



**PARTICIPATION**



# PARTICIPATION RIGHTS

in the European Union

on environmental protection

Imprint

© Independent Institute for Environmental Issues e.V.,  
Berlin, January 2022

Publisher

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Donation Account



UfU, Saalesparkasse Halle  
  
IBAN: DE67 8005 3762 0387 0111 81  
BIC: NOLADE21HAL

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Picture credits

S.11\_ zlatkozalec\_AdobeStock, S. 22\_clem onojeghuo on unsplash, S. 24\_christin hume on unsplash, S. 26\_jason leung on unsplash, S. 31\_marcin jozwiak on unsplash, S. 33\_elissa garcia on unsplash

This project was funded by the Federal Environment Agency and the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection. The funds are made available by resolution of the German Bundestag.

Supported by:



based on a decision of  
the German Bundestag

The publisher is responsible for the content of this publication.



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## reface



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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

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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 be involved in European legislative and administrative procedures.

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.«

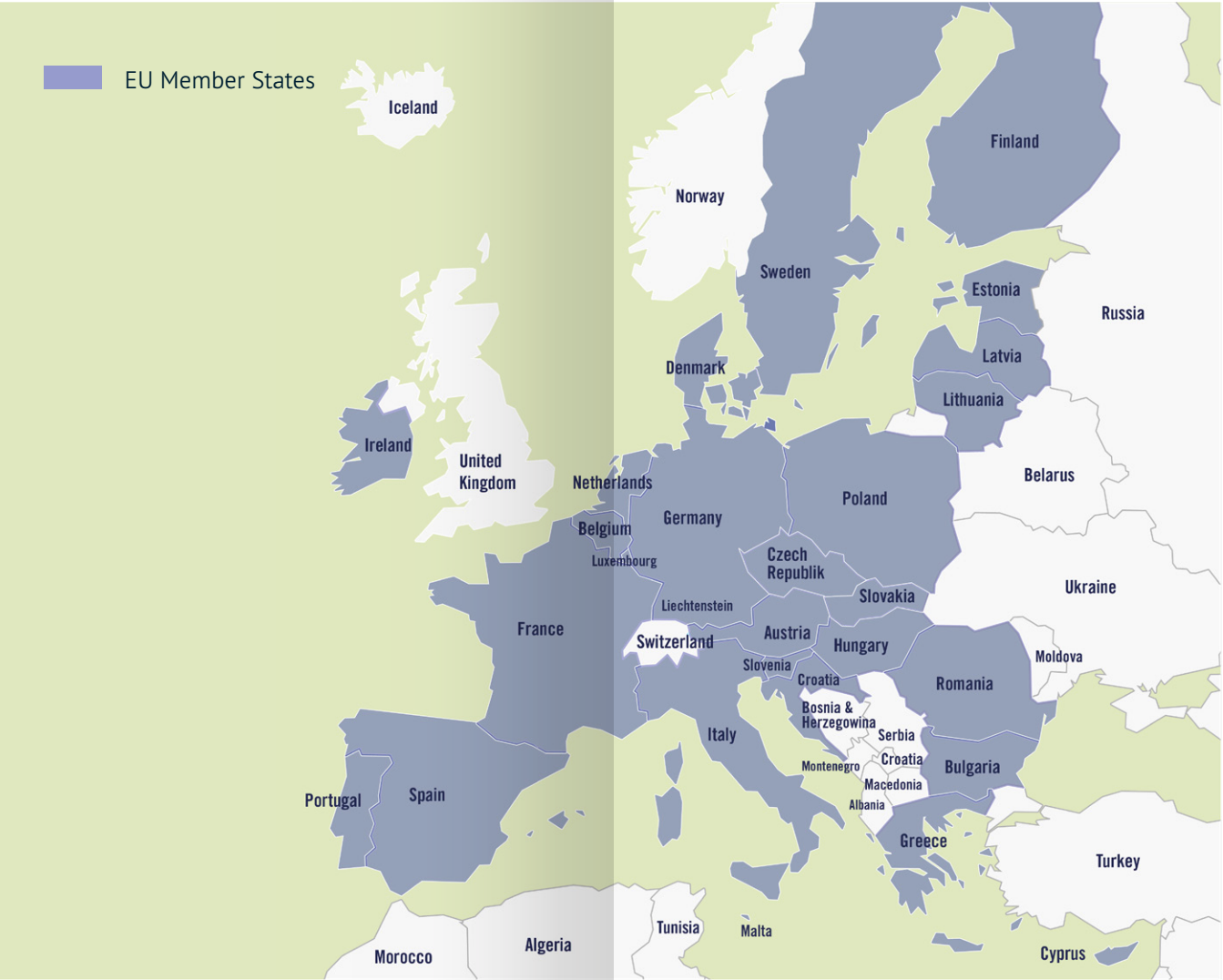
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The European Union

