



Practical implementation of the Aarhus Convention: Greece

Side event of NGOs at MoP7 of the Aarhus Convention – Geneva, 13 October 2021

Hellenic Ornithological Society/BirdLife Greece

- Established in 1982, as a people's association.
- Member of BirdLife International, a global partnership of conservation organisations (NGOs) that strives to conserve birds, habitats and global biodiversity, working with people towards sustainability in the use of natural resources.
- Environmental non-profit organization dedicated to the protection, conservation, research and study of wild birds and their habitats in Greece.

WWF Greece

- Established in 1994, as a charitable foundation.
- Member of World Wide Fund for Nature (also known as World Wildlife Fund), an independent conservation organization active in nearly 100 countries, working to sustain the natural world for the benefit of people and wildlife.
- Focus on the promotion of environmental democracy through both proactive (advocacy, capacity building for better laws and enforcement) and reactive (legal action against the retrogression of environmental law during the economic crisis) initiatives.

The shadow report

- Submitted by the partner NGOs in April 2021 in accordance with decisions I/8 and VI/7 of the Meeting of the Parties (2021 Reporting Cycle of the Aarhus Convention).
- Presenting specific examples of non-adherence of the Greek authorities to the certain obligations set out in the Aarhus Convention, with the purpose of ensuring better compliance and, in turn, better protection of the environment.
- Structured in three sections, with each section covering one of the three pillars of the Aarhus Convention.
- Each section showcases the NGOs' assessment on certain decisions and actions of the Greek state which constitute breach of the relevant provisions of the Aarhus Convention.

1st pillar: Access to environmental information (articles 3-5)

1. Non-granting of access to environmental information by the Greek public authorities
 - a. The not properly justified use of exemptions in
 - i. the PPC case
 - The Single Production Permit (SPP) & the Single Provisional Operation Permit (SPOP) of Large Combustion Plants (LCPs)
 - Provided by virtue of special laws and acts of legislative nature (or Emergency Acts) - Required documentation for the “regularization” of the permitting of all the LCPs (incl. application form, environmental permit, topographic diagram, technical report etc)
 - Request to access the documentation was filed to General Directorates of the Ministry of Environment & Energy (MoEE) - Refusal on grounds of intellectual and industrial property rights
 - Seizure of the Greek Ombudsman - The refusal of the public authorities was not properly justified - Persistent refusal by the MoEE on additional grounds of public safety reasons

1st pillar: Access to environmental information (articles 3-5)

1. Non-granting of access to environmental information by the Greek public authorities
 - a. The not properly justified use of exemptions in
 - ii. the Fracking case
 - Special Committee within the MoEE responsible for conducting a research in relation to the existence of shale gas/black shale formations and bituminous shales in Greece - The Special Committee's Reports
 - Request to access these Reports was filed to General Directorates of the MoEE and the Institute of Geology and Mineral Exploration (public law institution) - Lack of response
 - Request for order by the Public Prosecutor to access the Reports - Order was granted - Refusal on grounds of intellectual property rights, incomplete or fragmentary data etc - Media leak
 - b. Alleged breach of art. 4 of the AC & art. 24(2) of the IED 2010/75/EU

1st pillar: Access to environmental information (articles 3-5)

2. Non-transparency and difficulty in the use of the environmental electronic registers
 - a. The Greek electronic environmental registers (non exhaustive list)
 - The electronic registry of environmental permits & inspections
 - not user friendly
 - only authorized users, and not the interested public, have access to the results of environmental administrative inspections
 - The electronic environmental registry
 - supposed to host the “life cycle” of environmental permits and the public consultation process of projects
 - not user friendly
 - prior registration is required
 - inconsistent function (e.g. project documentation is not always available)
 - b. Alleged breach of art. 3(1) and 5(2,9) of the AC

2nd pillar: PP in the decision-making process regarding environmental matters (articles 6-8)

1. The *ex lege* prolongation of all environmental permits by 5 years (law no 4685/2020)
 - a. The concept of “change of circumstances” (meaning, competent authority)
 - b. Alleged breach of art. 6(1)(a), Annex I item 22 of the AC - art. 6(10) of the AC [see also findings of the ACCC on the cases ACCC/C/2014/104, ACCC/C/2013/107]
 - c. Under consideration by the European Commission [open case [INFR\(2019\)2217](#)]

2nd pillar: PP in the decision-making process regarding environmental matters (articles 6-8)

