

THE RELATIONSHIP BETWEEN THE ACCESS TO INFORMATION AGREEMENT AND THE ENVIRONMENTAL ASSESSMENT

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Abstract:

The concept of access to environmental information refers to the right of the public to access information held by public institutions. Public participation is a general concept based on the idea that people interested in and affected by a decision must participate in the decision-making process, and their opinions and concerns must be heard and taken into account. This is achieved by adopting mechanisms through which the public or public representatives are involved in the decision-making process and are given the opportunity to contribute by expressing their views, opinions and needs. The thesis concluded that the impact of this right is represented by a basic and necessary mechanism to ensure the practical activation and effective enforcement of the broader right to a healthy and sustainable environment.

Keywords: Aarhus Convention, Access to Information, Public Participation in Environmental Decision-Making.

Introduction

The Convention on Access to Information, Public Participation in Decision-Making and Environmental Justice, known as the Aarhus Convention of 1998, is considered one of the most important international instruments that impose obligations on the parties towards their citizens..

The Aarhus Convention is aimed at ensuring procedural rights, such as public access to information and participation in decision-making, as well as access to justice. The purpose of this convention is embodied in its first article in protecting the right of every individual to live in a healthy environment suitable for his health and well-being through the procedural rights referred to above. It is also aimed at protecting and improving the environment for the benefit of present and future generations.

There is a convergence between the Convention on Access to Environmental Information and the provisions of international law relating to the protection of human rights. This convergence is evident in the respect of the States Parties to the Convention through the establishment of a mechanism for verifying compliance with the provisions of the Convention. This is a supervisory mechanism that opens the possibility of challenging the decisions of the States Parties regarding the implementation of the Convention, and it can be accessed not only by the States Parties but also by individuals and non-governmental organizations..

First: The importance of the research topic:

The importance of research lies in improving access to environmental information, which leads to increased public understanding of issues related to the environment surrounding them, in addition to raising the level of public awareness through participation in decision-making, by increasing the circle of public participation, which leads to enhancing confidence and improving the quality of decisions.

Second: The research problem: _

The right to access environmental information is characterized by being a vague term, as the method of obtaining it is often subject to many difficulties, where the problem of the study is highlighted in:

1-the ambiguity of the means of obtaining and protecting environmental information at the international or national level, especially in national legislation in general and Iraq in particular.

2_ The difference in concepts or connotations of the right to access information between national and international legislation, which makes environmental protection weak due to the lack of awareness on the part of international and local communities.

3The emergence of globalization, which has many negative effects on the environment and sustainable development, and the lack of access to democratic justice for the environment due to the failure to share environmental information with all citizens who wish to obtain it.

Third: Research methodology

In this research, we relied on the descriptive approach, in addition to the legal approach, by explaining the role of international and national legislation in providing freedom of access to information, in addition to the important role of the Aarhus Convention of 1998, in enshrining this right. We also relied on the analytical approach, by analyzing and evaluating the role of the international community in protecting the environment.

The first topic

The impact of the agreement on access to information in the field of the environment

Environmental assessment is a formal process that was already being used by the time the Convention was negotiated in more than 100 countries and international organizations to help decision-makers consider proposed environmental consequences. When applied to specific activities, such as development projects, environmental assessment usually takes the form of an environmental impact assessment. When applied to strategic activities, such as programming, it is known as a strategic environmental assessment. However, the scope of application of Pillar II of the Aarhus Convention differs from that of environmental assessment and is much broader. For example, Article 6 of the Convention addresses the review or updating of the operating conditions of specific activities. In many countries, this is not subject to an environmental impact assessment unless it is linked to a significant change in the activity. Rather, it is subject to environmental permits, for example, the licensing required in EU Member States under the Industrial Emissions Directive. Similarly, Article 6 of the Convention applies to plans and programs related to the environment, a concept much broader than plans and programs that are likely to have significant environmental impacts.

