



## RIGHT TO INFORMATION

**Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (or Århus Convention)**

**In force from** October 30, 2001, **ratified by** 17 countries (as of August 12)



ozone depletion

hazardous waste

prior informed consent

right to information

commission on

sustainable development

climate

biodiversity

desertification

persistent organic pollutants

forests

trade and environment

multilateral agreement

on investment

global environment facility

institutions for environment



### Problem

Information is key to truly participatory democracy at local, national and global levels. Lack of information invariably leads to 'elite' or 'bureaucratic' democracies, where a powerful few decide on policies that reflect only their interests. Free access to information is particularly important for environmental issues. Economic growth usually conflicts with environmental matters, and decision-makers prefer a trade-off between the two. In a political-bureaucratic system, the trade-off is heavily weighted against the public interest. Such an imbalance can be challenged or corrected only when the decision-making process is open to public scrutiny, as in participatory democracies.

Despite positive country-specific and regional measures to push for access to information, the scales are tilted in favour of secrecy the world over, particularly where economic stakes are high. The strongest recognition of the importance of access to information and public participation has been the regional Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The convention was adopted in June 1998, by countries of the United Nations Economic Commission on Europe (UNECE) in the Danish city of Århus.

### The convention

The convention contains three broad themes or 'pillars': the right of citizens to access environmental information, their right to participate in environmental decision-making (EDM), and their right to access justice in environmental matters. It seeks to render the process of EDM more transparent and accountable. It covers a range of issues — the energy sector, nuclear energy and GMOs.

While there are many useful and positive elements in the convention, certain important elements were inadequately addressed. On the positive side, the convention establishes rights to information, to participation and to justice. The convention is progressive in its broad definition of environmental information, and restrictions on the use of commercial confidentiality as an excuse to hold back emissions data.

On the other hand, ambiguities litter the text. The vague qualifier 'appropriate' appears no less than 22 times in the draft convention. References to 'national legislation' abound, giving governments excessive discretion in the implementation process. The convention does not address what happens when the public authorities do not hold the information. It is very weak on the vast array of information held by the corporate sector.

The convention is also timid on the issue of pollutant release and transfer registers, only requiring the progressive development of such registers. Public participation in decision-making on GMOs is only required to the extent feasible and appropriate. Provisions on public participation in the making of laws, regulations and policies, as well as programmes and plans, are weak. Current challenges include the establishment of a strong non-compliance mechanism in which the public may participate, and binding measures on PRTRs.

There have to be fresh negotiations to build similar relationships between governments and NGOs in other parts of the world, particularly in the South, instead of adopting a pre-negotiated convention whose full impact and meaning they do not understand

### Challenges ahead

Although this is a regional convention, it has sparked off interest in other regions and has also been upheld as a model for a global convention in future. UN Secretary-General Kofi Annan has indicated that the World Summit on Sustainable Development (WSSD), to be held in 2002, would be a time to examine the global relevance of the convention.

However, the world should be cautious about simply using the Arhus Convention as a model for the rest of the world. African groups have pointed out that such an exercise would present Southern governments with a fait accompli, with little chance to re-negotiate. Moreover, non-government organisations (NGOs) played an unprecedented role in pushing through the convention. The interaction between the government and NGOs during the negotiation helped build a better understanding of each other's requirements. There have to be fresh negotiations to build similar relationships between governments and NGOs in other parts of the world, particularly in the regions of the South, instead of adopting a pre-negotiated convention whose full impact and meaning they do not understand.



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