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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 Union<sup>1</sup>, abbreviated as TEU, the Treaty on the Functioning of the European Union<sup>2</sup>, abbreviated as TFEU, (hereinafter »the Treaties«) and the Charter of Fundamental Rights of the European Union<sup>3</sup>. 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.



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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.

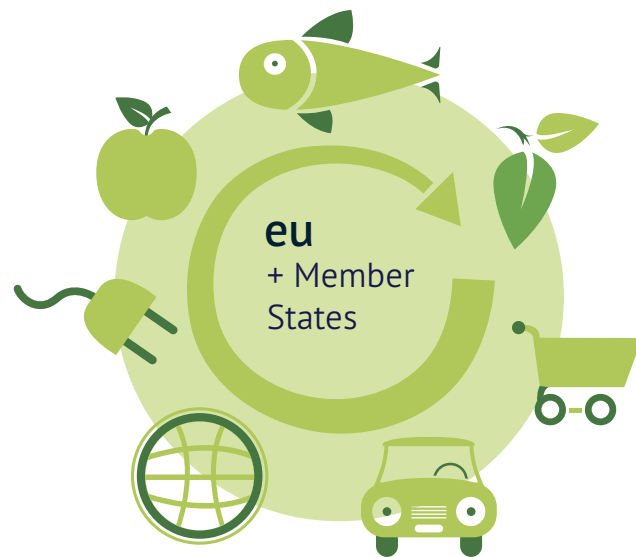


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## Policy areas of the European Union

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**.

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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.

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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.«

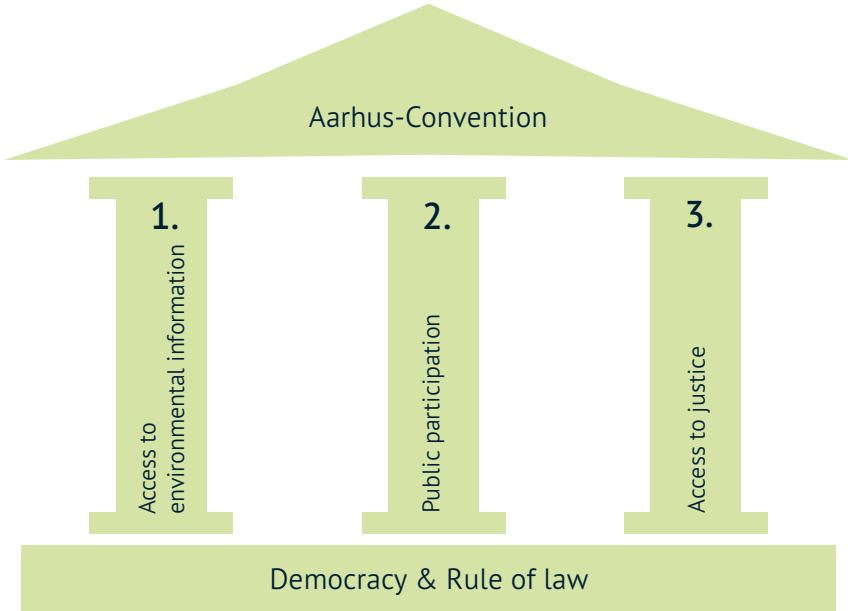
Die Aarhus-Convention

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.

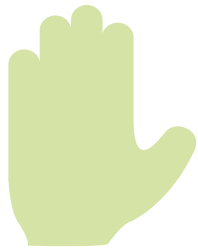
The Convention sets minimum standards for public participation in environmental protection. It contains three areas or »pillars«:





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

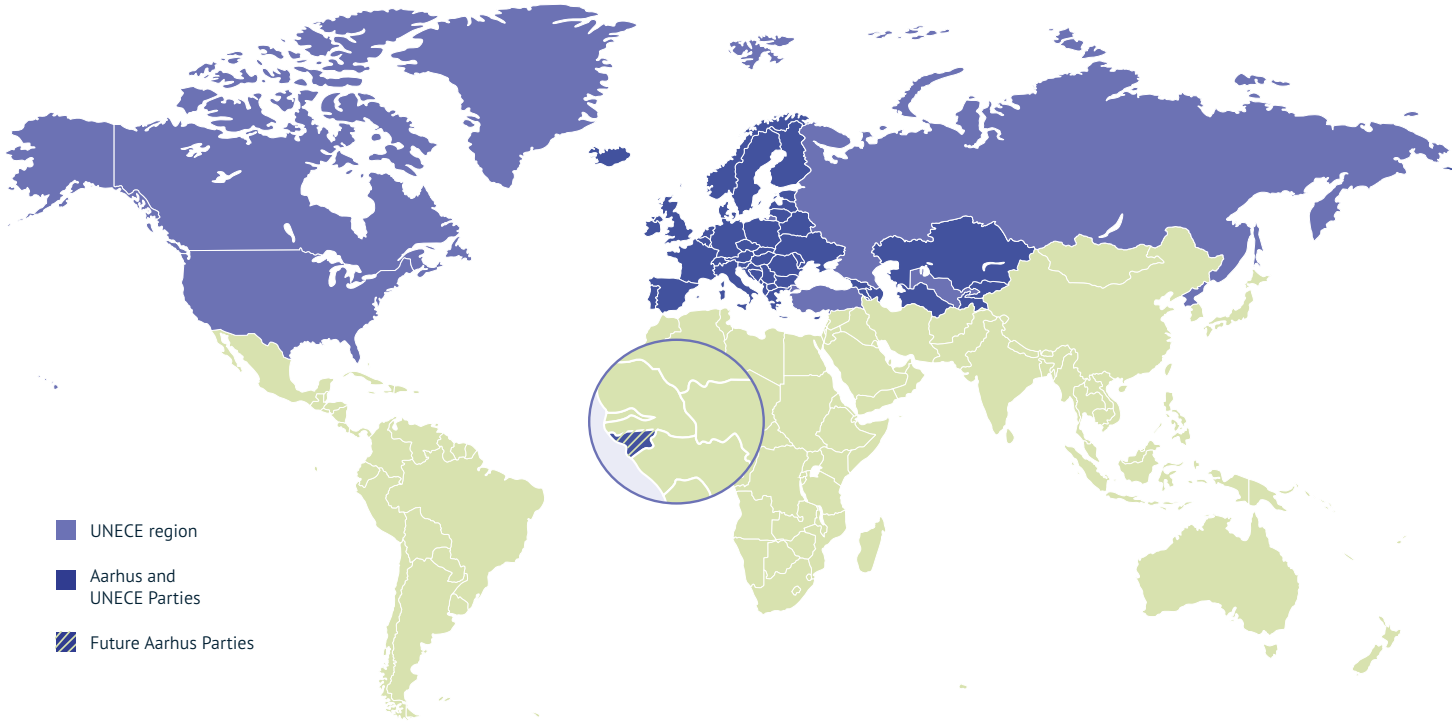
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The European Union aims at contributing to global sustainable development and the protection of human rights. It also wants to contribute to the strict observance and development of international law in the world.

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.<sup>4</sup>

### 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.«



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

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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. In the brochure »Information – Access to environmental information of the European Union« on the first pillar of the Aarhus Convention we 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). We describe these on the following pages.



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?

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This short film by UfU explains how the Aarhus Convention grants rights to information, public participation and legal action at EU level (German with English subtitles):



» The main goal of transparency and public participation in decision-making is to encourage more and more people to express their thoughts, to participate in the battle to defend their environmental rights from violations by corporate or state actors and from unsustainable exploitation.«

Maia Bitadze, Chair of the seventh session of the Meeting of the Parties to the Aarhus Convention (MoP 7)

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## ublic Participation in environmental matters in the European Union

This short film by UfU explains different ways to get involved in concrete environmentally relevant decision-making processes at EU level (German with English subtitles).



### Your right to participation

The second pillar of the **Aarhus Convention** provides for public participation in three different constellations:

1.

In concrete decision-making procedures on particular **environmentally relevant activities**, i.e. at the national level, such as for the approval of waste incineration plants, wind farms or highways

2.