The first requirement

Concepts of Environmental Impact Assessment and Strategic Environmental Assessment

Adopted by the Parties to the Convention on Biological Diversity in 2002, the Principles are for integrating biodiversity-related issues into environmental impact assessment (EIA) and strategic environmental assessment (SEA). The following guidelines provide an explanation of the overlap and differences between EIA and SEA. Environmental impact assessment (EIA) is defined as the process of assessing the likely environmental impacts of a proposed project or development, taking into account interrelated social, economic, cultural, health, and human impacts. Strategic environmental assessment (SEA) can be defined as a formal, systematic, and comprehensive process for identifying and evaluating the environmental consequences of proposed policies, plans, or programs with a view to fully integrating and appropriately

addressing them at the earliest possible stage of the decision-making process, on an equal footing with economic and social considerations.¹ .

It can be noted that strategic environmental assessment, by its nature, covers a wider range of activities or a wider area, and often over a longer period of time than the environmental impact assessment of projects. Strategic assessment is applied to an entire sector, an example of which is the national energy policy, and it is also applied to a geographical area, for example, in the context of a regional development plan.²

Despite the differences between the EIA and SEA processes, the legal frameworks in force, whether at the national or international level, have many similar features that distinguish them from other procedures used in decision-making. Both relate to proposed or planned activities, as opposed to existing activities, and both involve the preparation of documents that meet certain requirements. For example, the documents are required to include a discussion of the environment likely to be affected, alternatives to the activity, and the potential impact of the proposed activity..

Moreover, we find that both involve similar procedures such as screening to identify activities that require assessment and identification. Another important feature that distinguishes environmental impact assessment and strategic environmental assessment from some other procedures used in environmental decision-making.

The first branch

Elements of Environmental Impact Assessment and Strategic Environmental Assessment procedures

The 1991 Espoo Convention defines environmental impact assessment in Article 1, paragraph 6, as follows: “Environmental impact assessment means a national procedure for assessing the likely effect of a proposed activity on the environment.” Article 2, paragraph 2, states: “This requires the establishment of environmental impact assessment procedures that allow for public participation and the preparation of environmental impact assessment documents set out in Annex II.” The Strategic Environmental Assessment Protocol defines strategic environmental assessment in Article 2, paragraph 6, as follows: Strategic environmental assessment means the assessment of potential impacts, including health impacts, which includes the scoping and preparation of an environmental report, the implementation of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme..³

Although environmental assessment in the form of environmental impact assessment or strategic environmental assessment plays an important role in facilitating effective public participation under Articles 6 and 7 of the Convention, environmental impact assessment and strategic environmental assessment procedures as currently organized at the national and international levels cannot be considered capable of fully implementing the public participation requirements of the Convention. However, environmental assessment is a very useful tool in ensuring effective public participation in decision-making. Without documentation of the

¹Edit Brown Weiss, *Our Rights and Obligations to Future Generations with Respect to the Environment*, American Journal of International Law, Vol. 84, 1990.

²Jonas Ibbeson, *Public Participation and Privatization in Environmental Matters*, Erasmus Journal of International Law, Vol. 2, issue 4, 2011

³J. Jendroska, *Arhus convention compliance committee: Origins, status and activities*, Journal for European environmental, planning law, Vol. 10, 2011.p.101

environmental assessment, the public usually does not have easy access to reports or studies that assess the environmental and health risks associated with any activity. Such documents thus help the public develop and express its own scientific opinions on a proposed activity, plan or policy..⁴

First: Public participation in decision-making regarding specific activities

Different national regulatory frameworks may provide for decisions to support activities with different names and legal characteristics. It is not always clear whether a particular type of decision amounts to a permit decision under Article VI of the Aarhus Convention, or a decision to adopt a plan or program under Article VII of the Convention. Therefore, it can be noted that the Convention does not establish a precise boundary between decisions of the type referred to in Article VI and decisions of the type referred to in Article VII of the Convention. Article VI simply specifies the location where the specific activity will take place, and a number of additional decisions will be required to issue permits of various types, such as construction, environmental, and operational permits, before activities can proceed..⁵

However, this is more characteristic of decisions under Article VI than Article VII. They concern the implementation of a specific Annex I activity at a specific location by or on behalf of a specific applicant. Certain elements may help to classify a decision as falling under Article VI or Article VII. For example, a decision under Article VII is (a) an individual decision of a public authority; (b) upon an individual application by an applicant for a licensing decision, often a developer, operator, or operator of an existing facility; (c) authorizing the applicant to carry out a specific activity (a development project); (d) at a specific location and under specific conditions; (e) usually in accordance with the general requirements established by plans or programs that establish the framework for such projects. By comparison, a typical Article VI decision is a plan or program that has the following legal nature: (a) a general law, often finally adopted by the legislature; (b) initiated by a public authority; (c) often sets in a binding manner the framework for certain categories of specific activities (a project); and (d) is usually insufficient to carry out any individual activity without a licensing decision..⁶

