the independent EIB Audit Committee at the same time

⁷⁶ Ibid.

⁷⁷ Though in the case of the EIB, requests for project-related loan agreements in countries such as Bulgaria and Slovakia have resulted in refusals from the government. See Global Transparency Initiative and IDISSA, *Behind Closed Doors: Secrecy in International Financial Institutions*, edited by Catherine Musuva, Cape Town, South Africa, 2006, p. 14.

⁷⁸ See Article 2.1(e) third paragraph. According to proposal of the Commission (COM 2003 622 final of 24.10.2003, p. 9) '... financial or budget plans and programmes shall not be included, as they do not as such have a significant direct effect on the environment. ... Financial plans and programmes would include the ones which describe how some project or activity should be financed, or how grants or subsidies should be distributed.'

as they are sent to the management. However, the terms of reference for the appeal mechanism under the Inspector General are still under preparation.

III What if your request is refused by an EU institution?

Even though the two Regulations don't need another layer of legislation and therefore contain clearer obligations, you may still encounter difficulties in obtaining the environmental information you are entitled to, in particular from institutions such as the EIB that balance interests other than environmental protection. Your first step should be to use the recourse mechanism established by the Regulation itself. If that fails, you can either submit a complaint to the European Ombudsman, or you may even wish to file a case before the European Court of First Instance. However the latter requires a lawyer and will therefore be discussed only briefly.

If you are refused access to a document, the 'Aarhus' Regulation states that the institution must also inform you of your right to make what is called a *confirmatory application*. This basically means that within 15 working days of receiving the institution's reply, you may ask it, in writing, to reconsider its position. In reality, it means you have to ask the same people twice for the same thing. However, you have to do it before being able to institute court proceedings or bring a complaint to the Ombudsman.

The same right to a confirmatory application applies if you receive no reply. In this case you must restate your request within 15 working days of the expiry of the time limit for the institution's reply.

In either case, the institution then has 15 working days to confirm or alter its decision.

In addition, the 'Aarhus' Regulation specifies that, if you are an NGO which fulfils certain criteria (see Box 8 on page 45), you may ask the concerned institution for an 'internal review'. See page 24 above for further details.

If the response is still negative, you have two ways of making an appeal: you may institute court proceedings (see below) under the conditions laid out in Article 230 of the EC Treaty (i.e. that you are 'directly and individually concerned') and/or make a complaint to the Ombudsman.

Box 8: What criteria must an NGO fulfil to be able to request an internal review?

- you must be independent (though it is not clear what this means or according to whom);
- you must be non-profit-making;
- you must be a legal person in accordance with the Member State's national law or practice;
- you must have been in existence for more than two years;
- you must have the promotion of environmental protection as a primary objective (specifically as opposed to sustainable development), and the subject matter of the request must be covered in the NGO's objectives and activities.

If you are having difficulties as a result of these criteria, please let us know!

Submitting a formal complaint to the European Ombudsman⁷⁹

The Ombudsman's task is to independently investigate cases of maladministration in the EU's institutions (including the EIB) and agencies. His goal, above all, is to try to find amicable solutions, and refusal to supply information is one of the most common problems raised.

Who can lodge a complaint?

Only citizens or residents of the Union can make a complaint for now. An NGO or a business must have their registered offices in one of the Member States.⁸⁰ However, the person that lodges a complaint does not have to be directly concerned by the alleged maladministration to do so.

The European Ombudsman may decide to open an own-initiative inquiry to deal with a problem raised by a person living outside the EU (for example, if they are affected by an EIB-financed project).

If you fulfil these conditions, you can contact the Ombudsman directly by mail, fax or e-mail. A guide to what the Ombudsman does, along with a complaint form is

⁷⁹ See also, for further information, CEE Bankwatch Network, *Citizens' Guide to European Complaint Mechanisms*, September 2006, p. 12. It is available online at: http://bankwatch.org/guide/complaint_mechanisms/main.php

⁸⁰ As per Article 21 of the EC Treaty. Note that, where citizens or residents from non-EU countries wish to appeal against non-disclosure of EIB information, appeal can be made to the Bank's Inspector General (see page 43 above). The terms of reference for the appeal mechanism under the Inspector General are being prepared.

available from the Ombudsman's office or on the Internet: <http://www.euro-ombudsman.eu.int/guide/en/default.htm>.

Keep in mind, though, that you can only appeal to the Ombudsman about cases that have not been the subject of legal proceedings and that you must do it within two years of the institution's refusal.

What outcome might you obtain from the complaint?