In the development of **environment-related plans, programmes and policies** e.g. national clean air and land-use plans or the European environmental action programme

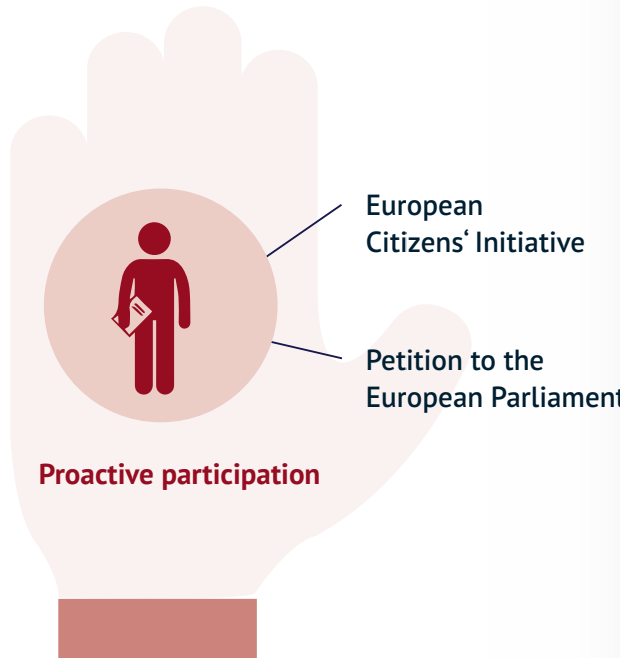
3.

During the preparation of **executive regulations and/or generally applicable legally binding normative instruments**, e.g. when an environmentally relevant municipal bylaw is enacted or a nature reserve is being designated at the national level.



The European Union involves the public specifically in roadmaps, plans and programmes, impact assessments, and proposals for regulations or directives.

The **Aarhus Regulation** requires EU institutions and bodies to provide **early and effective opportunities for public participation** in the preparation, modification or review of **plans or programmes which are related to the environment**.

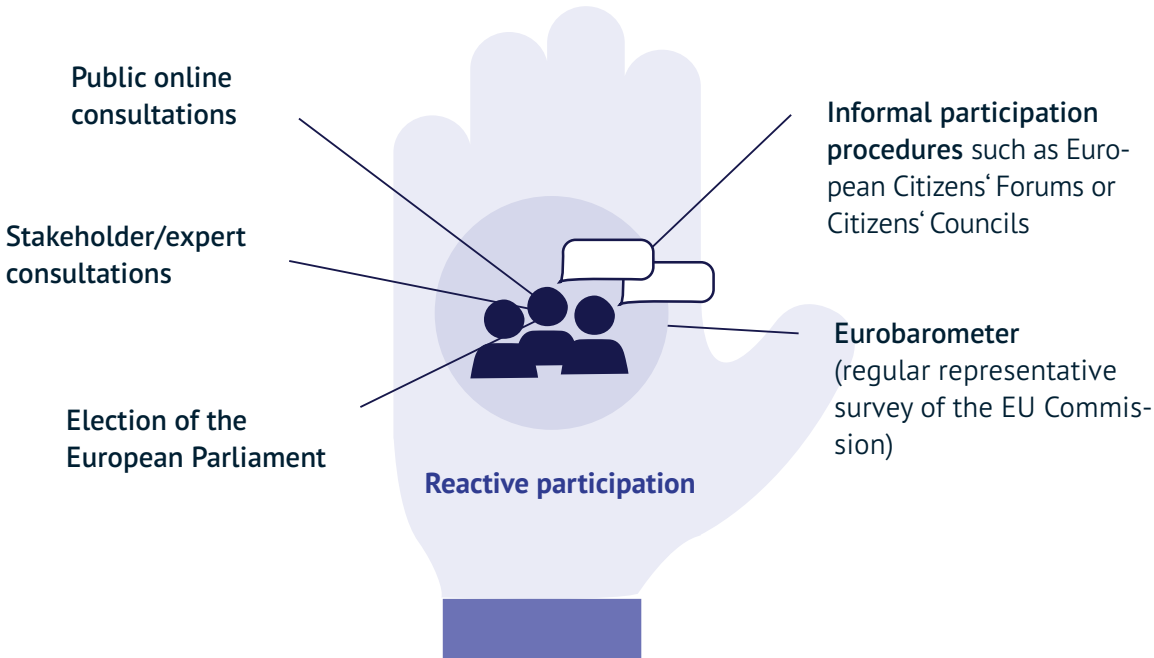


The following pages explain those requirements of the Aarhus Regulation in more detail. Further information on the legal basis of your participation rights at EU level can be found here.

