

INFORMATION



Access to

ENVIRONMENTAL INFORMATION

of the European Union

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Preface	4
Introduction	6
The European Union	8
Policy areas of the European Union	10
Die Aarhus-Convention	12
Your rights under the Aarhus Convention	14
The European Union as a Party to the Aarhus Convention	16
Your participation rights in the European Union	18
 Information on the environment of the European Union	 20
Your right to access to environmental information	21
Which European Union bodies can be contacted for information?	23
How to submit a request for information?	27
What happens after the request?	28
Are there reasons why information is not provided?	30
How much does an environmental information request cost?	32
 Further information	 33
Notes	34

P

reface



Environmental and climate protection is a complex task for society as a whole, which requires the interaction of various actors. Environmental pollution and the climate crisis do not stop at national borders. European environmental policy and legislation are becoming increasingly important. A saying used to be: „If you have a grandfather, send him to Europe“. But these times, when European Union policy was practically without influence and old men spent their last years of service in the European Parliament, are over. Nowadays, the EU Commission, Parliament and Council have far-reaching competences and powers. Most national environmental legislation is made in Brussels. Roadmaps such as the European Green Deal, presented in 2019, aim to set the course for a transnational, responsible environmental policy and sustainable transformation.

It is crucial to involve citizens and environmental organisations in the design and implementation of EU environmental policy at an early stage. They have a right to have their voices heard and be given serious participation opportunities. This is due to the fact that, in the Danish city of Aarhus on 25 June 1998, the European Union, as a founding member, signed the Aarhus Convention, the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Ever since, the Aarhus Convention has set high standards for access to environmental information, transparency and public participation in European and national administrative procedures, as well as access to justice for the European Union and its current 27 Member States.

As the European Union – alongside its Member States - is a signatory Party in its own right to the Convention, by signing and ratifying the Convention it expressed its support for the Convention's objectives and contents at the Union and national level. At the time of signing, the Union proclaimed:



Fully supporting the objectives pursued by the Convention and considering that the European [Union] itself is being actively involved in the protection of the environment through a comprehensive and evolving set of legislation, it was felt important not only to sign up to the Convention at [Union] level but also to cover its own [European] institutions, alongside national public authorities.

Within the institutional and legal context of the [Union] and given also the provisions of the Treaty of Amsterdam [later the Treaties of Nica and Lisbon] with respect to future legislation on transparency, the [Union] also declares that the [Union] institutions will apply the Convention within the framework of their existing and future rules on access to documents and other relevant rules of [Union] law in the field covered by the Convention.»

In concrete terms, this means that the processes and decisions of the European environmental administration must be made transparent to the public. It means that the public should not only have access to environmental information held by European authorities upon request, but that European authorities must also actively disseminate environmental information. In the course of the broad digitalisation, the requirements for the active provision of environmental information also changed. The participation and judicial access rights of European citizens and environmental associations must not only be developed within the Member States, but also for European procedures.

With this brochure, which is part of the three-part series »The European Union and the Aarhus Convention«, we inform about the content of the Aarhus Convention and its legislative implementation at the Union level. We will show how to get informed at the European level, how to promote the protection of our livelihoods and how to take legal action, in case necessary. Because a Europe that takes responsibility in a globalised world needs the democratic participation of its citizens.

Michael Zschiesche

Dr. Michael Zschiesche
Managing Director, Chairman of the Board and Head of
Department Environmental Law & Participation at UfU



» Twenty years ago, the Aarhus Convention entered into force, bridging the gap between human and environmental rights. Today, as the devastating effects of climate change continue to ravage the world, the Convention’s core purpose – of allowing people to protect their well-being and that of future generations – has never been more critical.«

António Manuel de Oliveira Guterres, Secretary-General of the United Nations

With the Aarhus Convention (AC), the rights to information, participation and legal action, were enshrined in international law for the first time as the right to protect the environment for every person – including future generations.

Since the European Union (EU) also signed the Convention on the 25th June 1998 and approved it on the 17th February 2005, the union of states has been an official and independent Party to the Convention. This means that the provisions of

the Aarhus Convention apply not only to the 27 Member States of the European Union, but also to EU institutions, such as the European Parliament or the Council. The Union implemented the three pillars of the Aarhus Convention in the EU Treaties and with an independent regulation, the so-called Aarhus Regulation, as well as other legal acts.

On the following pages, we will introduce the environmentally relevant areas of activity of the



European Union. We then aim to give you an understanding of the rights of participation in environmental matters which stream from the Aarhus Convention. Furthermore, we present opportunities for citizens and environmental organisations to advocate for environmental, climate and nature protection at the European level. This brochure of the three-part series »**The European Union and the Aarhus Convention**« focuses on your right to environmental information. All brochures contain further information at the end.

The official title of the Aarhus Convention is: »Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters«.