An Ombudsman is not a judge but a mediator; his independence, impartiality and recognition are his tools. First, the Ombudsman investigates your complaint and obtains the response of the institution in question. If he finds that the institution is indeed responsible for maladministration, there are several stages through which your complaint may be taken. The Ombudsman cannot impose his views on the institutions, and his decisions are not binding, but as he is highly respected, he can try to exert some pressure by:

- Presenting the complaint and requesting a response. Sometimes this is enough to convince the institution to resolve the problem directly.
- If maladministration is found and the case is not settled during the inquiry, the Ombudsman tries to find a *friendly solution* to satisfy you.
- If this fails, he can make a *draft recommendation* to the institution, calling on it to take the necessary steps to put the maladministration right.
- If the institution still does not accept his recommendation, he can make a *special report* to the European Parliament.
- If a friendly solution is not possible and the maladministration cannot be put right, the Ombudsman can address a *critical remark* to the institution.

How long does it take?

Theoretically, the Ombudsman process is supposed to be relatively swift. According to the Ombudsman's guide mentioned above, the Ombudsman aims to:

- acknowledge the receipt of complaints within one week;
- decide whether to open an inquiry within one month;
- close inquiries within one year.

Bringing a case before the Court of First Instance of the European Communities⁸¹

Unlike the Ombudsman process, the Court's decisions are binding. However, in order to bring a case before the Court, you must be represented by a lawyer – so, again unlike the Ombudsman process, bringing a case is not free of charge. Moreover, you must establish your right to appeal to the Court, so either the decision of the institution to refuse to supply information should be addressed to the plaintiff or the plaintiff must otherwise demonstrate that they are directly and individually concerned.⁸² It's a complex procedure that will not be further developed in this guide, but it can be used effectively as demonstrated by the request of Ms Hautala (see Box 9 below).

Box 9 – An example of filing a court case when a request for information is refused

Ms Hautala, a member of the European Parliament, requested a report on arms exports from the Council. Relying on its power to refuse access to such a document in order to protect the public interest in the field of international relations, the Council refused to release the report because it contained sensitive information, the disclosure of which might harm relations between the European Union and non-Member States.

Ms Hautala brought an action before the Court of First Instance seeking annulment of the Council's decision not to send her the report. In its judgment, the Court restated the principle that the public must have the widest possible access to documents, with exceptions to that rule having to be interpreted and applied strictly. It said that the Council should have considered the possibility of editing certain pages likely to harm international relations and therefore looked into whether partial access to the document could be authorised. Since the Council had not taken that step, the Court annulled the Council's decision (*Hautala v Council*, 1999).

Case described on the website of the Tribunal of First Instance, <http://curia.europa.eu/en/instit/presentationfr/tpi.htm>.

⁸¹ To help the European Court of Justice cope with the large number of cases brought before it, and to offer citizens better legal protection, a 'Court of First Instance' was created in 1989. This Court (which is attached to the European Court of Justice) is responsible for giving rulings on certain kinds of cases, particularly actions brought by private individuals, companies and some organizations. It is the Court of First Instance that has jurisdiction to hear and determine at first instance all direct actions brought by individuals and the Member States, with the exception of those to be assigned to a 'judicial panel' and those reserved for the European Court of Justice.

⁸² See Article 230, paragraphs 4 and 5 of the EC Treaty. For examples, see *Citizens' Guide to European Complaint Mechanisms*, p. 35.

Concluding remarks

The 'Aarhus process' is not a static one and will not end with the adoption and implementation of the instruments discussed above. All new proposals for legislation, plans, programmes and policies relating to the environment will be under continuous scrutiny to ensure that they incorporate the Aarhus requirements. At the same time, the strength of these new rights will be forged by citizens and NGOs claiming them, and 'public authorities' implementing them as best as possible. We hope this Guide will help you to do this.

For more information

This is not an exhaustive list by all means but only a few references that we have come across and sometimes cited in the text and which we thought could be useful to you.

I On access to information in the EU

A number of sites give access to databases, such as:

- Pre-Lex http://europa.eu/documents/pre-lex/index_en.htm: can be used to search for documents produced by the institutions in drafting Community legislation (stage of the procedure; decisions of the institutions; people's names; services responsible; references to documents, etc.).
- Legislative Observatory (OEIL) <http://www.europarl.europa.eu/oeil/index.jsp>: the European Parliament's database, which provides a summary of European Union decision-making processes. You can follow inter-institutional legislative work, the activities of the Parliament's committees and what happens at plenary sessions. It summarises all stages of the Parliament's procedures and gives the full text of all documents drawn up by the Parliament.
- EUR-LEX:* <http://europa.eu.int/eur-lex/lex/en/index.htm> enables you to search the Official Journal (which contains the texts of the legislation that is in force; bear in mind that only the versions of documents published in the Official Journal may be considered authentic). EUR-LEX also contains the texts of the treaties, international agreements, preparatory acts, case law and Parliamentary questions. You can also find the links to the registers of the Commission, the Council and the Parliament.

Links to EU institutions' Registers:

- Link to Council's Register: http://ue.eu.int/cms3_applications/showPage.asp?id=549&lang=en
You can find not only documents but also timetables and agendas, summaries of Council Acts, and Council minutes. A form for making a request is also available.