Apart from these formal, legally prescribed participation opportunities, individuals or associations have the opportunity of getting involved in various **informal participation procedures and processes** of the European Union. Those will also

be presented below. Moreover, you can find further information on ways to participate here.

The participation opportunities in European environmental policy can be divided into proactive and reactive participation:





Who can participate?

Everyone has a right to participate in the environmental field, because the so-called »public« includes **individuals or several persons, their associations, organisations or groups.**

Major European umbrella organisations, EU offices or networks include:

European Environmental Bureau, EEB  
<https://eeb.org/>

Justice and Environment  
[www.justiceandenvironment.org/home](http://www.justiceandenvironment.org/home)

Climate Action Network Europe, CAN Europe  
<https://caneurope.org>

Pesticide Action Network Europe, PAN Europe  
[www.pan-europe.info](http://www.pan-europe.info)

Public participation in plans and programmes relating to the environment

Public participation at the preparatory stage

Union institutions must provide for **early and effective public participation** in the preparation, amendment and review of plans or programmes relating to the environment – this phase when all **options are still open**, through appropriate practical and/or other arrangements.

What are environmental plans and programmes?

These are plans and programmes that

- Are prepared and, as appropriate, adopted by a Union institution,
- Are required to be prepared by legislative, regulatory or administrative provisions, and
- Contribute to, or may have significant effects on, the achievement of the Union’s environmental policy objectives as set out in environmental action programme.

Examples include the European Action Plan on Circular Economy or the Biodiversity Strategy as a building block of the »European Green Deal«.

General Environmental Action Programmes, which provide the framework for the European Union’s environmental policy, are also environment-related plans and programmes. More information on the current Environment Action Programme can be found on the European Commission website: <https://ec.europa.eu/environment/action-programme/index.htm>

Explicitly excluded are financial or budgetary plans and programmes, particularly those involving funding for specific projects or activities or related to the proposed annual budget, internal work programmes of any of the Union institutions, as well as emergency plans and programmes for disaster response only.





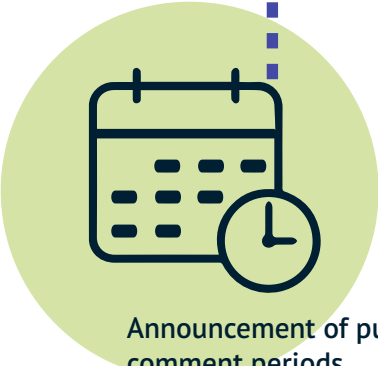
The European Commission shall ensure public participation during this preparatory phase, when it prepares proposals for such plans or programmes for the submission to other Union institutions.

During the preparation, the EU institutions must identify those groups of the public that are (likely) to be affected by the plans or programmes or that could have an interest in these plans or

programmes. Additionally, the institutions must ensure that the public is being informed either by public notice or by other appropriate means such as electronic media, in case available.

In doing so, the EU institutions must provide information on the following:

- The draft proposal,
- The environmental information or assessment relevant to the plans or programmes under preparation; and
- The practical arrangements for participation, including
  - The administrative unit from which the information may be obtained,
  - The administrative entity to be addressed with comments, opinions, or questions; and
  - Reasonable time limits that allow sufficient time for the public to become informed and to effectively prepare for and participate in the environmental decision-making process.



**Announcement of public participation and comment periods**

Individuals and associations have at least **eight weeks** to submit their comments.

If a Union body organises a consultation or hearing, it shall give at least **four weeks'** notice. The time limits may be shortened only in cases of urgency or when the public has already had an opportunity to comment on the plans or programmes in question.

**Obligation to take into account the results of public participation**

The Union institutions shall **take the public participation results into account** when making decisions on plans or programmes relating to the environment. The institutions shall inform the public about the plan or programme in question, including the text concerned and about the reasons and considerations on which the decision is based. This shall include information on the public participation procedure.

Citizens and associations can submit their feedback on the Better Regulation Portal of the European Commission:  
[https://ec.europa.eu/info/law/better-regulation/have-your-say\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say_en)





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Online public consultations

One way to involve the public in the preparation, development or revision of environment-related plans and programmes or in roadmaps, impact assessments and European environmental legislation is through public online consultations. Since 2003, citizens and associations have been able to comment on the scope, priorities and added value of new EU initiatives or to evaluate existing policies and legislation via the European Commission's **digital consultation portal** »Your Voice in Europe« (Better Regulation Portal). Feedback can be submitted in all official European languages.