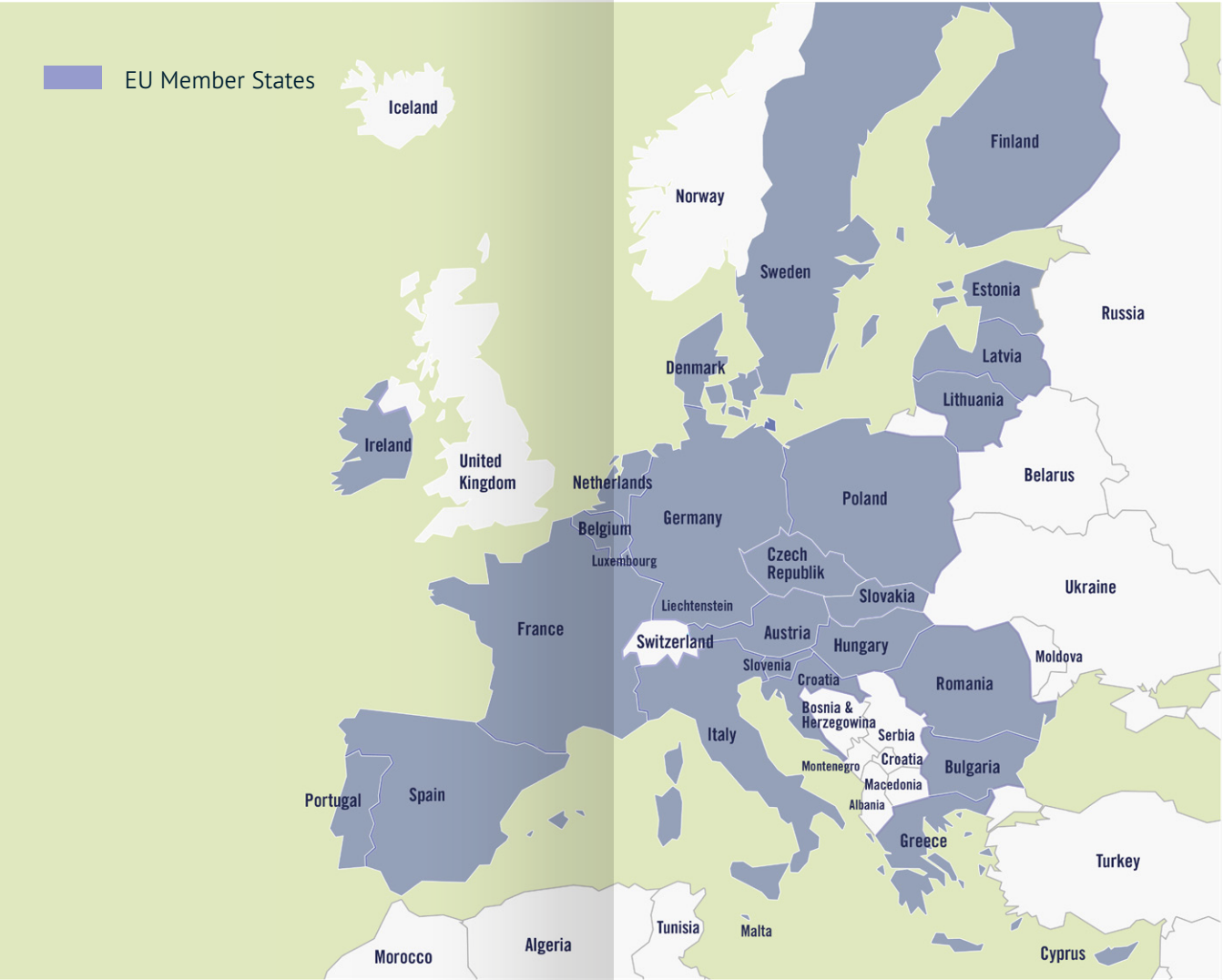
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The European Union

8

The European Union is a unique economic and political union consisting of 27 states on the European continent. The basis of the Union is the Treaty on European Union¹, abbreviated as TEU, the Treaty on the Functioning of the European Union², abbreviated as TFEU, (hereinafter »the Treaties«) and the Charter of Fundamental Rights of the European Union³. The Treaties enjoy equal legal status.

They set out the common goals and values of the Member States. The objectives of the union of states are sustainable development, the protection of the environment and the promotion of European values. These include respect for human rights and dignity, freedom, democracy and the rule of law.



9

The Union's objectives are to be achieved through various legal acts. The institutions, bodies, offices and agencies of the European Union (hereinafter »EU institutions«) adopt regulations, directives, decisions, recommendations and opinions. The legal acts differ in the extent to which they are legally binding.

The EU institutions are required to take their decisions as openly and accessibly for the citizens as possible. All citizens have the right to participate in the democratic life of the Union.