As for the mechanism for implementing public participation, under the agreement, the parties are bound by certain basic obligations that they must implement in practice. However, each party has some flexibility in how to adapt the agreement's obligations to its national legal and institutional system. The basic obligations imposed on the parties are indicated in Articles 6, 7 and 8 of the agreement and the practical guidelines for its implementation. Article 6 stipulates implementation guidelines, including setting criteria for assessing the importance of non-listed assets, as well as identifying decisions that permit activities, including decisions that should be subject to public participation requirements, in addition to developing incentives for applicants to participate in early dialogue, setting guidelines and standards for the quality of relevant information, and establishing clear procedures for submitting comments in writing or at hearings..⁷

⁴Sritri Jetto, stakeholder engagement for inclusive climate governance: The case of the city of Turku, MDPI2019.p11

⁵Ibid., p. 12

⁶Edit Brown Weiss, Our Rights and Obligations to Future Generations with Respect to the Environment, American Journal of International Law, Vol. 84, 1990p44

⁷Gurdial Singh Nijar, Incorporating Traditional Knowledge in an International Regime on Access to Genetic Resources and Benefit Sharing: Problems and Prospects, European

It also includes overseeing how public authorities deal with comments, clearly defining any exemptions, and providing flexibility in setting timeframes that may facilitate public participation through early dialogue with the applicant, emphasizing public participation early in making decisions on activities that may have a significant environmental impact, as well as notifying the concerned public, as well as setting reasonable timeframes for the stages of public participation and providing all relevant information to the concerned public, which leads to providing opportunities for the public to do so, taking into account the outcome and informing the public of the final decision with reasons for it.⁸

Second: Public participation and environmental impact assessment

Public participation in environmental impact assessment procedures is not in itself a licensing or authorization process, but rather a decision-making tool. The term environmental impact assessment has become standardly associated with procedures for assessing potential environmental impacts as part of the decision-making process for a proposed activity. The Convention explicitly refers to environmental impact assessment procedures in Article VI, paragraph 2 (e) of the Aarhus Convention.⁹

Although the term environmental impact assessment is used in the Convention, the test of whether the Convention applies to a particular decision-making procedure is not whether the procedure is required to include an environmental impact assessment or whether it is considered environmental decision-making under national law, but rather whether the decision-making itself may have a potentially significant impact on the environment. Therefore, environmental impact assessment procedures are usually closely linked to decisions that determine whether a proposed activity may proceed or not, and thus may be considered part of the decision-making process. In theory, environmental impact assessment procedures may reveal the potential for negative environmental impacts from a proposed project, so the decision may be to proceed with the project.¹⁰

On the one hand, this may be the opposite, i.e., the EIA procedure may reveal the possibility of no significant environmental impacts, yet the decision may be not to proceed. However, since the EIA procedure often involves the most detailed examination of the environmental consequences of proceeding with a proposed activity, the results of the EIA procedure often play an important role in the decision itself.¹¹

We note that the Aarhus Convention does not make environmental impact assessment a mandatory part of public participation. Rather, it only stipulates that when public participation is provided for under an environmental impact assessment procedure in accordance with national legislation, public participation must apply the provisions of Article 6 thereof. Therefore, under

Journal of International Law, Oxford Academic, Vol.21, Issue 2, 2010, p.450.

