



# The Aarhus Convention and Biosafety

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# Overview



- What is the Aarhus Convention?
- What is its relevance for biosafety?

# What is the Aarhus Convention?



- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters
- Three pillars: information, participation, justice
- Entered force in 30 October 2001, now has 46 Parties: 45 countries and the European Union
- Parties adopted Lucca Guidelines on GMOs in 2002, still a useful tool
- Protocol on pollutant release and transfer register (PRTR) ,2003
- Amendment on public participation in GMO decisions adopted in May 2005, not yet in force.

# Lucca Guidelines on GMO



- Non-binding examples of good practice
- Most far-reaching and detailed instrument on GMOs e.g. covers contained use as well as deliberate release and placing on the market
- Still a valuable guidance tool

# What is the Aarhus Convention?



- Most far-reaching international treaty on environment and human rights
- Human Rights nature **“the Door to Democracy”**
- Obligations mainly fall on public authorities
- Rights are owed to the public, or the public concerned
- First international environmental treaty to allow members of the public to bring cases before the compliance mechanism

# Relevance to Biosafety

- Expressly covers information and decisions on GMOs
- Neither for or against GMOs
- PP cover deliberate release of GMOs into the environment
- Aarhus Clearinghouse, which also contains biosafety related materials.

# How does the Aarhus Convention work?



- Requires Parties to provide access to information, public participation and access to justice to the public regarding the environment
- Obliges the Parties to create a legislative and administrative framework to provide A2I, PP and A2J
- Definitions: public, public authorities

# First pillar: A2I



## Right of access to information

- Has two sides: active and passive:
  - Public has right to environmental information upon request
  - Obligation on Parties to collect and disseminate environmental information, including on GMOs
- Environmental information widely defined
  - Includes (among other things) any information in any form on the state of elements of the environment, eg air, atmosphere, water, soil, land, landscape and natural sites, biological diversity, including **genetically modified organisms, and the interaction between these elements.**



# A2I on GMOs on request



- Requirements:
  - Without interest having to be stated
  - In form requested
  - As soon as possible or at latest within one month
  - Reasonable charges published beforehand
  - Limited grounds for refusal to be interpreted in a restrictive way
  - Refusal to be in writing if request was in writing or if applicant so requests
  - Refusal must give reasons and information on review procedure



**Active information obligation:  
To collect and disseminate environmental information**

Parties must ensure that:

- Public authorities have up-to-date environmental information relevant to their functions
- Systems are established to ensure an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment
- Publicly accessible lists and registers are in place
- **Also product information:**  
Parties must develop mechanisms to ensure that sufficient product information is available for consumers to make informed environmental choices.
- **Encourages to use Internet and other electronic media for this purpose**

# Pillar 2: PP



Parties insure **public participation** in

- decisions on whether to permit proposed activities that may have a significant effect on the environment listed in the Annex to the Convention
- plans and programmes relating to the environment
- executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment

# PP in decisions on specific activities

- The public is informed, **early** in an environmental decision-making procedure (when all options are open)
- in an **adequate, timely and effective** manner
- participation procedures shall include reasonable **time-frames** for informing the public and for the public **to prepare and participate effectively**
- Provide **access to all information** relevant to the decision-making for examination free of charge
- Procedures allow the public to submit **any comments**, information, analyses or opinions that it considers relevant to the proposed activity.
- **due account** is taken of the outcome of the PP
- the text of the decision along with the reasons and considerations on which the decision is based are made **publicly accessible**

# PP in GMO decisions

## – current article 6 (11)



**Each Party shall**, within the framework of its national law, **apply**, to extent feasible and appropriate, **provisions of this article** to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

## Pillar 3: Access to Justice



- For a refused request for information
- For impairment of a right provided under the national law regarding public participation in decisions on deliberate release covered by art 6(11) – but not regarding decisions covered by GMO amendment.
- To challenge an act or omission by private persons or public authorities which contravenes national environmental law



# Thank you!

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