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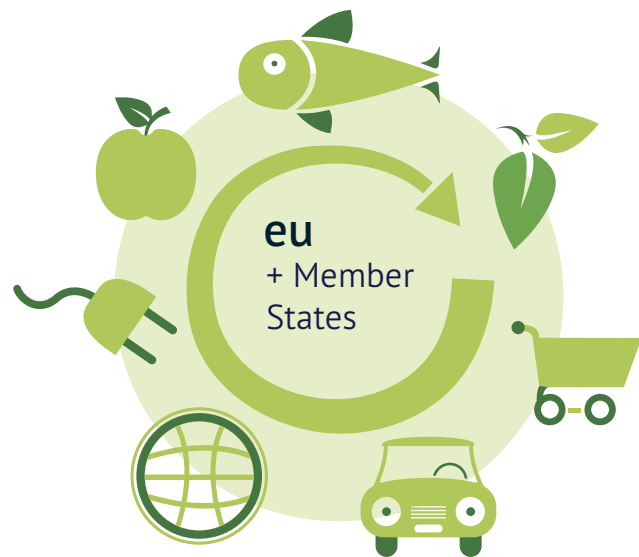
Policy areas of the European Union

The European Union is responsible for individual policy areas. In the vast majority of environmentally relevant policy areas, the European Union shares competence with its Member States, with the conservation of marine biological resources (within the framework of the Common Fisheries Policy) being an exception. Here, the European Union has **exclusive competence**.

The list of shared environmental competences is long:

- Common agricultural and fisheries policy
- Environmental policy
- Consumer protection
- Transport policy
- Trans-European networks in the areas of transport, telecommunications and energy infrastructure
- Energy policy
- Public health safety concerns

Initially, in the first years of European integration after the Second World War, the economy and prosperity were the main focus of European policy. With the intensification of European co-operation and the increasing ecological crises, environmental protection and the promotion of a sustainable European development came onto the political agenda. The EU Member States agreed that a clean, healthy and diverse environment can only be achieved with a common, cross-border environmental policy.



The European environmental policy now pursues the following objectives:



Preservation and protection of the environment and improvement of its quality

Protection of human health

Prudent and rational utilisation of natural resources

Promoting measures at international level to address regional or global environmental problems and in particular to combat climate change

The list shows that Union policies and their objectives are closely linked. Therefore, environmental protection requirements must be integrated into the definition and implementation of Union policies and activities as a general principle, and in particular, with respect to promoting a sustainable development. Consumer protection requirements must also be taken into account in all European policies and activities. Thus, by ensuring a high level of consumer protection, the European Union shall contribute to the protection of health at the same time.

Article 1

Objective of the Aarhus Convention

»In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.«

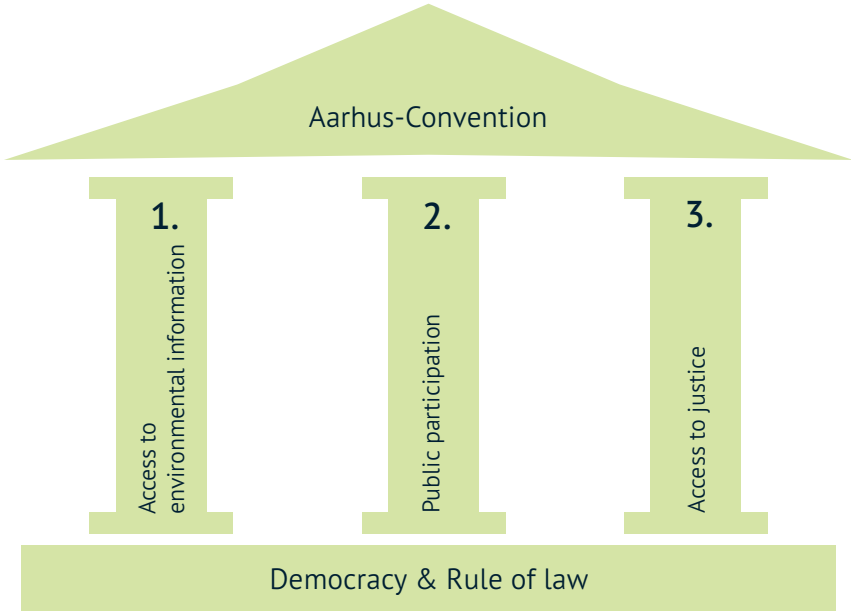
Die Aarhus-Convention

The Aarhus Convention is a unique democracy-promoting environmental agreement that, alongside the Escazú Convention - its counterpart for Latin America and the Caribbean - links environmental protection with human rights. The Convention recognises that we owe future generations to protect the environment. It links the protection of the environment to the accountability of (democratic) governments.

On the one hand, the Convention grants the public certain procedural rights. On the other hand, it imposes obligations on the Parties and their authorities regarding access to information, public participation and access to justice. The Convention also recognises that environmental protection and nature conservation often require groups, initiatives and organisations that are independent of the state. Non-governmental organisations (NGOs)

or civil society initiatives act as representatives or trustees for the environment and nature in decision-making and court proceedings.

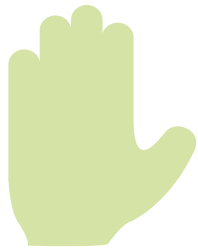
The Convention sets minimum standards for public participation in environmental protection. It contains three areas or »pillars«:





Your rights under the Aarhus Convention

The Aarhus Convention describes the three central environmental procedural rights in articles 4 to 9 and sets minimum standards for them:



1.