⁸Ibid., p. 451

⁹Jo Ansie van Wyk and Donald Anthony, *Climate Change and Natural Resources Conflict in Africa*, Published by Institute for Security Studies, 2010, p.8

¹⁰J. Jendroska, Aarhus convention compliance committee: Origins, status and activities, *Journal for European environmental, planning law*, Vol. 10, 2011.p.101

¹¹Israa Nader Kitan and Lama Abdel-Baqi Mahmoud, *International Liability for Damages Caused by Cyber Attacks*, *Journal of Legal Sciences*, College of Law, University of Baghdad, Volume 36, Part Two, Special Issue for Research by Faculty Members and Graduate Students, 2021

the Convention, public participation is a mandatory part of environmental impact assessment, but environmental impact assessment is not necessarily part of public participation. Therefore, we find that a decision stating that there is no need for an environmental assessment does not constitute a breach of the Convention, even if such a decision constitutes a breach of national or international law relating to environmental assessment. Therefore, the factual accuracy, integrity and legitimacy of examination decisions are not subject to the provisions of the Convention, especially decisions stating that there is no need for an environmental assessment, even if such decisions were taken in violation of applicable national or international laws relating to environmental assessment, and therefore cannot be considered a violation of the first paragraph of Article 6 of the Convention.¹²

The second branch

Access to information and environmental impact assessment procedures

The decision-making process in relation to large-scale activities may involve several stages and parallel processes and may depend on access to information and participation in the decision-making process not only at one stage of the decision-making process, but also on access and public participation that occurs more than once. In the complex decision-making process, access to environmental information and public participation must be available in order to be effective at every stage, as a primary or secondary decision taken by a public authority may have a significant impact.¹³ Especially in the process of making decisions about activities, a set of permits may be required for complex activities, where any permit must have an impact on the environmental significance of the proposed activity covered by the agreement.¹⁴

First: Environmental Impact Assessment Procedures

Early public participation is closely related to environmental impact assessment procedures, as it is sometimes interpreted as requiring mandatory public participation at the scoping stage or even at the screening stage. The Convention itself does not clearly specify the precise stage at which an environmental impact assessment should be subject to public participation, and in fact, doing so would be particularly difficult given the wide variety of approaches used in conducting environmental impact assessments. Therefore, each Party should, where appropriate, encourage potential applicants to identify the relevant public, engage in discussions, and provide information regarding the objectives of their application before applying for a permit.¹⁵

A potential applicant is a person who intends to apply for a decision from a public authority regarding an activity or a significant change in an activity in accordance with an applicable national procedure. The efficiency of public participation can be increased by encouraging the

¹²E. Fasoli and A. McGlone, The non_compliance mechanism under the Aarhus convention as “soft” enforcement of international environmental law: Net so soft after all, international law review, Vol.56, Issue 1,2018,p.14.

¹³Loka E., International environmental law_ Fairness and world order, Cambridge university press, New York, 2006.

¹⁴Abdul Wahid Muhammad Al-Far, The International Organization, Dar Al-Nahda Al-Arabiya, Cairo, 2002, p. 155

¹⁵Hussam Abdul Amir Khalaf, Sustainable Development and Nuclear Energy: A Dialectical Relationship, Journal of Legal Sciences, College of Law, University of Baghdad, Volume 34, Issue 1

potential applicant to take certain steps before applying for a permit.¹⁶This increases the applicant's involvement in the public participation process and may also encourage the applicant to take some responsibility for communicating with the public. This process can resolve misunderstandings between the applicant and the relevant public, minimize conflicts, and thus reduce the burden on public authorities to address these issues. Given that some countries impose obligations on the applicant regarding their activity, early participation by the applicant may be of great value.¹⁷

The procedures that must be undertaken by potential applicants are represented in three steps. The first step is to identify the relevant audience, meaning that the applicant must be aware of the local conditions that allow him to identify the members of the public who are likely to be affected by the proposed activity. The second step is for the applicant to enter into discussions with the relevant audience. We note that this has clear benefits, including increasing the public's understanding of the objectives and criteria of the proposed activity, and increasing the applicant's understanding of the nature of the public's interests.¹⁸Direct communication between the applicant and the public not only reduces the burden on the public authority, but also reduces the virtual distance that information has to travel. .

Second: Documenting the environmental impact assessment under the Espoo Convention

The Espoo Convention provides a minimum content for environmental impact assessment documents that, in conjunction with Article 4, allows the public to collect information relevant to the project. The content of environmental impact assessment documents must include the information required to be included in environmental impact assessment documents as a minimum, in accordance with Article 4, as follows:

A- Description of the proposed activity and its purpose.

b- A description, where appropriate, of reasonable alternatives, for example location or technology, to the proposed option, as well as the alternative of not taking any action..

