

Avosetta Annual Meeting on 29/30 May 2015 in Bremen

Free Access to environmental information

Questionnaire for the national reports

As always, we are not expecting you to spend an excessive time on the questionnaire, and ideally to produce something reasonably succinct so that everyone will have time to read and compare for discussion. We appreciate that some questions may make more sense in some jurisdictions than others.

The questions are the following:

- 1) Constitutional frame, constitutionally guaranteed right of access to (environmental) information? Access to information as a fundamental (democratic) right?*
- 2) Other (national) legal acts providing access to information held by public authorities. Relationship with laws transposing Dir 2003/98 on re-use of public sector information*
- 3) National legal situation before Dir 90/313/EC: has the EC/EU legislation had a major impact on the national law on access to information?*
- 4) Statistical information about the use of the access-right including types of users if known (eg NGOs, competitive industry, general public, environmental consultants, etc). Difficulties of the administration handling the number and/or the scope of applications.*
- 5) Significant national law and jurisprudence on the definition of “environmental information” (Art. 1 para 1 Dir 2003/4/EC*
- 6) Significant national law and jurisprudence on determining the access right holder (“without having to state an interest”, Art. 3 para 1 Dir 2003/4/EC)*
- 7) Significant national law and jurisprudence on the realm and obligations of private persons as defined by Art. 2 No. 2 b and c 4/EC. (see ECJ 279/11 (Fish Legal)*
- 8) National law and jurisprudence on the public authorities to be addressed (“information held by or for them”) (Art. 3 para 1 Dir 2003/4/EC)*
- 9) Significant national law and jurisprudence on practices on access conditions (terms, “practical arrangements” (see Art.3 paras 3 – 5 Dir 2003/4/EC)*
- 10) Law and practices/jurisprudence on charges for access (copying? administrative time?)*
- 11) Do any public authorities claim copyright in the material supplied, and impose conditions relating to use of information under copyright law (such as due acknowledgement and user fees in case of re-publication)?*
- 12) National law and jurisprudence on the role of affected third parties in access procedures esp. concerning trade secrets and personal data (designation of trade secrets, consultation prior to release of information, etc)*

13) Significant national law and jurisprudence on exceptions (Art. 4 Dir 2003/4/EC)

More specifically:

- a. *Confidentiality of commercial or industrial information*
- b. *Confidentiality of the proceedings of public authorities / internal communications /*
- c. *Approach to the disclosure of:*
 - *“raw data” (Aarhus Compliance Committee case ACC/53/ Uk – see AC Implementation Guide 2014 p 85)*
 - *“material in the course of completion” vs “unfinished documents” see AC Implementation Guide 2014 p 85*
- d. *“Information on emissions into the environment” (Art. 4 para 2 subpara 2 Dir 2003/4/EC, see T-545/11)*
- e. *International relations, public security, national defence (see T-301/10 Sophie t’ Veldt)*
- f. *Weighing of interests in every particular case (Art. 4 para 2 subpara 2 Dir 2003/4/EC)*

14) Judicial control of access-decisions

- a. *Have specialised administrative appeal bodies (information officer etc) been set up? How do they work? Are their opinions respected?*
- b. *Court review: “in-camera”-control? Standing of parties affected by decisions denying or granting access?*

15) How do states fulfill the duty to make information actively available?

Please, could you prepare the answers by May 10, 2015 answering straightforward in order to enable us to make comparison and identify trends, drawbacks and advances. Try also to include leading cases where available. We suggest a length of paper of not more than 8 pages. There are no special directions on styling, but Harvard citation (author, year, page in brackets in the text, bibliography at the end) would be preferred.

Best regards

Gerd with thanks to Alexandra, Bernhard, Jerzy and Richard for cooperating in drafting the questionnaire