Access to environmental information

Information about the environment helps citizens understand how they are being affected. It is fundamental for the participation of citizens and associations. Only by being knowledgeable of the state of the environment as well as government measures and regulations for environmental protection can citizens and environmental associations meaningfully and effectively advocate for environmental protection and nature conservation. On the one hand, individuals or organisations can actively request environmental information from public authorities. On the other hand, public authorities are required to collect and disseminate environmental information. The authorities should make relevant data available, including in electronic form.

2.

Public participation

In order to enable citizens and organisations to integrate environmental, nature conservation and climate change concerns into decision-making processes, the second Aarhus pillar provides for public participation in three different constellations: 1) in concrete decisions on specific environmentally relevant activities, 2) in environment-related plans, programmes and policies, and 3) during the preparation of executive regulations and/or generally applicable, legally binding normative instruments. The goal of participation is helping public authorities to identify environmental impacts and to adequately take them into account in their decisions.

3.

Access to justice

The third pillar relates to wide access to legal proceedings or other review procedures. Citizens and environmental associations should be able to claim their right to environmental information or their right to participate in environmental decision-making processes, if necessary, also in court or before other bodies like an ombuds(wo)-man. Citizens and environmental associations can have compliance with environmental law be checked in court.



The European Union as a Party to the Aarhus Convention

16

The European Union aims at contributing to global sustainable development and the protection of human rights. It also wants to contribute to the strict observance and development of international law in the world.

To promote these goals, the European Union, among others in the UNECE region, has been responsible for the adoption of the Aarhus Convention as an international environmental agreement. The Aarhus Convention is the first legally binding instrument to promote environmental democracy, putting into practice Principle 10 of the Rio Declaration on Environment and Development.⁴

Principle 10

»Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate **access to information concerning the environment** that is held by public authorities, including information on hazardous materials and activities in their communities, and the **opportunity to participate** in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective **access to judicial and administrative proceedings**, including redress and remedy, shall be provided.«

