

**European ECO Forum Statement
to the Fifth Meeting of the Parties to the Aarhus Convention and
to the Second Meeting of the Parties to the Protocol on
Pollutant Release and Transfer Registers**

We, the representatives of civil society from more than 70 non-governmental organisations and from 23 countries of Europe, Caucasus, and Central Asia, agree the following on 29th June 2014, in Maastricht, the Netherlands.

It is three years to the day since our Chişinău statement of 29 June 2011 at the Fourth Meeting of the Parties to the Aarhus Convention in Moldova. The intersessional period has proven very challenging for international environmental policy, with the ongoing financial crisis being used to exert downward pressure on the political priority given to environmental issues. Paradoxically, this has happened at a time when our scientific knowledge and awareness of the critical environmental issues we face together has strengthened and grown.

The present statement is made against a backdrop of serious affronts to democracy, the rule of law, implementation of international agreements, and sovereignty in the ECE region. Widespread surveillance of citizens recently revealed by whistle-blowers, promulgation of misinformation, and attacks on NGOs by many States globally including States which are Parties to the Aarhus Convention make the development of environmental democracy even more challenging.

We reaffirm our commitment to the Aarhus Convention and to the democratic principles and rights enshrined therein. With full and serious engagement by Parties and signatories, the Convention may indeed fulfil its promise as “a key signpost for the future of human rights and the environment in all parts of the world,” as put by former UN High Commissioner for Human Rights Mary Robinson.

A. Access to Information

The European ECO Forum welcomes the focus of the draft Maastricht Declaration on transparency and access to information. We call upon Parties and signatories to ensure that the right to access information under the Convention is fully implemented and enforced *in practice* (and not merely formally transposed in legislation) at all levels including EU and national, and that there are no backward steps in this field.

Definitional and interpretative issues remain with the Convention, and we welcome the request to the Task Force to investigate such issues, as contained in the draft Decision

on access to information. “Environmental information” should be interpreted broadly and consistently by Parties and signatories, with the exceptions in the Convention interpreted narrowly taking into account the public interest served by disclosure in each individual case. In the light of ongoing outsourcing of public services and functions, we call on Parties to ensure that the definitions used in implementation of the Convention explicitly encompass these outsourced services and functions. Remaining unjustifiable barriers and constraints to accessing information must be challenged and overcome, including access to raw data, surveillance activities of State bodies, and so-called commercial, industrial, and State secrets.

In order to increase public trust and confidence and to avoid dissemination of misinformation, we call upon the Parties to ensure that the quality of information is guaranteed.

We call upon Parties and signatories to encourage national dialogue on access to information, involving as broad a range of stakeholders as possible, including active outreach to marginalised and vulnerable groups; to remove financial barriers to, and delays in, accessing information; to promote active dissemination; and to embrace modern technologies and open data in providing access to information.

B. Public Participation

The European ECO Forum’s vision for public participation under the Convention is one of full compliance under which the public is treated as a full partner in decision-making, where every relevant decision is subject to timely, meaningful participation, and – crucially – where such participation is reflected in the substantive outcomes of decisions.

Unfortunately, practical implementation of the Convention continues to fall short of this vision. Public participation in many cases is a ‘tick box’ exercise, without meaningful engagement. The European ECO Forum calls on Parties and signatories, where this is not already the case, to create dedicated legislation securing public participation, to strengthen institutions involved in public participation, and to ensure that the public’s views are in practice taken seriously and reflected in the decision. We also call on Parties and signatories, where and when that legislation is in place, to implement and enforce it, and to pay particular attention to enhancing participation of often marginalised groups who are specifically affected by virtue of their race, age, gender or disadvantage.

We welcome the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters, and call upon all Parties to continue supporting the vital work of the Task Force on Public Participation in Decision-making under a renewed mandate.

C. Access to Justice

Regretfully, our statement on access to justice remains largely unchanged from our

statements in previous MOPs:

Limitations on access to justice are substantially impeding access to information, public participation, environmental protection, and indeed the rule of law in many countries.

It is crucial to eliminate barriers to access to justice by adopting workable solutions. These should include: elimination of the rules that in some countries expose NGOs (and other public interest litigants) to costs that are prohibitively expensive; reduction of court fees; national, region-wide, and international financial support for public interest environmental litigation; removal of restrictions on justiciability, including standing; devotion of all means to avoid lengthy judicial procedures that undermine the environmental rule of law. The adoption of binding, horizontal EU legislation on access to justice, to replace the recently withdrawn 2003 proposal for a directive, and the amendment of the EU's Aarhus Regulation to correctly transpose the Convention with respect to the EU institutions, must be prioritised and advanced swiftly.

We call on Parties and signatories also to implement affordable systems that provide both temporary and final injunctive remedies against illegal public and private acts.

These issues require systemic solutions, not just case-by-case results. We therefore call upon the Access to Justice Task Force and Parties and signatories individually to find effective ways to achieve these reform goals.

D. Compliance

As was the case in Chişinău in 2011, we again stress the importance and the pioneering work of the compliance mechanism of the Convention, in particular the salutary work of the Compliance Committee in facilitating compliance of the Parties with the Convention. We urge the Parties to make available additional resources to this crucial work, so that the Compliance Committee continues to play this important role effectively. We call on Parties and signatories to promote and apply similar approaches to reviewing compliance under other multilateral environmental agreements.

