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# **On the Way to Transparency: A Comparative Study on Post-Soviet States and the Aarhus Convention**

by Tatiana R. Zaharchenko



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# Contents

<b>INTRODUCTION</b>	<b>1</b>
<b>1 The Evolution of Access to Information in Post-Soviet Countries</b>	<b>3</b>
1.1 The Traditional Soviet Approach and Its Breakdown	3
1.2 Developments in Law and Policy after the Dismantling of the Soviet Union	5
1.3 The Emergence of Legal Activism among Environmental NGOs	7
1.4 Obstacles to Access	8
<b>2 Overview of Access to Environmental Information under the Aarhus Convention</b>	<b>11</b>
2.1 Introductory Note	11
2.2 Definition of Environmental Information	11
2.3 Circle of Covered Institutions	12
2.4 Who is the "Public"?	12
2.5 Access upon Request	12
2.6 Collection and Dissemination	13
2.7 Access to Information during Decision Making	14
2.8 Review Procedures and Accessibility of Final Decisions	14
<b>3 The Role of the Convention in the Opening of Post-Soviet States</b>	<b>15</b>
3.1 Missing Concepts and New Approaches	15
3.2 Impact on National Laws and Policies	16
3.3 Environmental Ministries as Pioneers of Change	18
3.4 An Additional Tool for Civil Society	20
3.5 Compliance Mechanism under the Convention	21
3.6 Seminars, Manuals, Training, and International Assistance	22

<b>4</b>	<b>Challenges in Place</b>	<b>25</b>
4.1	The Case of Two Nonparties: Russia and Uzbekistan	25
4.2	Bureaucratic Resistance and an Incomplete Legal Base	25
4.3	Financial and Technological Constraints	27
4.4	A Promise of Change or Unmet Expectations?	27
<b>5</b>	<b>Conclusion and Policy Recommendations</b>	<b>29</b>
5.1	Study Findings	29
5.2	Institutional Arrangements and Legal Safeguards	30
	<b>Appendix</b>	<b>33</b>

**Tatiana R. Zaharchenko, Ph.D.**, is a scholar in residence at the Environmental Law Institute (Washington, D.C.), currently on an overseas assignment in Ukraine. The main research for the present study was conducted from November 2003–July 2004, when Zaharchenko was a research scholar with the Kennan Institute. The study was completed in April 2007. Additional legal instruments have been enacted in the countries addressed in this study between the time of the main research and final writing. This ongoing process does not alter the conclusions of the study, which focus on a specific historical period and the impact of a particular international treaty on emerging democracies during that period. For those interested in the further evolution of laws and policies of the post-Soviet states and new accomplishments of nongovernmental groups with regard to access to information, the websites broadly used in this study may be a useful resource, as is the Aarhus Convention clearinghouse (<http://aarhus-clearinghouse.unece.org/>).

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The study focuses on 12 post-Soviet countries. It does not cover the three former Soviet Baltic states, which are all members of the European Union and parties to the Convention. Occasional references to them are intended for comparison purposes or are made in regard to their Soviet period. Estonia was a party to the Convention when it took effect, while Lithuania and Latvia were merely signatories. These two countries ratified the Convention in January and June 2002, respectively.



# Introduction

On October 30, 2001, an international treaty known as the Aarhus Convention became part of binding international law. The Convention, which then-UN Secretary General Kofi Annan called a symbol of “environmental democracy,” was ratified by 17 countries, 11 of them post-Soviet states. All Soviet successor states except Russia and Uzbekistan decided to abide by the Aarhus Convention.<sup>1</sup>

These latter states’ signing of the Aarhus Convention was reminiscent of the Soviet Union’s ratification in 1973 of two international covenants on human rights,<sup>2</sup> much earlier than many other states and without any changes to Soviet laws. Does the post-Soviet states’ nearly complete official acceptance of the Aarhus Convention this time say anything new about this set of countries which still struggle with corruption, controlled media, and one-man-show political regimes? If so, what does it say and what does it entail for the societies of these countries? The present study is an attempt to answer these and other questions about the evolution of openness and transparency in post-Soviet states through the prism of access to environmental information. The prism metaphor seems particularly appropriate, first, because environmental information affects everybody in society, and second, because the opening of Soviet society may be said to have begun in 1986 with Chernobyl—a disastrously failed attempt to withhold environmental information.