C- Description of the environment that is likely to be significantly affected by the proposed activity and its alternatives..

D- Description and assessment of the environmental impact of the proposed activity and its alternatives..

e- Description of mitigation measures aimed at keeping the harmful environmental impact to a minimum..

- Explicit reference to predictive methods and underlying assumptions as well as relevant environmental data..

Z- Identify known gaps and uncertainties encountered while gathering the required information..

h- Where appropriate, a plan for monitoring and management programmes and any plans for post-project analysis..

¹⁶Implementation Plan for the Cartagena Protocol on Biosafety, see:

<http://bch.cbd.int/protocol1/post2020/plan.shtml>

Accessed on 4/18/2025

¹⁷Osawe I. Khide and Anthony O., Environmental governance policy and administration research, 2016,p.33

¹⁸Council of Europe Convention on Access to Official Documents:

https://environment.ec.europa.eu/law_and_governance/aarhus.en

Accessed on 5/1/2025

The competent public authority must provide access to information as soon as it becomes available. This clearly imposes a continuing obligation on public authorities to make new information available to the public in the same way as the original information was made available as soon as it emerged. The principle underlying this obligation is also present to some extent in the Espoo Convention, which requires its Parties to inform other interested Parties immediately if additional information becomes available about any significant border impact of a proposed activity that would not have been available at the time of the decision on that activity and could have materially affected the decision before the commencement of work on that activity.¹⁹

The second requirement

Public participation in decision-making regarding genetically modified organisms

Most of the provisions of the Aarhus Convention relate to the environment in general, but it pays particular attention to information and public participation in decision-making related to genetically modified organisms. During the negotiations on the Convention, the negotiating parties were unable to reach an agreement on the extent to which its provisions apply to the deliberate release of genetically modified organisms into the environment. It was agreed to keep the issue open for further definition in the light of future developments. The Convention was later adopted at the Fourth EU Ministerial Conference for Europe in 1998, where the signatories asked the parties to continue developing the Convention in the field of genetically modified organisms. Austria was the lead country and commissioned the working group to monitor developments in other forums and make recommendations on the future handling of genetically modified organisms under the Convention..

The first branch

Decisions on the permission of the deliberate release of genetically modified organisms into the environment

Article 6, paragraph 11 of the Convention on Access to Environmental Information states: “Each State Party shall apply, within the framework of its national law, to the extent possible and appropriate, the provisions of this Article to decisions relating to the intentional release of genetically modified organisms into the environment.” This Article has been amended to become Article 6, paragraph 11, which states: “Without prejudice to paragraph 5 of Article 3, the provisions of this Article shall not apply to decisions relating to the authorization of the intentional release of genetically modified organisms into the environment and their placement on the market.” We will examine these articles in order: Article 6 before the amendment, then the amended Article..²⁰

First: Article Six before amendment

The Agreement on Access to Environmental Information imposes on parties that have not ratified the modification of genetically modified organisms an obligation to apply Article (6/11)

¹⁹Hadi Naeem Al-Maliki and Hadeel Saleh Al-Janabi, The Polluter Pays Principle within the Framework of International Responsibility Resulting from Environmental Pollution, Journal of Legal Sciences, University of Baghdad, Volume 28, Issue 2013, Special Issue for Teaching Research with Postgraduate Students 2023

²⁰Hawra Qasim Fanous and Mustafa Salem Abdul, Climate Justice in Light of the Paris Climate Change Agreement, Journal of Legal Sciences, College of Law, University of Baghdad, Volume 37, Part 1, Special Issue for Teaching Research with Postgraduate Students, 2023.

of the Agreement to decisions related to allowing the intentional release of genetically modified organisms into the environment to the extent possible and appropriate. Article 6 must be applied within the framework of national law. For example, Article (50) of the Bulgarian Law on Genetically Modified Organisms stipulates that the Ministry of Environment and Water is obligated to organize a public discussion on any request to release genetically modified organisms into the environment. The public discussion must be held no later than forty-five days.²¹ After the Bulgarian Advisory Committee on GMOs has expressed its opinion on the application, the date and place of the next public discussion, as well as the place where the public can access all relevant information, must be announced no later than thirty days before the date of the discussion in a central daily newspaper and in the media in the area of issuance by placing signs in town halls within that area and on the Ministry's website. Anyone may submit comments in writing or electronically. The applicant or his representatives and members of the committee will be invited to participate in the public discussion. Minutes of the public discussion must be kept and must be taken into account when deciding on issuing the permit.²²

