The Aarhus Convention as a Benchmark for Environmental Good Governance

Fiona Marshall
Aarhus Convention secretariat
UNECE
Key message:

Aarhus is a readily accessible resource for IAMs to use as a benchmark of best international practice on access to information, public participation in decision-making and access to justice in environmental matters.
• Only legally binding international instrument enshrining Principle 10 of the 1992 Rio Declaration


• But, as of now, Aarhus stands alone as the only generator of hard law on Principle 10
• Aarhus Convention’s full name is the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

• Currently has 47 Parties from the UNECE region, including the EU and all EU Member States, and countries from Central and Eastern Europe, the Caucasus and Central Asia.

• Open globally, upon approval by the Meeting of the Parties
Internationally recognized as a benchmark for environmental governance...

“The Aarhus Convention ... is more important than ever. This treaty’s powerful twin protections for the environment and human rights can help us respond to many challenges facing our world, from climate change and the loss of biodiversity to air and water pollution. And the Convention’s critical focus on involving the public is helping to keep governments accountable.”

Ban Ki Moon, Secretary General of the United Nations
Aarhus Convention

Government accountability and fighting corruption

Environmental protection

Energy and water

The Green Economy

Human Rights

Development and Poverty

EBRD Classification: PUBLIC
As well as requiring Parties to ensure:

• Access to environmental information
• Public participation in decision-making relating to the environment
• Access to justice in environmental matters

at the **national level**....

...it also requires Parties to promote the application of the principles of the Convention in **international forums** dealing with matters relating to the environment (article 3, para. 7)
IFI Members who are Parties to Aarhus:
- World Bank, 32% voting stock
- IFC, 33% voting stock
- Asian Development Bank, 21% voting stock
- African Development Bank, 21% voting stock
- Caribank, 21% voting stock
- Inter-American Development Bank, 11% voting stock
- Black Sea Trade and Development Bank, 67% voting stock
- Nordic Investment Bank, 100% voting stock
- European Bank for Reconstruction and Development, 64% voting stock
- European Investment Bank, 100% voting stock
This means:

• Aarhus is not only a source of best international practice

• Many IFI Members have a binding legal obligation to promote the principles of the Aarhus Convention in the policies, projects and procedures of IFIs when dealing with matters relating to the environment
Generating best international practice: The Aarhus Convention Compliance Committee

• Established at the first Meeting of the Parties in 2002 as a non-confrontational, non-judicial and consultative mechanism.

• Independent body - 9 Committee members who serve in their personal capacity elected at the Meeting of the Parties. NGOs can also nominate members.

• Members of the public can bring cases before the Compliance Committee regarding a Party’s compliance.
Aarhus Convention Compliance Committee (cont’d)

• 105 cases

• 49 sets of findings adopted so far

• Cases involving projects funded by IFIs
  • ACCC/C/2005/12 (Albania)
  • ACCC/C/2007/21 (European Community)
  • ACCC/C/2011/59 (Kazakhstan)

• Coordination between the IAMs and the Compliance Committee valuable for consistency in development of international standards
Jurisprudence of Compliance Committee valuable resource for IFIs, eg

• Grounds for refusal to disclose information are to be interpreted in a restrictive way, taking into account the public interest served by the disclosure....disclosure of EIA studies in their entirety should be considered as the rule (ACCC/C/2005/15 (Romania))

• Once a decision to permit a proposed activity has already been taken without public involvement, providing for such involvement in later decision-making stages can under no circumstances be considered as meeting the requirement to provide “early public participation when all options are open” (ACCC/C/2005/12 (Albania))
How can IAMs access the best international practice that Aarhus generates?

- Aarhus Convention Compliance Committee
- Aarhus Convention Implementation Guide
- Guidance developed under the Convention
- Aarhus Task Forces
Aarhus Convention Compliance Committee

• All findings available on Aarhus website, http://www.unece.org/env/pp/pubcom.html

• Findings available in English, French and Russian
Aarhus Convention Implementation Guide

• Convenient non-legally binding and user-friendly reference tool to assist officials to implement the Convention and realize Principle 10 in practice

• Second edition, June 2014

• Interactive online publication, available at http://www.unece.org/env/pp/implementation_guide.html

• Draws upon Compliance Committee jurisprudence as well as good practice examples at the national level
Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters

• Practical tool to improve the implementation of the Convention's provisions on public participation in decision-making

• Source of expertise and good practice

• Developed through an open and participatory process between 2011-2014

Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums

• Adopted in 2005
• Apply to:
  • The development, modification and application of relevant rules and practices applied within international forums; and
  • The treatment of relevant substantive issues within those forums.
Aarhus Convention Task Forces

- Task Force on Access to Information
- Task Force on Public Participation in Decision-making
- Task Force on Access to Justice

- Meet once a year
- Exchange experience on key challenges and good practice
- Discuss emerging and cutting-edge issues
- Generate guidance (e.g., Maastricht Recommendations on Public Participation)

- Open and participatory forum to – IAM members welcome!
For further information:

Aarhus Convention website:

Aarhus Convention secretariat
Email: public.participation@unece.org

Thank you!