Link to the Commission's Registers:

- http://www.europa.eu.int/comm/secretariat_general/regdoc/registre.cfm?CL=en enables you to access certain categories of documents, primarily legislative documents with COM, C and SEC⁸³ numbers, and things like agendas and minutes of Commission meetings. This register contains references to documents produced since 1 January 2001 only. Coverage is supposed to be gradually extended to other categories of documents.
- Link to the Parliament's Register: <http://www.europarl.eu.int/registre/recherche/RechercheSimplifiee.cfm?langue=EN>
- Link to registers of the Commission's Committees, internal and preparatory documents of the Commission: http://europa.eu.int/comm/secretariat_general/regcomito/registre.cfm?CL=en

Other EU-related sites:

- The Europa portal gives a list of potentially interesting databases and types of documents, on one page. It refers to the institutions' registers, legislation, reports of the Ombudsman and other official documents as well as sources of general-interest information such as newsletters and press releases. http://www.europa.eu/geninfo/info/guide/index_en.htm#access
- Link to Guide on Access to Documents from the three institutions including the addresses to which to send your requests: http://www.europarl.eu.int/opengov/pdf/2001_1834_en.pdf
- Access to European Commission Documents: A Citizen's Guide (available in different languages): http://ec.europa.eu/transparency/access_documents/index_en.htm
- A guide to what the Ombudsman does, along with a complaint form, is available from the Ombudsman's office or on the internet: <http://www.euro-ombudsman.eu.int/guide/en/default.htm>

II On the Aarhus Convention

- Website for the Aarhus Convention, list of ratifications, news, etc. <http://www.unece.org/env/pp/>
- Guide to implementation of the Aarhus Convention in English, French and Russian: <http://www.unece.org/env/pp/acig.htm>
- Layperson's guide to the Convention, Your Right to a Healthy Environment in

⁸³ These are different types of documents produced by the Commission:

C documents relate to official instruments for which the Commission has sole responsibility. Some are transmitted to the Council or Parliament for information.

COM documents are proposed legislation and other Commission communications to the Council and/or the other institutions, and also their preparatory papers and Commission documents for the other institutions (legislative proposals, communications, reports, etc.).

SEC documents are documents which cannot be classified in any of the other series.

Studies refer to studies entrusted by the Commission to external experts.

English (25 pages), French and Russian. English: http://www.unep.org/dec/docs/Aarhus_Convention_English.pdf French: http://www.unep.org/dec/docs/Aarhus_Convention_French.pdf Russian: http://www.unep.org/dec/docs/Aarhus_Convention_Russian.pdf Provides easy examples for understanding your rights and when you can use the Aarhus Convention.

- The Aarhus Convention Clearinghouse for Environmental Democracy: <http://aarhusclearinghouse.unep.org/index.cfm> A very useful site with links to articles about the development of the implementation of the Convention. It tries to collect information on the laws and good practice relevant to three pillars of the Convention; it also contains information relevant to the implementation of Principle 10 of the Rio Declaration at the global, regional and national levels around the world.

III On national implementation

As mentioned in this Guide, the Convention and the Directive on Access to Environmental Information only become a reality when they are transposed and implemented in national law. Analysis of the transposition and implementation in any particular country requires national expertise. Below are links to NGOs that can be a good source of information if you encounter difficulties in accessing information.

- Justice & Environment www.justiceandenvironment.org
Justice & Environment is a network of public interest environmental law organisations based in the EU member states. It aims to use law to protect people, the environment and nature with a primary goal of ensuring the implementation and enforcement of the EU legislation through the use of European law and exchange of information. The current members of J&E are:

- The Center for Environmental Public Advocacy (VIA IURIS, Slovakia): www.viaiuris.sk
- The Environmental Law Center (ELC, Poland): cpe.eko.org.pl
- The Estonian Fund for Nature (ELF, Estonia): www.elfond.ee
- The Environmental Law Service (ELS, Czech Republic): www.eps.cz
- ÖKOBÜRO – Koordinationsstelle österreichischer Umweltorganisationen (Austria): www.oekobuero.at
- The Environmental Management and Law association (EMLA, Hungary): www.emla.hu

As a new association, Justice & Environment is open to enlargement and welcomes new members, especially from new EU member states.