The Aarhus Convention—formally the UNECE<sup>3</sup> Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters<sup>4</sup>—obliges governments bound by it to provide procedures and guarantees concerning imple-

mentation of the rights listed in its title. It is recognized by a majority of European and post-Soviet states (see chapter 2. 1). For the Western world, fulfillment of such rights within a variety of countries’ cultural traditions, political regimes, and legal systems has a relatively recent but substantial history.<sup>5</sup> Overall, it is rooted in democratic traditions of governance and respect for human rights and civil liberties. For the post-Soviet states, however, the Convention represents a turning point from deeply nested traditions of totalitarian governance and from attitudes and mentalities formed over 70 years of Soviet rule.<sup>6</sup>

In part promoted by extensive international assistance, the Aarhus Convention received great attention from post-Soviet states. Many of them looked at the Convention as an admission ticket to the club of civilized democratic societies. Implementing the Convention was expected to move the legal systems of these countries closer to the fundamental principles of European law, which was becoming a model for developing laws and policies among the Soviet successor states.<sup>7</sup> The example of Baltic, Central European, and East European countries that had just recently been socialist but were now entering the European Union family and harmonizing their legislation with EU requirements further contributed to the Convention’s appeal.

Perhaps even more significant is that for the post-Soviet states, turning to Europe symbolized a rejection of their Soviet past. Joining the Aarhus Convention provided an opportunity to demonstrate an aspiration to Western principles of transparency and accountability in governance. Every post-Soviet country except Russia and Uzbekistan rushed to show its

changed attitude by being among the first to recognize the Convention, and initially these states constituted the majority of the parties.

Still, many of these countries remain political “one-man shows,” where violence is routinely used to silence opponents and journalists, civil activists are jailed for revealing inconvenient information or being too active, torture may be used to force confessions, and bribery is an accepted way of doing business. The old habits and traditions of Soviet-era governance keep manifesting themselves, not-

withstanding statehood, new currencies, and new leaders. According to the 2003 edition of Global Corruption Report, access to information in these countries continues to reflect the authoritarian legacy of the Soviet era.<sup>8</sup> In such a context, the challenges of following the Aarhus Convention requirements based on recognition of human rights and transparency in governance point out the tensions involved in reform. Efforts to deal with such challenges have a history in the Soviet Union and its successor states.

# 1 The Evolution of Access to Information in Post-Soviet Countries

## 1.1 THE TRADITIONAL SOVIET APPROACH AND ITS BREAKDOWN

The tendency toward increased openness in Soviet society started before the Soviet Union fell apart. Secrecy and deception, together with the regime's self-confidence, the pillars of Soviet rule for decades, began crumbling during perestroika, Mikhail Gorbachev's program of using reform to speed up socioeconomic development, which he initiated in 1985. Glasnost, courageously demanded by human rights activists such as Andrei Sakharov in the early 1970s,<sup>9</sup> became an officially endorsed if not yet fulfilled policy of openness and of making officials more accountable to the public.<sup>10</sup> Still, the main blow to the Soviet system came in the spring of 1986 from the Chernobyl tragedy. Soviet citizens were glued to international radio broadcasts for three days before the first vague, official government announcement was made about the enormous accident at the nuclear power plant. Government decisions on how to handle the possible consequences for human health and the environment were made behind closed doors and were strictly classified.<sup>11</sup> It took three more years for the first detailed yet still incomplete report on the scope and intensity of the accident to be released.<sup>12</sup>

Nevertheless, the break in the mentality of Soviet society as a whole was made. It was a Soviet "Silent Spring,"<sup>13</sup> not in a book but in the air. The Chernobyl catastrophe galvanized the emergence of an environmental movement in the Soviet Union.<sup>14</sup> It also demonstrated the failure of a system of governance that did not recognize the state's obligation to provide environmental information

to the public. In the late 1980s, across the Soviet Union, outspoken public figures and intellectuals called insistently for broad environmental awareness, citizen involvement in decision making, and an end to the policy of secrecy. In Ukraine, Yuri Shcherbak stressed that the people had the right to know—and must know—about the environmental situation in which they lived.<sup>15</sup> In Russia, Alexey Yablokov said that forming mechanisms for public discussion of projects with environmental impacts and halting the policy of classifying information about the environment were critical measures in dealing with an environmental crisis.<sup>16</sup> In Kazakhstan, the effects of Soviet nuclear tests on the Kazakh steppe, which were kept a state secret for years, were for the first time brought to public attention.<sup>17</sup>

