

**Comments by Justice and Environment to the  
Budva Declaration  
2017**

1. Justice and Environment is an association governed by Czech law. It consists of 13 member associations, almost all of which are established in EU Member States. Its aim is the adoption and application of stronger environmental legislation to protect the environment, people and nature.
2. J&E would respectfully like to offer the following brief comments on the Budva Declaration. These comments were prepared by legal experts of the Aarhus Convention Topic Team of J&E in a cooperative manner reflecting diverse views and a supportive approach.

**Overarching Comments on the Declaration**

3. Generally, J&E commends the Declaration. However, we find it would benefit from greater detail at some points, and certain formulations seem incapable of achieving the stated goals.
4. We also find the Declaration could be improved by more emphasis on early information (Access to Information). We are also concerned about a future decrease in the level of public participation in a number of Parties.
5. Finally, we note with concern that the Declaration only references “compliance mechanisms” once. We find a greater emphasis on the Convention’s compliance mechanism (in particular the Aarhus Convention Compliance Committee) would be appropriate and more consistent with past practice.

**Comments on Section I. Introduction**

6. J&E strongly commends the Declaration’s reaffirmation of the commitment to environmental democracy, the role of the Convention for civil society, as well as its recognition of growing harassment and related problems concerning activists. At the same time, we urge a stronger and clearer message.
7. For example, we think a clarification of precisely who “marginalized groups” are in the context of the Declaration’s Point 3 is needed. We also find a reference to the compliance mechanism itself and/or the ACCC is needed in Point 3, as it has been a major driving force for environmental democracy, rule of law, and improved civil society involvement. This reference can easily be inserted after the reference to the Aarhus Centres.

8. It is unclear to whom the word “accountability” is to apply at Point 7. Is this intended to apply to public administrations and/or other institutions and entities? We also suggest changing Point 7’s clause “with enhanced ownership and support” to “leading to better decision-making, taking into account the interests of stakeholders.”
9. In our view, the word “encourage” in Point 8 should be replaced with the word “call upon”. We also see no basis for limiting the measures which should be taken to merely those which ensure protection of the freedom of speech and participation. While these are vital interests which require protection, this surely is not enough to protect the rights of whistle-blowers and civil society at large. We therefore recommend amending Point 8’s clause starting after “freedom of speech” to include “and civil spaces, as well as safe access to information, participation of people in decision-making on environmental matters, and access to justice.”

### **Comments on Section II. The Aarhus Convention, its Protocol and the Sustainable Development Goals**

10. The words “access to information and” should be inserted between “reducing obstacles to” and “public participation” at Point 11. We also propose including concrete examples of such obstacles at the end of the same sentence in Point 11. This can be achieved by inserting “such as unreasonable charges for supplying access to information or access to justice” after “access to justice.”
11. Generally, the text in Point 14 does not seem robust enough on the problems it targets. That being said, we welcome the reaffirmation of the Protocol’s importance as including both “sustainable consumption and production patterns” in its formulation. Particularly the need for “substantially reducing our consumption of resources,” was already highlighted in the Maastricht Declaration (see its Point 20). Similarly, we commend the recognition of the problem of chemical substances in products and their releases into the environment. We note with respect to Point 14’s call to ensure “convenient and digital access to relevant information,” that the Convention provides that “[e]ach Party shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks.”
12. We do not understand why there is no reference in Point 16 to the Maastricht Recommendations on public participation and feel inclusion of these is needed here.
13. We believe greater detail is needed in Point 20. Specifically, we suggest ending the clause “access to justice for all”, with a period [.] and inserting the new sentences: “This requires the removal or reduction of financial and other barriers to access to justice, injunctive relief as appropriate, and review procedures that are equitable, timely, and not prohibitively expensive. Effective access to justice means the ability to challenge both the substantive and procedural legality of acts, decisions, and omissions.”

### **Comments on Section III. Inspiring Others**

14. We commend the reference to the compliance mechanisms in Point 21. Yet we note with regret that this is the only mention of compliance in the Declaration. As explained above, we think compliance should generally be highlighted more.
15. Point 24 discusses good examples. Yet we find this text improperly ignores the TTIP negotiations and the high level of secrecy with which they were conducted, all of which stands in direct contradiction to the principles of environmental democracy and the Convention discussed here. We find TTIP again breached the call to the Parties as expressed in Point 25.
16. With respect to the issue of accession in Points 26 and 27, we believe that the Parties should at this time acknowledge that accession to the Convention is not the only possible means to further the goals and principles it enshrines. Other regions of the world may pursue their own paths and the Parties should also welcome these processes and work actively for their success, including in the form of material support.

Yours Faithfully,

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