The Aarhus Convention and Biosafety

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based on the materials of the Aarhus Convention Secretariat
Overview

• What is the Aarhus Convention?

• What is the Aarhus Convention about?

• 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 44 Parties: 43 countries and the European Union

- Parties adopted Lucca Guidelines on GMOs in 2002, still a useful tool

- Amendment on public participation in GMO decisions adopted in May 2005, not yet in force.
What is the Aarhus Convention?

- Most far-reaching international treaty on environment and human rights
- First international environmental treaty to allow members of the public to bring cases before the compliance mechanism
- Expressly covers information and decisions on GMOs
- Neither for or against GMOs
- 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

**Human Rights nature**
- Obligations mainly fall on public authorities
- Rights are owed to the public, or the public concerned
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
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

• **Also product information:**
  Parties must develop mechanisms to ensure that sufficient product information is available for consumers to make informed environmental choices.
Public participation in GMO decisions – current article 6 (11)

• Currently, Parties must apply the Convention’s public participation requirements on decisions on whether to permit the deliberate release of GMOs into the environment to the extent feasible and appropriate within the framework of its national law.
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.
PP in GMO decisions – current article 6 (11)

Requirements:

• Reasonable timeframes
• Early public participation when all options are open
• Applicants required to identify public concerned, provide them with information and enter into discussions with them before applying for a permit

Public authorities required to:

• Make all relevant information accessible to public concerned upon request, free of charge
• Provide opportunity for public concerned to comment
• Take due account of public participation outcomes
• Inform the public promptly of the decision taken (including reasons) and make the decision accessible
A2J regarding GMOs

• 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
Lucca Guidelines on GMOs, 2002

- 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
Thank you!

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