One only may speculate now whether this major shift in public consciousness would have occurred without Chernobyl, given the many other environmental disasters produced by the Soviet regime. But it is obvious that after Chernobyl many of these disasters became the subjects of open and heated public debate within the country. The need to achieve total glasnost on environmental matters was often cited as a starting point for improving the ecological situation.<sup>18</sup> There could be no excuse any more for secrecy, especially for keeping information related to the environment away from public view and knowledge. "The public requires truth, requires ecological information," insisted leading journalists of that time.<sup>19</sup> The scale of environmental destruction in the Soviet Union also came under the spotlight abroad.<sup>20</sup>

The need to introduce more open and democratic legal approaches in dealing with environmental matters became a subject of scholarly discussions in the late 1980s in Soviet legal circles as well.<sup>21</sup> Perestroika also opened doors for young Soviet lawyers to travel abroad and to share, in the pages of law reviews, their newly acquired awareness of the significance of access to information and public participation in environmental decision making in democratic societies.<sup>22</sup>

Crucial new institutional and legal developments took place in this period in the area of environmental protection and management as well as in making environmental information more publicly known and recognizing citizens' right to challenge the state's actions and decisions in court (some of which are noted below).

In 1988, the State Committee for the Protection of Nature of the USSR (Goskompriroda), the first all-Union agency with a mandate for environmental protection, was established.<sup>23</sup> In October 1989, Goskompriroda published a handbook, *The State of the Environment in the USSR*, that was made commercially available.<sup>24</sup> Ukraine became the first Soviet republic during this period to adopt regulations on the collection and dissemination of environmental information. In April 1990, a decree of the government of Ukraine (at the time, the Ukrainian Soviet Socialist Republic) authorized the Ukrainian State Committee for the Protection of Nature to collect relevant environmental and public-health information from other state agencies, and to make it publicly available through mass media and press centers twice a year throughout Ukraine and at least once a month in the republic's regions.<sup>25</sup> This decree gave legal recognition, for the first time, to the necessity of making certain environmental information processed by the government known to the public. However, it did not yet acknowledge that members of the public had

the right to request environmental information of their own choice directly from state authorities.<sup>26</sup> 1989 was also marked by the conceptually groundbreaking All-Union Law on the Order of Appeal to a Court of Illegal Actions of State Bodies and Officials Infringing on the Rights of Citizens.<sup>27</sup> Until enactment of this law, Soviet citizens could not go to a court of law to challenge public authorities.<sup>28</sup>

Several states, some still Soviet, some already independent, enacted special laws on protection of the environment or of nature (Azerbaijan,<sup>29</sup> Belarus,<sup>30</sup> Estonia,<sup>31</sup> Kazakhstan,<sup>32</sup> Moldova,<sup>33</sup> Russia,<sup>34</sup> Tajikistan,<sup>35</sup> and Ukraine<sup>36</sup>). In these laws, articles referring to citizens' rights to a safe or healthy environment, and to obtaining information, in particular, about the state of the environment, were for the first time introduced in transitioning Soviet legal systems.<sup>37</sup> So it is within the environmental context that legal provisions recognizing a public right to information in the hands of authorities emerged in Soviet and post-Soviet countries. This development is arguably linked directly to the change in public consciousness prompted by Chernobyl and other environmental catastrophes.

Some of these new environmental protection laws stated that citizens had the right to demand information from the appropriate authorities (e.g., Russia). One should note that according to Soviet legal doctrine, every right was understood to prompt a corresponding obligation (so that the right could be fulfilled). Nevertheless, the laws did not include the obligation of state authorities to meet citizens' demands for information. By and large, they referred to obligations of citizens but not to competencies and powers (*polnomochiia*) of the authorities.