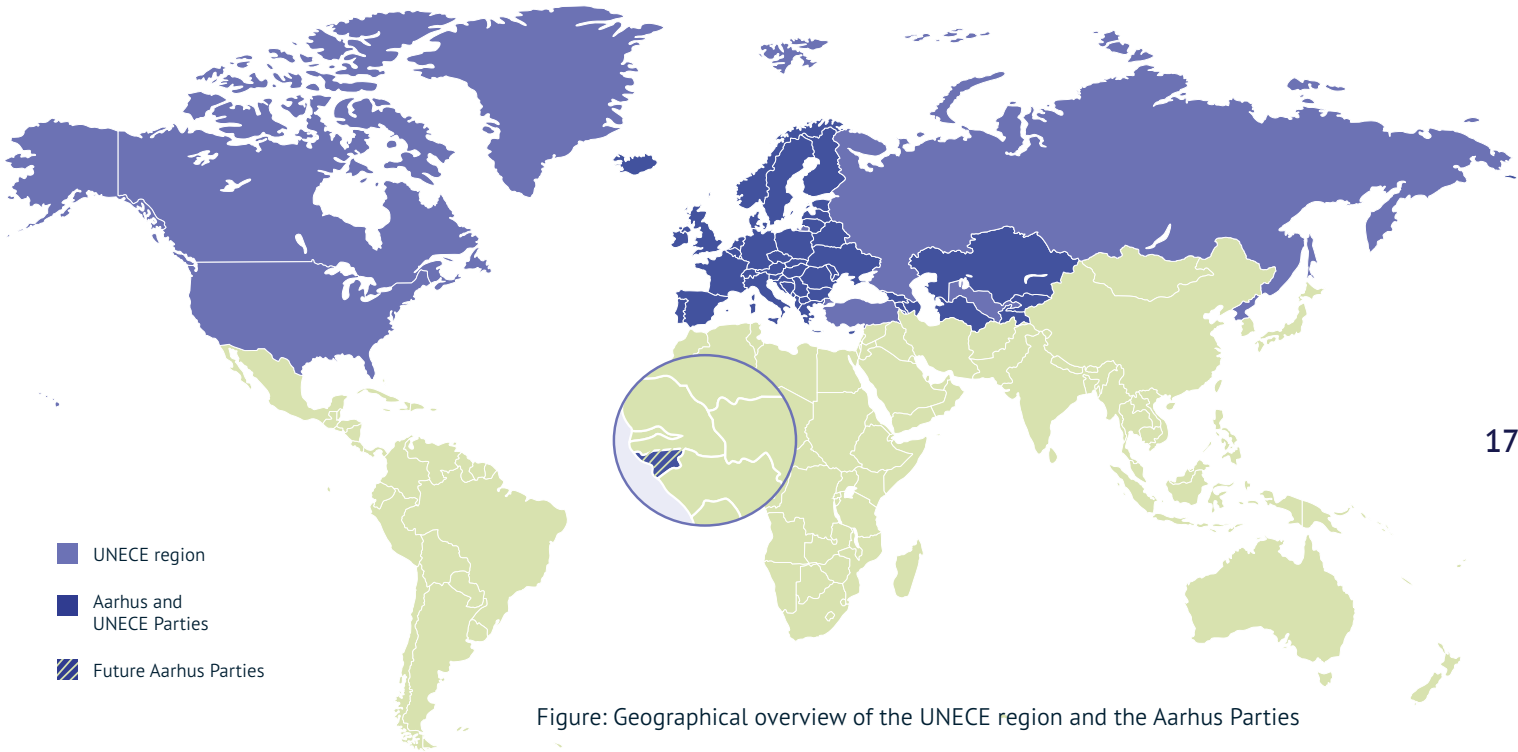


Figure: Geographical overview of the UNECE region and the Aarhus Parties

17

The Aarhus Convention counts a total of 46 states (including all 27 EU Member States) and the European Union as a supranational union of states as contracting Parties. The Parties have to transpose the Aarhus Convention into union and national law. Soon, the West African country of Guinea-Bissau will also sign the Aarhus Convention.



Your participation rights in the European Union

As a Party to the Aarhus Convention, the European Union has implemented the three pillars of the Convention in the EU treaties and in secondary legal acts, such as directives and regulations. The integration of Aarhus law is intended to guarantee that you can also make use of your rights to information, participation and action at Union level.

This means that any person or organisation has the right to obtain **environmental information** held by European institutions, bodies or agencies. On the following pages we explain how and when you can make a request for environmental information. We also explain how and when you can obtain the requested environmental information, which costs applicants should expect and in which cases an institution can refuse a request for information.

In order to advocate for European climate, environmental and nature protection, individuals or organisations can also participate in the numerous formal and informal **participation procedures and processes** of the European Union (second pillar of the Aarhus Convention). These are described in more detail in the brochure »Participation – Participation rights in the European Union on environmental protection«.



The **review** of democratic decisions is an important part of European public participation in environmental matters. Every person and organisation has the right to have environmental decisions, acts or omissions reviewed by European institutions, bodies or agencies. Judicial review of Union decisions is a task assigned to the European Court of Justice. In addition, there are numerous non-judicial and non-European bodies to which citizens and environmental organisations can complain. The brochure »Access to Justice – Litigation rights in the European Union on environmental protection« focuses on the third pillar of the Aarhus Convention and explains opportunities for environmental complaints and legal action: Who can appeal to whom, how, when and at what cost?

This short film by UfU explains how the Aarhus Convention affords rights of information, participation and access to justice at EU level (German with English subtitles):



» If, as we see, [EU] institutions are granting access to high proportion of [information] requests for access to [EU] documents, it implies that they should be doing more to publish documents proactively.«

Ms Rosita Hickey, Director of Inquiries of the European Ombudswoman

Information on the environment of the European Union

Environmental information

This short film by UfU explains what environmental information is and from which European institutions it can be requested (German with English subtitles).



Your right to access to environmental information

Access to environmental information is a prerequisite for being able to actively participate in democratic decision-making processes in the European Union. Thus, access to information is an important component of public participation in environmental matters. Any person, without distinction as to citizenship, nationality or residence, as well as organisations having their registered office or actual centre of operations in the European Union may submit a request for environmental information.

The key European legal instruments governing active access to environmental information held by European Union institutions, bodies, offices and agencies are:

The Transparency Regulation⁵ **The Aarhus Regulation⁶**

Further information on the legal basis for active and passive access to information at EU level can be found here in German.

A request for access to European Commission documents can be made electronically [here](#).
You can also use the online platform www.asktheEU.org, which allows any person to request documents directly from EU institutions.



What is »environmental information«?

What constitutes »environmental information« is legally defined in the Aarhus Regulation: Environmental information includes all information in written, visual, aural, electronic or other material form.

The following information is subject to disclosure:

- The state of the components of the environment (e.g. air, water, soil) and the interaction between them
- The environmental factors (e.g. substances, noise and radiation)
- The activities and measures affecting the elements and factors of the environment (e.g. policies, laws, plans and programmes)
- The reports on the implementation of environmental legislation
- The cost/benefit and other economic analyses and assumptions; and
- The state of human health and safety



Which European Union bodies can be contacted for information?

Environmental information can be requested from the **public authorities of the European Union**. Environmental information is often held by the Directorates-General of the European Commission. The Directorates-General (DG) are responsible for a specific policy area each. For example, environmental information is held by the Directorate-General for Environment, but also by DGs for Climate Action, Energy, Mobility & Transport, Health & Food Safety, Agriculture & Rural Development, Maritime Affairs & Fisheries or Justice & Consumers.

You have a right to access all documents of an institution, including the **European Parliament, the Council** or the **European Commission**. The **European Environment Agency** and other agencies in the field of environment and sustainability also hold environmental information:

- Agency for the Cooperation of Energy Regulators, or ACER (www.acer.europa.eu)
- European Chemicals Agency, or ECHA (www.echa.europa.eu)
- European Fisheries Control Agency, or EFCA (www.efca.europa.eu)
- European Food Safety Authority, or EFSA (www.efsa.europa.eu)
- European Agency for Safety and Health at Work, or OSHA (www.osha.europa.eu)
- Executive Agency for Health and Consumers, or EAHC (www.ec.europa.eu/eahc)



European Commission

24

This means that citizens and associations can obtain documents held by the European Commission and other institutions, including acts adopted, official documents, historical archives and meeting protocols and agendas.

