



Ministry of the Interior and  
Kingdom Relations

# The Implementation of the Aarhus Convention in the Netherlands

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## Implementation 2005

- > Government Information Public Access Act (Wet openbaarheid van bestuur)
- > Environmental Management Act (Wet milieubeheer)
  
- > General Administrative Law Act (Algemene wet bestuursrecht)



# Government Information Public Access Act (Wet openbaarheid van bestuur, Wob)

- > Concerns all access to information deposited at public bodies.
  - Main use is for requests from the public for public information
- > Adjusted in general, or for environmental information only in case Wob didn't comply to Aarhus Convention
- > General adjustments: i.e art 7 Wob (about the form in which information is given) was adjusted to art 4.1.b Aarhus Convention
- > Adjustments for environmental information only:
  - Time frame in which requested information is supplied
  - Excluding exceptions for environmental information when those exceptions are not mentioned in Aarhus Convention
  - Absolute exceptions (that don't need a balance of interests) made relative (a balance of interest is required)



## Environmental Management Act (Wet milieubeheer)

- > Concerns specific rules about environmental issues
- > Adjusting rules about informing the public in environmental issues
  - Mainly technical
- > Declares applicable general rules about public participation in the decision making process and the availability of the necessary information
  - This didn't need adjustment



## General Administrative Law Act (Algemene wet bestuursrecht, Awb)

- › Concerns a.o. rules about public participation and the way information needed by the public is available
  - These rules are made applicable in specific Acts, i.e. the Environmental Management Act (Wet milieubeheer)
  - These didn't need change



## Evaluation 2008

- › There is a difference between definitions and concepts in the Aarhus Convention and the Wob
- › Emphasis on information on request above active publications. The rise of Internet changes this, but that is not an influence of the Convention.
- › The way the Convention is practiced varies between different public bodies. They could do with more information and advice from the central authorities



# Difference between the Aarhus Convention and the Wob

- > Difference between “Public authority” in Aarhus and “bestuursorgaan” (bodies invested with public power)
  - Legal persons having public responsibilities or functions, or providing public services (Art 2, under c, Convention) have no public power. They can’t be requested for information under the Wob, it can only be done via a public body that is controlling the legal person.
- > Difference between exceptions
  - In Wob no special mention of material in the course of completion (is in Wob part of the confidentiality of the proceedings of public authorities)
  - The confidentiality of the proceedings of public authorities is in Wob restricted to personal opinions. Case law has decided that breaching confidentiality can be regarded as unbalanced damage, but that exception is not applicable for environmental information, as it is not included in the Convention.



## Upcoming changes

- › Open Government Act (intended to replace Wob)
  - Smaller difference between rules for environmental and non-environmental information
- › Environment and Planning Act
  - Various specific obligations to make information available are being redesigned
- › Electronic publication Act
  - New rules on notifying the public about forthcoming decisions (mainly digital instead of a publication in newspapers). A system is build to send you an e-mail about any decision that concerns an object within 250 m around your house. This should give better results than following Recommendations 64 and 65 Recommendations of Maastricht





## Personal opinion

- > Main choice was whether to implement the Convention in existing rules or in a special law for environmental information
- > The public wants information about a file or a case and isn't interested in the division between environmental and non-environmental information
- > Now we have one general law on freedom of information, that is complicated when different rules have to be applied within one request. But it would be worse when two laws have to be taking into account for one request