We are concerned by repeated failures to implement MOP decisions, without any meaningful progress, and by 'tick box' approaches and abuse of the *bona fide rule* by some Parties.

When implementing the recommendations, we urge Parties to address more thoroughly the specific situations which led to the findings non-compliance. Recommendations by the Compliance Committee and the MOP should be formulated accordingly.

Further, we note the 2014 round of National Implementation Reports. Building on these, we encourage independent initiatives to improve implementation and compliance, and promote learning, such as shadow reporting and legal/practice indexes.

E. Penalization, persecution and harassment

The European ECO Forum calls on all Parties and signatories to apply Article 3(8) of the Convention effectively, so as to ensure that persons exercising their rights in conformity with the provisions of the Convention shall not be penalized, persecuted or harassed in any way for their involvement.

We welcome the Maastricht Declaration's explicit recognition of the important role played by activists and whistle-blowers, and of the need to ensure that such individuals receive protection by and support from Parties to the Convention.

F. Public Participation in International Fora

Significant room for improvement remains in respect of compliance with Article 3(7) of the Convention, which requires Parties to promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment. The European ECO Forum stresses the need for Aarhus Parties to proactively engage with non-parties in order to implement their Article 3(7) obligations in this regard.

A central challenge in this area is the need for cross-departmental accountability within States in terms of meeting their obligations relating to public participation in international fora. Amongst other things, there is a need for coherent consideration of international environmental issues, as well as ensuring public participation in relation to such issues, rather than fragmented consideration within different departments.

A serious effort is now needed to involve the public in decision-making in international fora. Despite the clear reaffirmation of this obligation in Rio +20, its implementation remains sporadic and uneven.

Finally, we emphasise the urgent need for access to justice relating to decisions made on environmental issues at the international level.

G. PRTR Protocol

The European ECO Forum emphasises that the Aarhus Convention and its PRTR Protocol have the potential to form a cornerstone of environmental safety in Europe. The potential of the Protocol to this end should be exploited as much as possible. Parties to the Protocol should embrace public involvement, ensuring full public engagement with the Working Group and other relevant bodies.

After more than a decade from the adoption of the Protocol in Kiev, we believe it is high time to extend its scope to embrace the release of pollutants through products, the storage of polluting substances and inputs to facilities (water, energy, resources). In this regard we welcome the elements in the draft Maastricht Declaration which point in this direction.

At present the Protocol's implementation is not effectively monitored by the Parties, and it is necessary to begin this work as a matter of urgency. Equally urgent is the need for training programmes to inform the public of their rights and opportunities under the Protocol. The issue of pollutants in end products is of significant interest to the public; equally important is the issue of pollutants in waste materials, including those accumulated in the past.

H. GMO Amendment

Nine years after the adoption of the GMO Amendment, the people of the UNECE region are still waiting for the Amendment to come into force. In order to establish and protect the right of the public to be involved in informed decision-making relating to GMOs it is essential for this Amendment to be ratified by all the Parties to the Convention. The European ECO Forum applauds those Parties (Ireland and Switzerland) that have ratified the Amendment since the Fourth Meeting of the Parties, and calls on all Parties that have yet to ratify this important amendment to make its ratification a priority. In the meantime, we urge all Parties and signatories to transpose its provisions into their national legislation and to take practical steps to implement and apply its provisions pending its entry into force, including within the framework of the Cartagena Protocol implementation process.

I. Supporting the implementation of Principle 10 globally

We welcome the Report on Capacity Building, including details of the crucial work by the secretariat and others to support the implementation of Principle 10 (P10) of the Rio Declaration globally. We welcome in particular the exciting progress made in the ECLAC region in the direction of a regional P10 convention for Latin America and the Caribbean. We encourage all Parties, signatories and other relevant bodies to support this initiative in every way possible. By for example: providing funding to support the work of the Working Group on Capacity Building and the Working Group on Creating a Regional Instrument; supporting technical and learning exchanges between government and civil society experts from the ECE and LAC regions; and establishing exchanges between governments on the PRTR Protocol.

We further encourage all Parties and signatories to pursue every opportunity to promote the spread of P10, including easing accession to the Aarhus Convention, support for the negotiation and adoption of other P10 conventions, and both financial support and encouragement for countries that wish to reform their systems to grant citizens and NGOs greater access rights.

As was the case in Chişinău, we remain firmly of the view that the Aarhus Convention should be amended to remove the requirement (in Article 19(3)) for MOP approval for accession by non-UNECE countries. This would put all countries on an equal footing, and enable the Convention to be more effective in promoting environmental democracy around the world.

J. Absent friends of the Aarhus Convention

Finally, the European ECO Forum remembers, with great friendship, honour and respect, two longstanding allies of the Aarhus Convention, sadly departed since we met in Chişinău:

Professor Svitlana Kravchenko, an “international force for environmental law” and a “tireless champion of nature, and of humanity,” who (amongst many other things) served for 10 years, with great distinction, as the elected vice-chair of the Compliance Committee; and Professor Marc Pallemerts, one of the European environmental movement’s “greatest legal champions,” who (amongst many other things) chaired at different times with great success the Meeting of the Parties and the Task Force on Access to Justice.

Svitlana and Marc were fully committed advocates of environmental democracy, for the benefit of our planet and all its inhabitants, present and future. It would be a fitting tribute to their memory to fulfil the promise of the Aarhus Convention.