2. Adoption of environmental plans without prior submission to a public consultation procedure

- a. The Greek Transitional National Plan (TNP) regarding LCPs
 - Provided by the IED (2010/75/EU) and the relevant JMD
 - No provision for public participation either prior to or during the drafting of the TNP
 - No data were made publicly available regarding the TNP
 - Complaint filed by WWF Greece & ClientEarth before the ACCC on the grounds of violation of art. 6 and 7 of the AC (case [ACCC/C/2017/149](#))
- b. Adoption of environmental plans by specific legislation
 - Spatial plans, regularization of existing activities, updating of operating conditions etc.
 - Alleged breach of art. 6(2) and 6(3) of the AC

2nd pillar: PP in the decision-making process regarding environmental matters (articles 6-8)

3. Regulation of hunting activity without prior proper public consultation process
 - a. No data is made publicly available in an early and effective manner
 - Unable to verify the scientific completeness, timeliness and adequacy
 - Alleged breach of art. 7(a), 6(3,4) of the AC
 - b. Non-disclosure of the submitted comments
 - Alleged breach of art. 7(a,d) and 6(8) of the AC

3rd pillar: Access to justice regarding environmental matters (article 9)

- a. Approval of environmental permit through a legislative act
 - The PPC case - the SPP, the SPOP and environmental permits of LCPs were provided by virtue of special laws and acts of legislative nature (or Emergency Acts)
 - Under Greek law legislative acts are not subject to a judicial review
 - Self-evident “decision[s], act[s] or omission[s] subject to the provisions of article 6”
 - Complaint filed by WWF Greece & ClientEarth before the ACCC (case [ACCC/C/2017/148](#))
- b. Alleged breach of art. 9 (2,4) of the AC, art. 47 of the EU Charter of fundamental rights

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The process:

- Participation of public authorities (Ministries, Greek Ombudsman etc.), competent Services (Departments and Directorates) of the Ministry of Environment, Regional units and decentralized administrations, NGOs
- Consultation period of approximately 12 weeks before the first draft was displayed on the Internet (by email, regular mail, etc)
- First draft open for public consultation on the official website of MoEE for a 6 week period
- The (summary of the) comments were incorporated in the final version of the report
- The HOS submitted comments by email on 1.12.2020
- This is the fifth report to be submitted by Greece

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Key remarks regarding the obstacles encountered in the implementation of the AC:

- The “lack of sufficient resources”, the “lack of appropriate infrastructure” or the “lack of funding” are commonly raised by the MoEE, but cannot justify the non conformity with the AC or EU legislation
- “No particular difficulties concerning the definitions in article 2 and the interpretation of the definition "environmental information" were met. Limited difficulties identified in some cases concerning the exceptions and in particular the identification of confidentiality of industrial information”
- “Limited difficulties, concerning the interpretation and management of the definition "environmental information”.

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Key remarks regarding the obstacles encountered in the implementation of the AC:

- According to the MoEE the “participatory processes can take a lot of time and money, affecting the timely implementation of the legislative act under public consultation (e.g., possible delays, potential changes in the plans)”.
- “limited public ability and willingness to participate as well as in some cases the large number of irrelevant information/ views”
- According to the MoEE the “**public participation at the national level is on the rise**: 8 consultations conducted by the MoEE in 2015 attracted 589 public comments (about 75 per consultation), but in 2017, 2085 comments were submitted in 13 consultations (about 160 comments per consultation) (IEEP, 2019)”. However, these are very low numbers.

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Key remarks regarding the obstacles encountered in the implementation of the AC:

- According to the MoEE the “in some cases the databases as well as the environmental data are not regularly updated, nor is there an established mechanism to determine the need for revision (e.g. Latomet project)”, but it is not the only example
- According to the MoEE the “there is a need for further interoperability between data bases and/or registries”
- Lack of effective public consultation for the RBMPs (e.g. supporting documents are not made publicly accessible)
- “Hellenic Ombudsman, as reported in previous reporting cycles has received a numerous public complaints and petitions concerning denial to access to environmental information”, however “currently there is no specific committee for review of refusals of access to environmental information” (general administrative law provisions apply)

Key recommendations

- Effective implementation of key principles of Open Government (OGP)
 - Transparency
 - Citizen participation
 - Accountability
 - Technology and Innovation
- Restrictive use of exemptions to access environmental information
- Open data policy - The environmental registers (functional, updated etc)
- Restrictive use of approval/renewal of environmental plans through legislative acts, not priorly submitted to a public consultation procedure
- Open, transparent consultation process

Thank you for your attention!
We would be happy to answer any questions.

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