- Contact information: European Network of Environmental Law Organisation, Plantage Middenlaan 2D, 1018 DD Amsterdam, The Netherlands, email: info@justiceandenvironment.org

- Some links to information regarding EU Member State legislation on access to documents (prepared by the Commission):
 - http://ec.europa.eu/transparency/access_documents/legisl_en.htm
 - Comparative analysis of the Member States' and candidate countries' legislation concerning access to documents (1 July 2003) gives a short overview of national legislation and interpretation of exceptions prior to the 2003 Access to Environmental Information Directive. http://ec.europa.eu/transparency/access_documents/docs/compa_en.pdf

Glossary

Competence	The condition of being legally qualified or having the legal authority to perform an act.
Directive	A Community legal instrument which binds Member States as to the results to be achieved. It has to be transposed into the national legal framework and thus leaves a margin for manoeuvre as to the form and means of implementation.
EC	European Community. See FERN's guide to the EU (<i>The EU's Impact on Forests: A Practical Guide to Campaigning</i>) for more information on the distinction between EC and EU.
ECA	Export Credit Agencies are governmental or quasi-governmental departments that provide financial backing in the form of guarantees, insurance or direct loans to help domestic companies invest and export in risky overseas markets. ECAs underwrite roughly 10 per cent of global exports from industrial countries.
EIB	The European Investment Bank is the financing institution of the European Union. The members of the EIB are the Member States of the European Union, all of whom have subscribed to the Bank's capital. The EIB enjoys its own legal personality and financial autonomy within the Community system. The EIB's mission is to further the objectives of the European Union by providing long-term finance for specific capital projects in keeping with strict banking practice. With an ever-growing annual lending portfolio of more than €45 billion, the EIB is probably the largest public international financial institution.
Eur-lex	Single point of access to all the European Union's legislative instruments.
Ombudsman	The European Parliament appoints an Ombudsman empowered to receive complaints from any citizen or resident of the European Union concerning instances of maladministration in the activities of the Community institutions or bodies.
OJ	Official Journal of the European Communities. It contains legislative acts, including the Treaties, and information and notices.

Regulation	A Community legal instrument which, contrary to a Directive, is binding in its entirety and directly applicable.
Subsidiarity	The principle whereby the EU does not take action (except in the areas which fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level. It is intended to ensure that action at Community level is justified in the light of the possibilities available at national, regional or local level. It is closely linked with the principles of proportionality and necessity, which require that any action at the EU level should not go beyond what is necessary to achieve the objectives of the Treaty.
UNECE	United Nations Economic Commission for Europe. This was set up in 1947 and is one of five regional commissions of the United Nations. Its aim is to promote pan-European economic integration. UNECE brings together 56 countries located in the European Union, non-EU Western and Eastern Europe, South-East Europe and Commonwealth of Independent States (CIS) and North America. See: www.unece.org .

For more information, see the Glossary of the Europa website available at: http://europa.eu.int/scadplus/glossary/index_en.htm.

Quick reference to the relevant EC legislation

This guide has mentioned a number of Directives and Regulations. Each one rules a different aspect of access to information, public participation and access to justice. We list them here again in full with the links to find them for easy reference.

- Regulation 1367/2006/EC 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.

OJ L 264/13 25.9.2006.

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_264/l_26420060925en00130019.pdf

This Regulation aims to ensure the application by the Community institutions and bodies of the different obligations contained in the Aarhus Convention, just as in Member States. Moreover, at the Community level, it aims to contribute to the integration of environmental requirements into all facets of Community policy as dictated by Article 6 of the EC Treaty.

- Regulation 1049/2001/EC of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

OJ L 145/43 31.5.2001

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2001/l_145/l_14520010531en00430048.pdf

This Regulation grants access to documents (not only environmental information) held by the Commission, the European Parliament and the Council.

- Directive 2003/4/EC of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC

OJ L 41/26 14.2.2003

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2003/l_041/l_04120030214en00260032.pdf

This Directive was adopted with the aim of implementing obligations under the Aarhus Convention, correcting the shortcomings identified in the implementation of Directive 90/313/EEC, and adapting access-to-information practices to developments in information technology which facilitate the way information is created, collected, stored and transmitted.

- Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment.
OJ L158/56 23.06.1990.
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31990L0313:EN:HTML>
- Directive 90/313/EEC set out the basic terms and conditions on which environmental information should be made available throughout the Community, initiating a process of increased openness in place of the previously traditional practices of official secrecy. It provided the basis for negotiation of the Aarhus Convention, a process which in turn highlighted the shortcomings of this instrument. It was therefore repealed and replaced by Directive 2003/4.

Box 10 – How to find a piece of EU legislation

The easiest way to get access to a directive or a regulation without retyping the weblink is to go to the Official Journal on the EUR-LEX website: www.eur-lex.europa.eu. Once there, click on Official Journal, enter the year of the document, select OJ series L (for legislation), enter the first number after the L as the OJ number. The second number is the page number in the edition of the official journal of that day. Eg. for Regulation 1367/2006, OJ L 264/13, enter the year 2006, make sure the OJ series selected is L, enter number 264 as stated below. You will be redirected to the Official Journal No. 264. Then go down the list until you see number 13 on the right hand side and click on the link for the full text in pdf.

For texts passed before 1998, or before 2004 for the 10 member states that entered the Community that year, you will have to use the Official Journal search function which you can access from the same EUR-LEX site. Make sure you enter the date of the Official Journal and not the date of the directive or legislation.