Before making a request to the institutions, you should check whether the **documents are freely available on the internet** as the European Commission, the Parliament, the Council as well as other bodies subject to information requirements make a large number of documents available online. It may make a request for information superfluous. For example, you can find information relevant to the environment here:

Website

https://ec.europa.eu/info/index_en

Document portal

https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/freedom-information/access-documents/how-access-commission-documents_en

Infrastructure for Spatial Information in the European Union (INSPIRE)

<http://inspire.ec.europa.eu>

INSPIRE geo-portal

www.inspire-geoportal.eu/index.cfm

Water Information System for Europe

<http://water.europa.eu>

European Soil Data Centre

<http://esdac.jrc.ec.europa.eu>

Implementation of environmental law in the Union

https://ec.europa.eu/environment/legal/implementation_en.htm

Transparency portal

https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency_en

Participation portal

https://ec.europa.eu/info/law/better-regulation/have-your-say_en

Legislation portal

https://ec.europa.eu/info/law/contribute-law-making_en

EU Better Regulation: Have your say

http://ec.europa.eu/smart-regulation/better-regulation/reports_en.htm

European Environment Agency

Industrial emissions portal

<https://industry.eea.europa.eu/>

Shared Environmental Information System (SEIS)

<https://www.eea.europa.eu/>

European Air Quality Portal

<https://aqportal.discomap.eea.europa.eu/>

Air pollutant emissions data viewer 1990 – 2019

www.eea.europa.eu/data-and-maps/dashboards/necd-directive-data-viewer-5

Natura 2000 Network-Viewer

<https://natura2000.eea.europa.eu/>

Natura 2000 data - the European network of protected sites

www.eea.europa.eu/data-and-maps/data/natura-12

European Chemicals Agency

Transparency portal

<https://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/transparency>

Chemicals dissemination portal

<https://echa.europa.eu/information-on-chemicals>

EU Chemicals Legislation Finder (EUCLEF)

<https://echa.europa.eu/information-on-chemicals>

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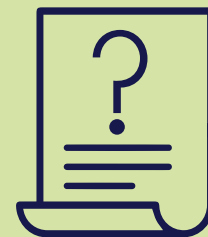
In
practice

Information for researchers

As an example, a Berlin researcher wants to find out how much nitrogen oxide and sulphur dioxide emissions are being produced by all European industrial sites. To do this, before submitting an environmental information request, the researcher can first consult the European Industrial Emissions Portal of the European Environment Agency: <https://industry.eea.europa.eu>

The portal covers more than 60,000 industrial sites from 65 industries across Europe. It shows the location as well as their administrative data and the releases and transfers of numerous substances to air, water and soil, as well as waste transfers. For large combustion plants, more detailed data on emissions is found here: <https://industry.eea.europa.eu/analyse/lcp-analysis>

If the searched information cannot be found, the researcher can request the information. The Aarhus Regulation also requires that bodies inform the applicant where the information on the measurement methods used to collect the information can be found. This includes the methods of analysis, sampling and pre-treatment of the samples. Otherwise, the bodies shall refer to the standardised procedure used.

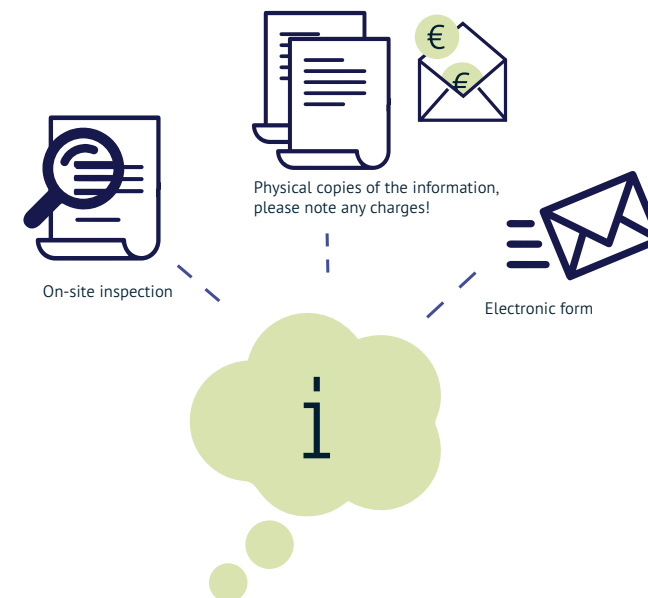


How to submit a request for information?