Second: Article Six after amendment

Article 6(11) of the Aarhus Convention has been amended to include provisions that do not apply to decisions regarding the intentional release into the environment and placing on the market of genetically modified organisms. However, the provision is introduced by stating, without prejudice to Article 3(5) of this Article, that a Party may introduce measures that provide for broader access to information, broader public participation in decision-making, and broader access to justice in environmental matters than required by the Convention.²³

As for Article 6 bis on public participation in decisions regarding the deliberate release into the environment and placing on the market of genetically modified organisms, Article 6 bis of the Convention stipulates requirements for public participation in decision-making regarding the deliberate release into the environment of genetically modified organisms, as well as their placing on the market. Article 6 bis does not apply to the limited use of genetically modified organisms. However, this type of activity is covered by the Lucca Guidelines on Genetically Modified Organisms.²⁴

As for the concept of the terms intentional release, placing on the market, and limited use, the Convention or the amendment do not define the terms intentional release, placing on the market, or limited use, but Annex I of the Lucca Guidelines provides the following definitions: intentional release is defined as the intentional introduction into the environment of genetically modified organisms or a group of genetically modified organisms without the use of specific containment measures to limit contact and provide a high level of addiction to the population at large. As for the concept of placing genetically modified organisms on the market, it can be

²¹S. Whittaker, J. Mendel and C. Reid, Back to square one, Revisiting how we analyze the right of access to environmental information, *Journal of environmental law*, Vol.31, Issue 3, 2019, p.465.

²²Abdul Hassan Naji Attia, International Responsibility for Incitement in International Humanitarian Law, *Journal of Humanities and Natural Sciences*, Volume 2, Issue 3, 2021, p. 14.

²³Dennis Lloyd, *The Idea of Law*, Year of Knowledge, Kuwait, 1981, p. 155.

²⁴Idris Qader Rasool, The Principle of Common and Differentiated Responsibilities of States as a Means for Protecting the Environment and Promoting Sustainable Development under International Environmental Law, *Basra Studies Journal*, College of Law and Political Science, University of Basra, Issue 48, Volume 18, 2023, p. 200

defined as making genetically modified organisms available to third parties, whether for payment or free of charge. As for the term limited use, it means any activity carried out within a facility, installation, or other physical structure that includes genetically modified organisms, controlled by specific measures that effectively limit their contact with and impact on the external environment, in accordance with the methods provided for in Annex I bis. Each Party shall provide early and effective information for public participation before making decisions on whether to allow the intentional release of organisms. Genetically modified in the environment and put on the market.²⁵

The second branch

Synergies with the Convention on Biological Diversity and the Cartagena Protocol on Biosafety

The Parties to the Aarhus Convention recognized the need to cooperate with other international organizations and forums, particularly the Cartagena Protocol on Biosafety, with a view to maximizing synergies and avoiding duplication of efforts, including by encouraging information exchange and cooperation between relevant secretariats. The Riga Declaration, adopted at the third session of the Meeting of the Parties, also recognized the value of further cooperation with the bodies of the Cartagena Protocol in activities to support the implementation of the Lucca Guidelines on Genetically Modified Organisms and the implementation of the Almaty Amendment on Genetically Modified Organisms. The Cartagena Protocol on Biosafety to the Convention on Biological Diversity was drafted by the Parties to the Convention on Biological Diversity during the same period in which the Aarhus Convention was being negotiated. The Cartagena Protocol was adopted on 29 January 2000 after lengthy and intensive negotiations and entered into force in 2003.