Finally if you do not have the OJ references, you can always do a search by legislation from this eur-lex website: http://eur-lex.europa.eu/RECH_legislation.do

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For other EU languages see: http://ec.europa.eu/transparency/access_documents/index_en.htm#

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Annexes

Annex I – List of participants to the Aarhus Convention, dates of signatures and ratification (or acceptance, approval, or accession)

(As of November 2007)

This table below lists the countries in which public authorities have an obligation to disclose information.

Note that the Convention enters into force in each country on the 90th day after the date of ratification, acceptance, approval or accession listed below (Article 20.3 of the Aarhus Convention).

participant	signature	ratification, acceptance, approval or accession
Albania	25 June 1998	27 June 2001
Armenia	25 June 1998	1 August 2001
Austria	25 June 1998	17 January 2005
Azerbaijan		23 March 2000
Belarus	16 Dec 1998	9 March 2000
Belgium	25 June 1998	21 January 2003
Bulgaria	25 June 1998	17 December 2003
Croatia	25 June 1998	
Cyprus	25 June 1998	19 September 2003
Czech Republic	25 June 1998	6 July 2004
Denmark	25 June 1998	29 September 2000
Estonia	25 June 1998	2 August 2001
European Community	25 June 1998	17 February 2005
Finland	25 June 1998	1 September 2004

France	25 June 1998	8 July 2002
Georgia	25 June 1998	11 April 2000
Germany	21 December 1998	15 January 2007
Greece	25 June 1998	27 January 2006
Hungary	18 December 1998	3 July 2001
Iceland	25 June 1998	
Ireland	25 June 1998	
Italy	25 June 1998	13 June 2001
Kazakhstan	25 June 1998	11 January 2001
Kyrgyzstan		1 May 2001
Latvia	25 June 1998	14 June 2002
Liechtenstein	25 June 1998	
Lithuania	25 June 1998	28 January 2002
Luxembourg	25 June 1998	25 October 2005
Malta	18 December 1998	23 April 2002
Monaco	25 June 1998	
Netherlands	25 June 1998	29 December 2004
Norway	25 June 1998	2 May 2003
Poland	25 June 1998	15 February 2002
Portugal	25 June 1998	9 June 2003
Republic of Moldova	25 June 1998	9 August 1999
Romania	25 June 1998	11 July 2000
Slovakia		5 December 2005
Slovenia	25 June 1998	29 July 2004
Spain	25 June 1998	29 December 2004
Sweden	25 June 1998	20 May 2005
Switzerland	25 June 1998	
Tajikistan		17 July 2001
The Former Yugoslav Republic of Macedonia		22 July 1999
Turkmenistan		25 June 1999
Ukraine	25 June 1998	18 November 1999
United Kingdom of Great Britain and Northern Ireland	25 June 1998	23 February 2005

Annex II – Status of transposition of Directive 2003/4/EC on access to environmental information

List of texts transposing the Directive as notified to the Commission by the Member States.⁸⁴
Source: Personal Communication of the European Commission, 19.05.2006.

PR = Publication Reference

LR = Legal Reference

Austria

1. Umweltinformationsgesetz-Novelle 2004
PR: Bundesgesetzblatt für die Republik Österreich (BGBl), 2005-02.06, Nr. 1 Nr. 6/2005 LR: Bundesgesetz, 2005-02-14, Nr. 1, Nr. 6/2005
2. Steiermärkische Raumordnungsgesetznovelle
PR: Landesgesetzblatt (LGB1), 2005-03-23, pages Nr. 13/2005 LR: Verwaltungsmassnahmen Nr. 13/2005
3. Kärntner Informations- und Statistikgesetz
PR: Landesgesetzblatt (LGB1), 2005-10-17, Nr. 70/2005 LR: Landesgesetz Nr. 70/2005
4. Steiermärkisches Umweltinformationsgesetz
PR: Landesgesetzblatt (LGB1), 2005-08-08, Nr. 65/2005 LR: Landesgesetz, 2005-09-01 Nr. 65/2005
5. Gesetz von 12 Oktober 2005 über den Zugang zu Informationen über die Umwelt (Tiroler Umweltinformationsgesetz 2005 – TUIG 2005)
PR: Landesgesetzblatt (LGB1), 2005-10-12 LR: Landesgesetz, 2005-10-13
6. Gesetz von 12 Oktober 2005 über den Zugang zu Informationen über die Umwelt (Tiroler Umweltinformationsgesetz 2005 – TUIG 2005)
PR: Landesgesetzblatt (LGB1), 2005-12-15, Nr. 89/2005 LR: Landesgesetz, 2005-12-16 Nr. 89/2005
7. Gesetz über den Zugang zu Informationen über die Umwelt (Landes-Umweltinformationsgesetz L-UIG)
PR: Landesgesetzblatt (LGB1), 2005-12-13, Nr. 56-2005 LR: Landesgesetz, 2005-12-14 Nr. 56/2005

Belgium

1. Ordonnance du 18 mars 2004 sur l'accès à l'information relative à l'environnement dans la région Bruxelles-Capitale
PR: Moniteur Belge du 2004-03-30 LR: No reference given
2. Decreet betreffende de openbaarheid van bestuur
PR: Moniteur Belge du 2005-07-01, pages 53371-53378 LR: Décret du (no date given) Nr.2004/2523

⁸⁴ The Commission highlights that the following information does not imply any position from the Commission services concerning the quality of the implementation.