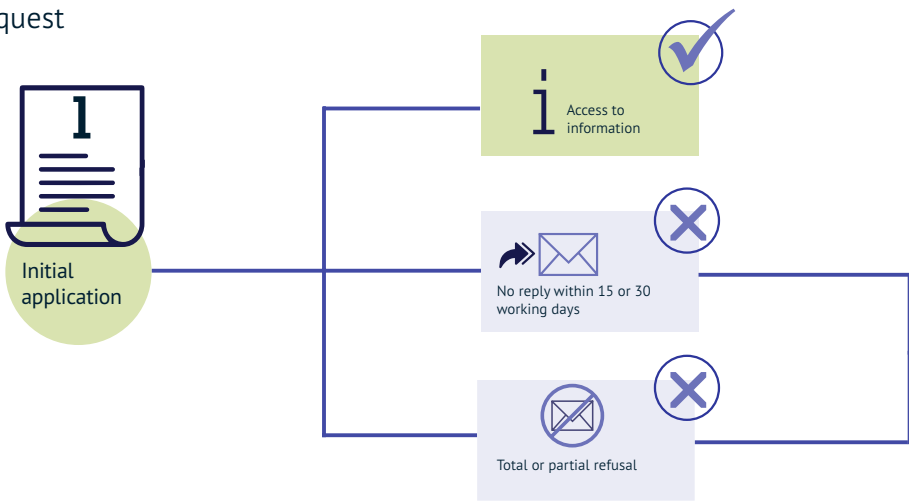
Legal requirements for a request **are low**. In addition, the Union institutions and bodies strive to provide support and guidance to requesters on how to access information. They inform citizens or associations how and where to submit information requests.

The request must be made **in writing, including electronically**, in one of the EU languages. Information seekers do **not need to state reasons** for the request for information. The EU institutions will approach the persons to clarify their requests, if necessary, and will assist them in doing so, for example by providing information on how to use the public registers of documents.

Environmental information



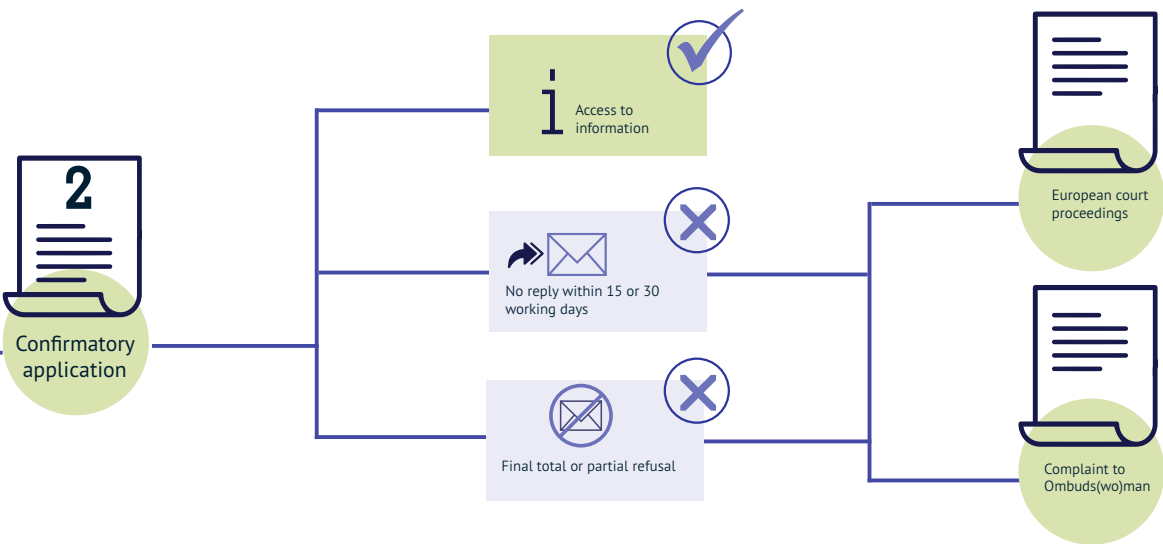
Procedure after submission of the request



What happens after the request?

The institution required to provide information has to process a request without any delay. The applicant will receive an acknowledgement of receipt. **Within fifteen working days** of the request being made, the EU institution shall either grant the requested document available or inform the information seeker in writing of the reasons for the total or partial refusal of the request. If a very long document or many documents are requested, the deadline for reply may be extended by **another fifteen working days**.

If the EU institution refuses the request in whole or in part, the applicant may make a confirmatory application asking to review the refusal decision **within fifteen working days**. Even if the EU institution does not reply within the time limit, a confirmatory application may be made.



Processing of confirmatory applications

The EU institution shall also process the confirmatory application without delay. **Within fifteen or thirty working days** respectively, the institution shall either grant access to the requested document and make it available or provide reasons in writing for the total or partial refusal. If the institution finally refuses access, it shall inform the applicant of possible remedies. Appeals are also possible if the EU institution does not reply within the time limit.

Access after the environmental information request

Access shall be provided by consulting documents **on the spot or by receiving a copy (in electronic form)** as requested, in an available version and form (including an electronic or other form, for example in Braille, large print or tape recording). If a document has already been published by the EU institution and is easily accessible to the applying person, it is sufficient for the institution to inform the person how to obtain the requested document.



Are there reasons why information is not provided?

An EU institution may refuse an environmental information request **in whole or in part**. If parts of the requested document are worthy of protection, the remaining parts must still be released. In principle, the EU institution can refuse to disclose documents only for the period during which the protection of the content is justified.