Each State Party shall establish within its regulatory framework the necessary arrangements to ensure effective information and public participation in connection with decisions subject to the provisions of Article VI bis, which shall include a reasonable time frame to give the public an adequate opportunity to express its views on such proposed decisions. The basic requirements for public participation set out in Article VI of the Aarhus Convention for decision-making on genetically modified organisms, in particular, are the principle of effective information and the basic elements of public participation, meaning that within these or any public participation procedures, whatever their form (for example, plenary meetings, stakeholder dialogues, and consensus conferences), the public is given sufficient time frames to prepare and participate effectively during the decision-making process..²⁶

The decision-making process is complex, and therefore access to relevant information is a prerequisite for allowing the public to provide its views. The timeframe allowed may differ between decisions regarding the release of genetically modified organisms and decisions regarding the placing of genetically modified organisms on the market, as well as between countries. The forms of public participation in relation to the intentional release of genetically

²⁵Aya Amir Abdel Latif and Lama Abdel Baqi Mahmoud, New Diplomatic Patterns in the Light of Information and Communication Technology, Journal of Legal Sciences, College of Law, University of Baghdad, Volume 36, Special Issue for Teaching Research with Postgraduate Students, 2023

²⁶M. Mason, Information Disclosure and environmental right, The Aarhus convention, Global environmental politics, Vol.10, Issue 3, 2010, p.13

modified organisms and their placing on the market should determine the possibility of exemption from this procedure. However, these exemptions are not mandatory and can be applied at the discretion of each party. Given the different scope of the two activities in which genetically modified organisms covered by Article VI bis operate – intentional release and placing on the market – exemptions are specifically defined for each. Parties may provide exceptions to the public participation procedure provided for in relation to the intentional release of genetically modified organisms other than their placing on the market, as follows:

(a) if such release has already been approved under similar biogeographic conditions within the Party's regulatory framework;

(b) Sufficient experience has already been gained in releasing the genetically modified organism in question into similar ecosystems. Both conditions are required before a Party may rely on this exemption. Except as otherwise provided in a Party's national biosafety framework, a Party may exempt itself from the obligation to undertake the public participation required for decision-making on an intentional release of genetically modified organisms if such a release has been approved under similar geographical conditions. It is important to note, however, that the relevant release would have to take place within the Party's territory. For example, a intentional release that occurred in a similar biogeographical area in a neighbouring State would not constitute a sufficient basis to prevent such an exemption..²⁷

The formulation of the phrase “comparable biogeographic conditions” should be viewed against the background that the potential effects of genetically modified organisms on the environment depend not only on the type of genetically modified organism but also on the prevailing environmental conditions, for example, climatic factors, the number of generations of target pests, the presence of non-target organisms and wild relatives, agricultural practices, etc. Data obtained from a field trial using a genetically modified organism in a particular area under a particular set of conditions cannot replace experimental releases in environments with different conditions. Therefore, any decision to grant an exemption must be judged on a case-by-case basis..²⁸

Conclusion

First: Conclusions

- 1- The right to access environmental information is closely related to members of the public, and therefore citizens must be enabled to enjoy environmental rights through access to information.
- 2- The Espoo Convention provides a minimum content for environmental impact assessment documents that allows the public to gather relevant information. The content of environmental impact assessment documents must include the information required to be included in environmental impact assessment documents.
- 3-Each Party should, where appropriate, encourage potential applicants to identify the relevant audience, engage in discussions, and provide information regarding the objectives of their application before applying for a permit.

²⁷Jeon Baril, Introduction to environmental information: access to durable development, these doctorates, Universite Laval, 2012.p.23

²⁸Hassan Falah Qasim and Hussam Abdul Amir Khalaf, Generational Rights and Its Relationship to Sustainable Development, Journal of Legal Sciences, College of Law, University of Baghdad, Volume 36, Part 3, Special Issue for Research by Faculty Members and Graduate Students, 2021.

4- The content of the environmental impact assessment documents must include the information required to be included in the environmental impact assessment documents.

Second: Proposals

1- We propose to the national legislator to enact a law on obtaining environmental information..

2- Establishing special committees in each ministry that enable individuals to obtain information, after following specific procedures, as the competent authorities publish regulatory instructions regarding this..

3- Creating special websites that enable individuals to obtain information through electronic submission.

4- We suggest that the judicial procedures for access to justice be carried out at a nominal fee.

5- Establishing committees composed of international law professors at universities to submit periodic studies and reports on the mechanisms that enable citizens to obtain environmental information.

6- We propose supporting environmental education. By raising awareness among the public through environmental media.

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