3. Besluit-van de Vlaamse Regering van 28 oktober 2005 betreffende de verspreiding van milieu-informatie
PR: Moniteur belge du 2005-11-30, pages 51484-51485 LR: Arrêté du gouvernement du 2006-01-01
4. Décret du 16 mars 2006 modifiant le Livre Ier du Code de l'Environnement pour ce qui concerne le droit d'accès du public à l'information en matière d'environnement.
PR: Moniteur belge du 2006-04-06, pages 19284-19289 LR: Décret du 2006-04-06

Czech Republic

1. Zákon 123/1998 Sb. O právu na informace o životním prostředí
PR: Sbirka Zakonu CR, 1998-06-08 LR: Zákon Nr. 123/1998
2. Zákon 150/2002 Sb. Soudní řád správní
PR: Sbirka Zakonu CR, 2002-04-17 LR: Zákon Nr. 150/2002
3. Zákon 6/2005 kterým se mni zákon 123/1998 Sb., o právu na informace o životním prostředí ve znění zákona 132/2000 Sb
PR: Sbirka Zakonu CR, 2005-01-06 LR: Zákon Nr. 6/2005

Denmark

1. Lov om aktindsigt i miljøoplysninger
PR: Lovtidende A, 1994-04-27 LR: Lov Nr. 292
2. Lov om ændring af visse miljølove
PR: Lovtidende A, 2005-05-31 LR: Lov Nr. 447
3. Lov om ændring af retsplejeloven og forskellige andre love
PR: Lovtidende A, 2004-03-31 LR: Lov Nr. 215
4. Lov om ændring af lov om aktindsigt i miljøoplysninger
PR: Lovtidende A, 2005-05-02 LR: Lov Nr. 310
5. Lov om offentlighed i forvaltningen (offentlighedsloven)
PR: Lovtidende A, 1985-12-19 LR: Lov Nr. 572
6. Forvaltningslov
PR: Lovtidende A, 1985-12-19 LR: Lov Nr. 571
7. Lov om ændring af lov om offentlighed i forvaltningen og forvaltningsloven
PR: Lovtidende A, 1991-06-06 LR: Lov Nr. 347
8. Bekendtgørelse af lov om rettens pleje
PR: Lovtidende A, 2004-09-21 LR: Lov Nr. 961
9. Arkivlov
PR: Lovtidende A, 2002-12-17 LR: Lov Nr. 1050
10. Finanslov 2005 (§19.11.04)
PR: Lovtidende B, 2004-12-20 LR: Lov Nr. 2
11. Bekendtgørelse om aktiv formidling af miljøoplysninger
PR: Lovtidende A, 2005-05-13 LR: Bekendtgørelse Nr. 415
12. Bekendtgørelse om betaling for afskrifter og fotokopier, der udleveres i henhold til lov om offentlighed i forvaltningen
PR: Lovtidende A, 1986-09-18 LR: Bekendtgørelse Nr. 647
13. Bekendtgørelse om betaling for aktindsigt i miljøoplysninger, der er til rådighed i andet end skriftlig form
PR: Lovtidende A, 1994-96-27 LR: Bekendtgørelse Nr. 579

14. Bekendtgørelse om betaling for aktindsigt i miljøoplysninger, der opbevares på andet end papir
PR: Lovtidende A, 1994-06-24 LR: Bekendtgørelse Nr. 585
15. Bekendtgørelse om indbringselse af klager for Naturklagenævnet
PR: Lovtidende A, 2004-09-16 LR: Bekendtgørelse Nr. 950
16. Cirkulæreskrivelse om mål for hurtig sagsbehandling m.v.
PR: Administrative measures, 1997-06-04 LR: Cirkulære Nr. 73
17. Bekendtgørelse om betaling for aktindsigt i miljøoplysninger, der ikke udleveres på papir, indenfor Miljøministeriets område
PR: Lovtidende A, 2005-09-28 LR: Bekendtgørelse, 2005-10-12, Nr. 914
18. Bekendtgørelse nr.939 af 10 oktober 2005
PR: Lovtidende A, pages 00840-00841 LR: Bekendtgørelse, 2005-10-19, Nr. 939

