**Economic Commission for Europe**

Meeting of the Parties to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

**Task Force on Access to Justice**

**Fourteenth meeting**

Geneva, 27 and 28 April 2022

Item 3 of the provisional agenda

**Stocktaking of recent and upcoming developments**

**Information paper N3**

**QUESTIONNAIRE**

**Measures to enable effective access to justice
in environmental matters**

At its seventh session[[1]](#footnote-2), the Meeting of the Parties to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VII/3 on promoting effective access to justice and requested the Task Force on Access to Justice to promote the exchange of information, experiences, challenges and good practices relating to the implementation of the third pillar of the Convention. Through this decision, the Meeting of the Parties also encouraged Parties to undertake further considerable efforts to improve the effectiveness of public access to justice in environmental matters, e.g., by removing, as the case may be, barriers with regard to costs, access to assistance mechanisms and timeliness. Objective I.12 (c) of the Convention’s Strategic Plan for 2022-2030 also requires each Party to undertake genuine efforts to reduce and eliminate financial and other barriers that may prevent access to such review procedures and establishes, where appropriate, assistance mechanisms – also covering vulnerable and marginalized groups.

To support the implementation of the Convention’s Strategic Plan for 2022-2030 and decision VII/3, the Aarhus Convention Task Force on Access to Justice will carry out a survey to collect good practices and challenges in implementing measures that aim to overcome the above-mentioned barriers and enable effective access to justice.

The survey outcomes will lay the ground for advancing the implementation of article 9, paras. 4 and 5, of the Aarhus Convention and thereby support the attainment of SDG targets 16.3 “Promote the Rule of Law and Ensure Equal Access to Justice”.

The questionnaire below was prepared by the secretariat in consultation with the Chair. Each question identifies high impact measures that aim to significantly reduce or eliminate financial and other barriers for members of the public to access to justice and also provides a possibility to report on other measures that can contribute to this aim. Environmental cases are understood as cases falling within the scope of the Aarhus Convention[[2]](#footnote-3).

When completing the questionnaire, please include a brief description of the measures taken in your jurisdiction and share the relevant references to the legislation and case law in English and if not available in the national language and links to the relevant webpages. Please report good practices and challenges related to the reduction of court fees and other legal costs, access to judicial experts appointed by courts or contracted by parties under “Other” measures as they can contribute partially to the resolution of the above-mentioned challenges.

The draft questionnaire was discussed at the fourteenth meeting of the Task Force on Access to Justice in Geneva on 27-28 April 2022[[3]](#footnote-4) and finalised by the secretariat in consultation with the Chair in the light of the discussion at and after the meeting.

National focal points of the Convention, the network of judiciary, judicial training institutions and other review bodies in the pan-European region, non-governmental organizations and other stakeholders are invited to complete the questionnaire and submit their responses to the Aarhus Convention secretariat (**aarhus.survey[at]un.org**) by 1 November 2022.

The outcomes of the survey will be discussed at the next meeting of the Aarhus Convention Task Force on Access to Justice in April 2023 and further reported to the subsequent meeting of the Working Group of the Parties to the Aarhus Convention.

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| **CONTACT INFORMATION** Please provide name and contact data of the person who filled in the questionnaire: First Name: Last Name: Position: Organization: Address: Telephone: Fax: E-mail: Website:The completed questionnaires will be posted on the website of the meeting. Please tick the box if you prefer your reply not to be posted [ ] . |

**Question 1**: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

* Fully waiving the court fees
* Fully waiving the application of the loser pays principle
* Applying a protective cost order
* Fully waiving the recovery of costs incurred by public authorities
* Fully waiving the bonds or other security for injunction relief
* Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
* Other (e.g. measures to reduce costs, etc.):

**Question 2**: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

* Access to legal aid services
* Type of legal disputes covered (trial and non-trial matters)
* Type of services covered
* Criteria to apply for legal aid for natural persons
* Criteria to apply for legal aid for NGOs
* Providers
* Procedural implications of being granted a legal aid
* Established an environmental law (legal aid) clinic and its procedural status
* Other pro bono services (please indicate type and provider)
* Public funds for litigation by natural persons and/or NGOs
* Financial support to non-governmental organizations
* Incentives to support crowdsourcing campaigns
* Incentives to support charitable funding
* Legal insurance
* Other:

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

* Established specialized courts or tribunals
* Established specialized chambers within courts
* Designation of judges specialising in environmental cases
* Established specialized prosecutor offices
* Established specialized departments within prosecutor offices
* Designation of prosecutors specialising in environmental cases
* Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
* Initial or Continuous
* Optional or Mandatory
* Other

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

* Established independent expert bodies
* Technical judges
* Technical experts in courts
* Publicly accessible lists of judicial experts
* Other (e.g. judicial experts appointed by courts or experts contracted by parties):

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

* Case weighting (indicate what methodology is used)[[4]](#footnote-5)
* Fast tracking/prioritization of environmental cases
	+ - Defined by law
		- Defined by court
* Temporary injunctive relief
* Special procedural rules for environmental cases
* Measures to take in case judges exceed procedural deadlines
* Other

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

* E-access to information on review procedures:
	+ - Administrative review
		- Judicial review
* E-access to environment-related standards and legislation
* E-access to case law on environmental matters
* Collection of quantitative data on environmental cases
* Electronic submission and management of claims
	+ - For administrative review
		- For judicial review
* E-access to case files at court for the parties
* Remote court hearings
* Data mining for processing environmental cases
* Tools integrating spatial, environmental and case-management data
* Other

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

* Arbitration
* Negotiation
* Mediation
* Conciliation
* Operational-level grievance mechanism
* Indigenous law
* Other forms of dispute resolution
1. See para. 14(a) (i) of decision VII/3 of the Meeting of the Parties adopted at its seventh session (Geneva, 18–21 October 2021) available from: <https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7> . [↑](#footnote-ref-2)
2. In addition, you also may consult the Resolution 2015/248 adopted by the United Nations Economic and Social Council on 21 July 2015 promoting the gradual adoption of the UNODC International Classification of Crime for Statistical Purposes with respect to acts against the natural environment available from <https://www.unodc.org/unodc/en/data-and-analysis/statistics/iccs.html> . [↑](#footnote-ref-3)
3. More information is available from <https://unece.org/environmental-policy/events/fourteenth-meeting-task-force-access-justice-under-aarhus-convention> [↑](#footnote-ref-4)
4. Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities). [↑](#footnote-ref-5)