Some examples on which comments could be submitted in 2020 and 2021:

- Climate Action Plan 2030
- Action plan for the development of organic production in the EU
- Amendment of the Aarhus Regulation (improving access to justice)
- Review of the regulation on land use, land-use change and forestry
- Review of EU air quality legislation



European Citizens' Initiative

The European Citizens' Initiative is a direct democratic instrument to influence European climate, environmental and nature conservation policy.

An initiative is registered by an organisational group of at least **seven people living in seven different EU Member States**. The group must collect **one million signatures** from EU citizens in **twelve months**. Individuals can support the initiative with a signature as soon as they have reached the minimum age for elections to the European Parliament in their country. However, Member States are free to set the minimum age for supporting an initiative at 16.

The European Commission is allowed to spend **six months** to examine the admissibility of the initiative and to comment on it. However, the legislative initiative is not legally binding. The Commission can accept it in whole or in part, or reject it outright. The organisers of the citizens' initiative get to present their concerns to the European Parliament.

The **high time, financial and organisational costs** of a European Citizens' Initiative pose high barriers for individuals and small interest groups.

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European Citizens' Initiatives can be registered on the online platform of the European Commission: [https://europa.eu/citizens-initiative/\\_en](https://europa.eu/citizens-initiative/_en)



Petition to the European Parliament

All citizens or associations have a European **right of petition**. They can petition the European Parliament at any time. The more signatories a petition has, the likelier its success.

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Individual complaints, general concerns or requests to the European Parliament can be the subject of a petition. The only requirement is that the petition must be related to the activities of the European Union.

You can submit or support petitions on the petition portal of the European Parliament:  
[www.europarl.europa.eu/petitions/en/home](http://www.europarl.europa.eu/petitions/en/home)

Legal requirements

Petitions can be submitted **by mail or online**. They must be written in one of the official European languages. Petitions must contain the name, nationality, profession and place of residence. The concern of the petition must be **justified** and documented, if applicable.

Postal or electronic submission to:

Chair of the Petitions Committee  
European Parliament  
B-1047 Brüssel  
E-Mail: [peti-secretariat@europarl.europa.eu](mailto:peti-secretariat@europarl.europa.eu)

The Petitions **Committee** examines the petition addressed to it and decides what to do.

Consideration of the results of the petition process

The results of the petition process are not binding, but can have a **strong political impact** on the European Commission or Member States.

A petition can be used to call on the European Parliament to take certain actions, for example, to adopt a resolution on an issue or to enshrine certain aspects in legal acts.

If a petition is granted after consideration by the Petitions Committee, the Committee turns to the European Commission as the »guardian of the Treaties« to monitor compliance with Union law. Among other things, the Commission can take a national authority to the European Court of Justice for a breach of environmental Union law.







### Informal participation formats

In addition to legally prescribed formal participation processes, there are also informal formats and ways at EU level by the means of which the public can have a say in important European decision-making. So-called deliberative approaches and methods which promote public discourse and the formation of political opinion can be a useful complement to representative and direct democracy. This can lead to direct exchange between citizens or organisations and political decision-makers.

Deliberative formats have been used, for example, in the European Citizens' Forums of the European Commission.

If the European Commission needs specific expertise, it also offers various feedback formats for stakeholders, including online forums, targeted consultations, meetings, workshops, seminars, or roundtable discussions with small and medium-sized enterprises.

In addition, the establishment of citizens' councils is increasing in European Member States and around the world. In this participation format, participants are randomly drawn from the population. At their meetings, they develop joint proposals for solutions on political issues, for example on the topic of climate protection.



### Further information

**Independent Institute for Environmental Issues (UfU) e.V.**

[www.aarhus-konvention.de](http://www.aarhus-konvention.de) (German only)

**UNECE – Aarhus Secretariat**

[www.unece.org/env/pp/introduction.html](http://www.unece.org/env/pp/introduction.html)