Estonia

1. Avaliku teabe seadus
PR: Elektrooniline Riigi Teataja, 2003-10-01 LR: No reference given
2. Ehitusseadus
PR: Elektrooniline Riigi Teataja, 2003-07-01
3. Keskkonnamõju hindamise ja keskkonnaauditeerimise seadus
PR: Elektrooniline Riigi Teataja, 2003-01-01
4. Keskkonnaregistri avalikult kasutatavate andmete paberandjal avalikustamise maht ja kuju
PR: Elektrooniline Riigi Teataja, 2003-07-26
5. Keskkonnaregistri seadus
PR: Elektrooniline Riigi Teataja, RTI, 2002-07-10, 58, 361 LR: Seadus, 2003-01-01 Nr. RTI 10.07.2002, 58, 361
6. Keskkonnaregistri volitatud töötleva määramine
PR: Elektrooniline Riigi Teataja, 2003-05-27
7. Keskkonnaregistrist andmete väljastamise taotluse vorm
PR: Elektrooniline Riigi Teataja, 2003-07-26
8. Keskkonnaseire seadus
PR: Elektrooniline Riigi Teataja, 2002-09-01
9. Maapõueseadus
PR: Elektrooniline Riigi Teataja, 2003-12-01
10. Planeerimisseadus
PR: Elektrooniline Riigi Teataja, 2004-01-01
11. Rahvusvahelise lepinguga määratud andmevahetuse täpsustatud kord
PR: Elektrooniline Riigi Teataja, 2003-07-27
12. Riikliku keskkonnaseire allprogrammide teostamise kord
PR: Elektrooniline Riigi Teataja, 2002-06-01
13. Saastuse Kompleksse vältimise ja kontrollimise seadus
PR: Elektrooniline Riigi Teataja, 2003-11-29
14. Säästva arengu seadus
PR: Elektrooniline Riigi Teataja, Nr. RTI 1995, 31, 384 LR: Seadus, 2001-01-01, Nr. RTI 1995, 31, 384
15. Riigi veekatastri põhimääruse kinnitamine

- PR: Elektrooniline Riigi Teataja, 1999-11-08
16. Kemikaalseadus
PR: Elektrooniline Riigi Teataja, Nr. RTI 2004, 45, 315 LR: Seadus, 2004-05-27, RTI 2004, 45, 315
 17. Veeseadus
PR: Elektrooniline Riigi Teataja, 2003-09-01
 18. Välisohu kaitse seadus
PR: Elektrooniline Riigi Teataja, 2004-01-08
 19. Keskkonnamõju hindamise ja keskkonnajuhtimissüsteemi seadus
PR: Elektrooniline Riigi Teataja, Nr. RTI, 24.03.2005, 15, 87 LR: seadus, 2005-04-03, Nr. RTI, 24.03.2005, 15, 87
 20. Keskkonnaregistri pidamise täpsustatud kord
PR: Elektrooniline Riigi Teataja, Nr. RTL, 25.01.2005, 14, 129 LR: Keskkonnaministri määrus, 2005-01-21, Nr. RTL, 25.01.2005, 14, 129

Finland

1. Vesihuoltolaki 9/02/2001/119, muutos 54/2005
Lag om vattenjänster 9/2/2001/119, ändring 54/2005
Ympäristöministeriön päätös (YM23/400/2004, 09.02.2005) ja muistio direktiivin 2003/4/EY edellyttämistä tehtävistä ympäristötiedon saatavuuden aktiivisen ja järjestelmällisen levittämisen ja laadun varmistamiseksi.
PR: Suomen Saadoskokoelma (SK), 2005-02-04, pages 00162-00162, Nr. 54 LR: Laki, 2005-02-14, Nr. 54/2005

France

1. Loi n° 2005-1319 du 26/10/2005 portant diverses dispositions d'adaptation au droit communautaire dans le domaine de l'environnement.
PR: Journal officiel de la République française (JORF) du 2005-10-27, pages 00001-00005 LR: Loi n° 2005/1319

Germany

1. Gesetz zur Neugestaltung des Umweltinformationsgesetzes und zur Änderung der Rechtsgrundlagen zum Emissionshandel
PR: Bundesgesetzblatt Teil 1 (BGB 1) 2004-12-28, pages 03704-03710 Nr. 73 LR: Gesetz 2005-12-14
2. Gesetz über der Zugang zu Umweltinformationen
PR: Landesgesetzblatt (Länder), 2006-03-13, pages 00050-00052 Nr.3 LR: Gesetz 2005-02-14
3. Gesetz zur Regelung des Zugangs zu Umweltinformationen
PR: Landesgesetzblatt (Länder), 2005-11-24, pages 00573-00576 Nr. 51 LR: Gesetz 2005-11-25
4. Erstes Gesetz zur Änderung des Berliner Informationsfreiheitsgesetzes
PR: Gesetz und Verordnungsblatt (Länder), 2005-12-30, pages 000791-00791 Nr. 44 LR: Gesetz 2005-12-31
5. Gesetz zur Umsetzung der Richtlinie 2003/4/EG über der Zugang der Öffentlichkeit zu Umweltinformationen in Hamburg