Some countries included in these laws articles on supplying information to citizens about the state of the environment, cases of and reasons for its extreme pollution, and mitigation measures (e.g., Ukraine). Such articles were

contained and understood within the broader provisions on informing the public (i.e., disseminating information). A few sector-specific laws (such as the water code) obliged certain authorities to provide information to the population, mainly about the state of the environment.<sup>38</sup>

Sometimes the laws directly stated that the right of citizens to environmental information should be fulfilled by periodically publishing the information through specially authorized state bodies (e.g., Tajikistan). In Ukraine, for example, the law required the Ministry of Environment and its local bodies to prepare an annual “state of the environment” report to be submitted to the legislature. This approach of providing environmental information by publishing or submitting it to yet another government body was very typical for that time. However, none of these laws stipulated that a public authority that possessed environmental information had an obligation to provide access to this information on request to members of the public. Nor did any of these laws specify procedures and mechanisms for providing such information.

Nevertheless, some environmental protection laws called for administrative penalties for public officials refusing to provide timely, full, and accurate environmental information (e.g., Kazakhstan).<sup>39</sup> Within the Soviet legal system, this clause was supposed to be followed by the inclusion of relevant articles in the administrative code specifying penalties, but it was not.<sup>40</sup>

No matter how partial these first legal provisions were and how vulnerable their enforcement remained, they were fundamentally new approaches for the Soviet republics and the first bricks paving the way to opening up government systems and providing access to information. They should be regarded as a breakthrough in the political system and legal doctrine, signaling the beginning of a new era.

## 1.2 DEVELOPMENTS IN LAW AND POLICY AFTER THE DISMANTLING OF THE SOVIET UNION

With the breakup of the Soviet Union in 1991, the opening up of society and politics in the newly independent states accelerated. Environmental concerns remained high on social and political agendas. Post-Soviet governments started to publish annual national “state of the environment” reports.<sup>41</sup> Ministries of the environment or environmental protection were established by governments in almost all the post-Soviet states. They began active public education campaigns to build more awareness of environmental issues and to raise support for environmental protection.

With regard to citizens’ rights to a healthy environment and access to information, the changed social mentality was also reflected in post-Soviet constitutions, many of which included separate articles on the right to a safe, favorable, or healthy environment, and to information about the environmental situation (see Table 1).

Legal scholars continued to emphasize the need for public participation and access to information related to the environment, and looked for examples in Western legal systems.<sup>42</sup> Articles pointing out the importance of the right for citizens to know and to directly access information became a part of the public discussions concerning newly developed draft laws on public health and the environment.<sup>43</sup>

Between 1992 and 1998, with Ukraine in the lead,<sup>44</sup> many post-Soviet states introduced general laws on information.<sup>45</sup> There was a variety of approaches in the first generation of post-Soviet information laws.<sup>46</sup> All, however, shared some common features, bearing traces of the Soviet past while also reflecting aspirations for more open and transparent societies with market economies.

Following the example of a Ukrainian law, many post-Soviet information laws announced that openness and availability of information

were important principles. A few countries even enacted laws with titles mentioning freedom of information or access to information. Another body of law—laws on state secrets potentially restricting access to information—was enacted in the same period (see Table 2).<sup>47</sup>

Basically, all laws on information during the immediate post-Soviet period were focused on regulating its flow, collection, and management. Following the Soviet legal tradition, the laws went into extensive detail—establishing various types, kinds, and categories of information, and classifying different “objects” and “subjects” of “information relations.” Some were rather lengthy, detailed legal acts.<sup>48</sup> A number of these laws introduced “*informatizatsiia*,” an imprecise term recalling the vocabulary of the socialist era (see Table 2). *Informatizatsiia* was defined broadly as an organizational, socioeconomic, and scientific process of satisfying needs of different state bodies and juridical and physical persons for information.<sup>49</sup> In a way, it was a post-Soviet variation on information management.

Some laws on information also regulated protection of information and even emphasized that in their titles (see Table 2). It is perhaps natural that in post-Soviet societies still deeply rooted in a tradition of state supremacy, any information in the hands of the government was considered an important national resource, to be guarded, protected, and used most of all for the benefit of the state. Very often, information laws directly stipulated that information gathered by means of expenditures from a state budget was considered state property. These laws also emphasized that the government or other entity collecting the information owned it, along with the right to establish rules governing its access.

