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# AARHUS RETURNS TO RIO

*“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, United Nations**

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## Aarhus at a glance

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) goes to the heart of the relationship between people and Governments.

It recognizes that every person has the right to live in an environment adequate to his or her health and well-being.

It grants the public rights, and imposes on Governments and public authorities obligations concerning access to information, public participation and access to justice regarding environmental matters.

In doing so, it links Government accountability with environmental protection and makes clear that sustainable development can only be achieved through the involvement of all stakeholders.

It is the world’s only international legally binding instrument enshrining Principle 10 of the 1992 Rio Declaration on Environment and Development adopted by 178 Governments.

## Principle 10

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

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## Practical information

- Negotiated by Governments and civil society from a diverse range of political, legal and cultural traditions and adopted in 1998 in the city of Aarhus, Denmark.
- Entered into force on 1 October 2001. To date, 45 Parties of very different levels of economic development.
- Open globally.
- It costs nothing to become a Party to the Aarhus Convention. The current scheme for financial contributions by Parties is voluntary.



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## Key features

The Convention’s three “pillars” are:

### 1. Access to environmental information

The public is entitled to have access, upon request, to environmental information held by public authorities in a timely manner. Public authorities must actively collect and disseminate certain types of environmental information to the public.

### 2. Public participation in decision-making in environmental matters

Parties must provide for early and effective public participation, when all options are still open, on decisions to permit certain types of activities and during the preparation of plans, programmes and policies relating to the environment. Parties must also promote effective public participation during the preparation of executive regulations and other generally applicable legally binding rules.

**Case study – public participation in decision-making:** The owner of a hazardous waste site containing corroded barrels of chlorine proposed to build a modern incinerator to dispose of them. The local residents of the village agreed, but the residents of surrounding towns and villages opposed it, saying that their farms and vineyards would be harmed by the incinerator’s emissions. As a result of the Aarhus Convention’s requirement to involve the

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public early in the permitting process, when all options were open, it was decided not to build the incinerator, but to dispose of the chlorine barrels using an existing disposal facility elsewhere.

### 3. Access to justice in environmental matters

The public is entitled to have access to judicial or administrative review procedures to challenge:

- A refusal or an inadequate response to a request for environmental information
- The legality of a decision to permit a specific activity
- Acts or omissions by private persons or public authorities that contravene national environmental law

Review procedures must provide adequate and effective remedies, and be fair, equitable, timely and not prohibitively expensive.

**Case study - access to justice:** The local community and environmental NGOs opposed the rezoning of a nature reserve for the construction of a factory. The local community and NGOs applied to the court to halt the development on the basis that no environmental impact assessment had been carried out. However, by the time the court delivered its judgement, the nature reserve had already been bulldozed. If the Aarhus Convention had applied, it would have ensured that the local community had access to adequate and effective remedies, including if appropriate injunctive relief, before the nature reserve was destroyed.



#### Other features of the Convention include:

- Parties are also required to promote the principles of the Convention in international organizations and processes in matters relating to the environment.
- To assist Parties in implementing the Convention, the Meeting of the Parties meets every three years to review progress and to adopt a work programme of activities for the next period. The Convention also has three task forces, which work to better implement the Convention under each of the Convention's three pillars.
- To further assist Parties in implementing the Convention, an innovative compliance review mechanism has been put in place that allows members of the public, as well as States, to bring issues regarding a Party's compliance before a committee of independent experts serving in their personal capacity.

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#### For Governments

- Becoming a Party to the Aarhus Convention sends a strong signal to other States (including trade and/or aid partners), as well as foreign investors, of the Government's commitment to good governance.
- The Aarhus Convention's principles— e.g., transparency, access to information, public participation, non-discrimination, non-persecution and justice — are key components of a stable and secure society, and a stable and secure society is more likely to be an economically prosperous and environmentally sustainable one.
- Active and real public participation improves the quality of decision-making in environmental matters. Unexpected or hidden expects may be uncovered, enabling potentially costly mistakes to be avoided. Public participation also increases public acceptance and support for the final decision.
- Achieving a green economy and ensuring green policies meet their intended environmental aims will require wide support from a well-informed public, both in their role as voters, consumers, shareholders and otherwise.

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#### For the public

- The Aarhus Convention recognizes that the public has the right to know about and to have input into important decisions that affect them and their environment. Its three pillars provide a valuable, mutually reinforcing mechanism to hold Government and decision makers accountable.
- The rights set out in the Aarhus Convention are to be granted to all natural or legal persons, irrespective of citizenship or nationality. The Convention also gives special recognition to the important role played by non-governmental organizations in promoting environmental protection.
- The Aarhus Convention Compliance Committee, which can be triggered by members of the public, is proving to be a powerful tool to promote compliance with the Convention.



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