- PR: Gesetz und Verordnungsblatt (Länder), 2005-11-18, pages 00441-00442 Nr.37 LR: Gesetz, (NO FURTHER INDICATIONS GIVEN)
6. Umwelteinformationsetz des Landes Sachsen-Anhalt (UIG LSA)
PR: Gesetz und Verordnungsblatt (Länder), 2006-02-17, pages 00032-00033 Nr.5 LR: Gesetz, 2006-02-18
7. Landesumwelteinformationsetz (LUIG)
PR: Gesetz und Verordnungsblatt (Länder), 2005-10-31, pages 00484-00488 Nr.23 LR: Gesetz, 2005-02-14

Greece

Πρόσβαση του κοινού στις δημόσιες αρχές για παροχή πληροφοριών σχετικά με το περιβάλλον, σε συμμόρφωσιν με τις διατάξεις της οδηγίας 2003/4/EK, για την πρόσβαση του κοινού σε περιβαλλοντικές πληροφορίες και για την κατάργηση της οδηγίας 90/313/ΕΟΚ του Συμβουλίου Αντικατάσταση της υπαριθμ. 77921/1440/1995 κοινής υπουργικής απόφασης (Β'795)

PR: Efimeris Tis Kyvernisseos (FEK)(Tefchos B), 2006-3-17, p. 03981-03986 Nr. 327 LR: Ministerial decision, 2006-03-17, Nr. H.II.11764/653

Hungary

1. 2004 évi CXL törvény a közigazgatási hatósági eljárás és szolgáltatás általános szabályairól
PR: Magyar Közlöny, pages 16142-16190, Nr. 2004/203 LR: Törvény Nr. 2004/CXL
2. A személyes adatok védelméről és nyilvánosságáról szóló 1992. évi LXIII. Törvény
PR: Magyar Közlöny, 1992-11-17, pages 03962-03967, Nr. 1992/116 LR: Törvény Nr.1992/LXIII
3. 1992. évi III törvény a polgári perrendtartásról (egységes szerkezetben)
PR: Magyar Közlöny, pages 01651-01717, Nr. 2000/33 LR: Törvény Nr. 1952/33
4. 1949 évi XX törvény a Magyar köztársaság alkotmánya
PR: Magyar Közlöny, 2002-12-23, Nr. 2002/161 LR: Törvény Nr. 1949/XX
5. 2003 évi XCII törvény az adózás rendjéről
PR: Magyar Közlöny, 2003-11-10, pages 09990-10054 Nr. 2003/131 LR: Törvény Nr. XCII/2003
6. 2001 évi LXXXI törvény a környezeti ügyekben az információhoz való hozzáférésről, a nyilvánosságnak a döntéshozatalban történő részvételéről és az igazságszolgáltatáshoz való jog biztosításáról szóló. Aarhusban. 1998 június 25-én elfogadott Egyezmény kihirdetéséről
PR: Magyar Közlöny, 2001-12-04, pages 09546-09559, Nr. 2001/136 LR: Törvény Nr. 2001/LXXXI
7. 1959 évi IV törvény a Magyar Köztársaság Polgári Törvénykönyvééről
PR: Magyar Közlöny, 1959-08-11, page 500, Nr. 1959/40
8. A környezet védelmének általános szabályairól szóló 1995 évi LIII Törvény
PR: Magyar Közlöny, 1995-06-22, pages 2780 Nr.52
9. 2005 évi XC törvény az elektronikus információs szabadságról
PR: Magyar Közlöny, pages 05472-05480, Nr. 2005/99 LR: Törvény Nr.2005/XC
10. 2005 évi CXXVII törvény egyes környezetvédelmi, természetvédelmi és vízügyi feladat és hatásköröket megállapító törvények európai közösségi jogi aktusnak való megfeleltetéssel összefüggő módosításáról
PR: Magyar Közlöny, 2005-11-13 pages 08885-008810 Nr. 2005/152 LR: Törvény Nr. 2005/

CXXVII

11. A Kormány 311/2005 (XII. 25) Korm. Rendelete a nyilvánosság környezeti információkhoz való hozzáféréseinek rendjéről
PR: Magyar Közlöny, 2005-12-25, pages 11073-11074, Nr. 2005/168 LR: kormányrendelet Nr. 311/2005 Korm

Italy

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van het public tot milieu-informatie en tot intrekking van Richtlijn 90/313/EEG van de Raad (PbEU L 41) en van richtlijn nr. 2003/35 van het Europees Parlement en de Raad van 26 mei 2003 tot voorziening in inspraak van het publick in de opstelling van bepaalde plannen en programma's betreffende het milieu en, met betrekking tot inspraak van het publick en toegang tot de rechter, tot wijziging van de Richtlijnen 85/337/EEG en 96/61/EG van de Raad (PbEU L 156) (Implementatiewet EG-richtlijnen eerste en tweede pijler Verdrag van Aarhus)
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