Reasons for refusal

The institution may refuse to disclose documents if this would adversely affect one or more public or private interests:

Public interests

- Public security
- Defence and military affairs
- International relations
- Financial, monetary or economic policy of the Union or a Member State



Private interests

- Protection of the privacy and integrity of the individual (in particular protection of personal data).
- Business interests (in particular intellectual property)
- Litigation and legal advice
- Inspection, investigation and audit activities



According to the courts, there is a general presumption that the disclosure of documents is inadmissible if they relate to:

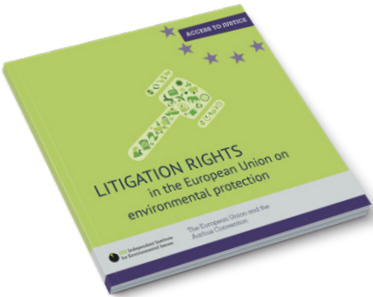
- Ongoing EU pilot procedures
- Ongoing infringement and review cases
- State aid cases
- Competition cases, documents submitted by national competition authorities
- Merger control cases
- Fraud investigations (OLAF)
- Legal cases
- Bids from other bidders in a procurement procedure
- Grant proposals from other candidates
- Written questions in personnel selection procedures

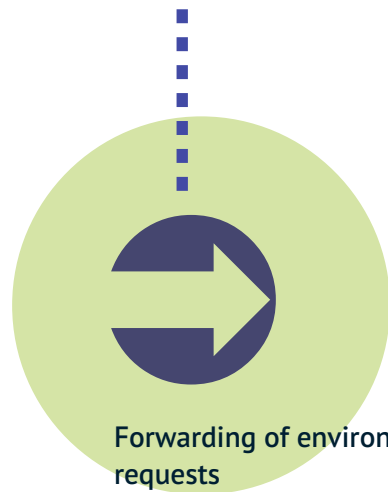
In the case of the protection of business secrets as well as inspection, investigation and audit activities, an overriding interest in the disclosure of information on **environmental emissions** is assumed.

Furthermore, EU institutions may withhold information if disclosure would have a negative impact on the **protection of environmental areas** (e.g. breeding sites of rare species).

For access to EU documents drawn up for **internal use** and documents of matters on which the institution **has not yet taken a decision**, there must be an overriding public interest in their disclosure. **Third party** documents must also be disclosed where appropriate.

Legal remedies are available against fully or partially refused environmental information requests. More information here in the brochure:





Forwarding of environmental information requests

When EU institutions receive a request for access to environmental information which they do not hold, they shall inform the applicant, of the EU institution or the Member State authorities from which they consider that the requested information may be obtained, as soon as possible, or at the latest **within 15 working days**.

Alternatively, the request may be forwarded to the EU institution or authority concerned. The institution shall inform the applicant thereof.

The European Commission, Parliament, Council and other EU institutions release a wide range of documents online [here](#).
EUR-Lex offers free access to all legal acts of the European Union:
<https://eur-lex.europa.eu/homepage.html>

How much does an environmental information request cost?

The **cost risk** for an environmental information request is **low**. **Direct access in electronic form** or via the public register of documents or in the official gazette, on-site inspection or copies of less than 20 A4 pages are **free of charge**.

The costs of making and sending physical **copies** may be charged to the applicants. These costs shall not exceed the **actual costs** of making and sending the copies.

Further information

Independent Institute for Environmental Issues (UfU) e.V.
www.aarhus-konvention.de (German only)

UNECE – Aarhus Secretariat
www.unece.org/env/pp/introduction.html

European Commission
<https://ec.europa.eu/environment/aarhus/>

Federal Ministry for the Environment
www.bmuv.de/en/topics/education-participation/participation/citizen-participation

Deutscher Naturschutzring
www.dnr.de/fileadmin/EU-Koordination/Publikationen_und_Dokumente/bruesseler1x1.pdf (German only)



- 1 <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1621422435977&uri=CELEX%3A12016M%2FTXT> 2 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT> 3 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P%2FTXT> 4 www.un.org/depts/german/conf/agenda21/rrio.pdf 5 Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, p. 43). 6 Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13). 13, as last amended by Regulation (EU) 2021/1767 of the European Parliament and of the Council of 6 October 2021 amending Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 356, p. 1).

European environmental policy and legislation play significant roles in global climate and environmental protection. Also the majority of national environmental laws are made in Brussels. It is crucial that citizens and environmental organisations are involved in these ground-breaking processes and decisions as well as their implementation at an early stage. For this, the Aarhus Convention forms the decisive legal foundation. It sets high standards for **access to environmental information, transparency** and **public participation** in European and national administrative procedures. It opens up **access to justice in environmental matters**. Since the European Union - along with all its Member States - is a contracting Party to the Aarhus Convention in its own right, the Aarhus procedural principles as well as information, participation and access to justice rights must be developed not only within Member States, but also for European procedures and processes.

This brochure informs about your **right to access to environmental information held by EU institutions, bodies, offices and agencies**. After all, information is a prerequisite for being able to actively participate in democratic decision-making processes in the European Union. Two further brochures by UfU deal with the right to public participation and access to justice in environmental matters at European level.