**European Commission**

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

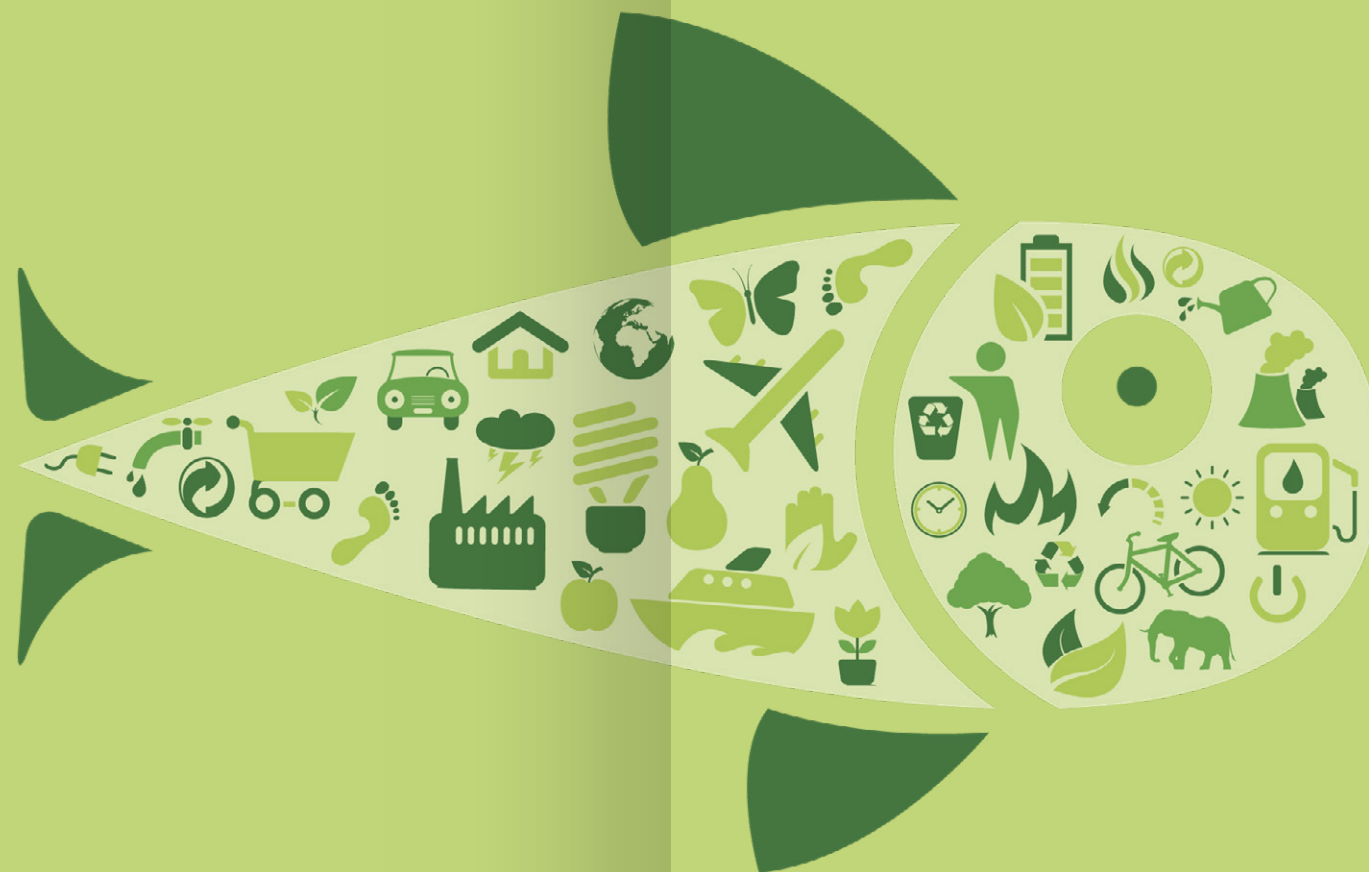
**Federal Ministry for the Environment**

[www.bmu.de/en/topics/education-participation/participation/citizen-participation](http://www.bmu.de/en/topics/education-participation/participation/citizen-participation)

**Deutscher Naturschutzring**

[www.dnr.de/fileadmin/EU-Koordination/Publikationen\\_und\\_Dokumente/bruesseler1x1.pdf](http://www.dnr.de/fileadmin/EU-Koordination/Publikationen_und_Dokumente/bruesseler1x1.pdf)  
(German only)





## Notes

- 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/rio.pdf](http://www.un.org/depts/german/conf/agenda21/rio.pdf)



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.

In this brochure you can learn more about your **right to be involved in European legislative and administrative procedures** that can influence environmental and climate protection. Two other UfU brochures deal with the right to environmental information and access to justice in environmental matters at European level.