During this period of transition in the post-Soviet states, the free-market economy intoxicated policymakers and society in general and privatization accelerated. Information became a marketable commodity too. Information laws often said that information could be considered

a good, and that its owner could use it commercially at his or her own discretion.

Information laws divided information into open-access and limited or sometimes closed-access information. But with no precise criteria for making this distinction, the state was free to decide on its own and monitor compliance.

Nevertheless, these laws also included some provisions on access to information by the public. Some stipulated that citizens had the right to get access to information about themselves, as well as information necessary for exercising their rights, freedoms, and legitimate interests. Some laws on information stated that citizens could request any official document from public authorities about their activities and established periods during which requests should be answered. Most information laws also introduced appeals to a higher state authority and then to a court in instances when a request for information was refused.

Overall, the first generation of information laws in the post-Soviet states was preoccupied mainly with consolidating information in the hands of the government and controlling its flow, rather than sharing it with the public. Public interest in information or its public significance was hardly reflected in actual access to information.<sup>50</sup> It was ownership that most of all determined the status of information and access to it.

Still, the importance of the first generation of post-Soviet information laws should not be understated. For the first time in their history, the former Soviet republics referred, on the statutory level, to the necessity of openness and citizens’ right to obtain certain information from public authorities.

Post-Soviet laws on both information and state secrets tended to recognize the special significance of environmental (often called ecological) information and to make it publicly available. A number of these laws stated that information or data on the environment could not be classified as a state secret or that access to such information could not be limited.

Finally, this period was also marked by post-Soviet states' enactment of separate laws on appeals from citizens.<sup>51</sup> These laws created additional grounds for obtaining certain information from public authorities. They obliged public authorities with competence over relevant matters to consider and respond to appeals, complaints, and proposals from citizens. The laws on appeals also introduced procedures for judicial review of decisions.<sup>52</sup>

### 1.3 THE EMERGENCE OF LEGAL ACTIVISM AMONG ENVIRONMENTAL NGOS

The most powerful impetus pushing the post-Soviet countries to become more open societies with more accountable governments came from citizens and NGOs. Born in the 1980s, the environmental movement of the post-Soviet states underwent a transformation in the early 1990s. More liberalized states provided diverse opportunities for civic activism. Some environmental activists moved into the political arena; some drifted into business; some switched to new social issues. Others just got disillusioned with the changes in their societies and became overwhelmed by the difficulties of daily life. One Russian observer, for example, noted that environmentalists at this time were considerably weakened.<sup>53</sup> However, those who remained involved matured and started looking for more effective ways to achieve their goals. In the early 1990s, NGOs began to test the opportunities provided by the post-Soviet states' many new laws.

Applying legal means to resolve environmental matters was quite different from the demonstrations and other forms of political protest of the very recent past, and it required new skills and legal knowledge. Nevertheless, it was clear to the green activists of that time that it was no longer possible to advance the environmental cause by purely political means.<sup>54</sup>

In 1992, the Social-Ecological Union brought an unheard-of kind of case to the Supreme Arbitration Court against a deci-

sion of the Russian government to waive taxes for a Russian-American joint oil venture that involved Conoco and a state enterprise from Arkhangelsk.<sup>55</sup> The case was eventually lost, but it was a powerful illustration that the time for NGOs to use legal strategies had arrived, and it opened up a new stage for environmental battles.

The air at the time was filled with talk about building the rule of law and civil society. Many international programs within and outside the post-Soviet states became available to support NGOs, providing grants for activities, training, seminars, computers, and libraries.

From 1992 to 1995, in a few major cities, public-interest legal organizations focusing on environmental matters were created. Some of them were initiated by experienced lawyers with environmental expertise,<sup>56</sup> others by young lawyers returning from internships in Western law schools,<sup>57</sup> others by budding environmental activists interested in applying law in the environmental field.<sup>58</sup> All of them were led by bright, brave individuals who saw legal action as a powerful strategy for resolving environmental issues and protecting citizens' rights in the new political climate of openness. There were no legal precedents and no certainty of how the system would react to a challenge posed by these groups. According to Professor Svitlana Kravchenko, a founder of one such pioneering group in Ukraine, "During the years of communism, suing the government was prohibited, impossible, and even dangerous. In the early years after communism, to do so was a leap into the unknown, yet an exciting one."<sup>59</sup>

The public-interest legal environmental groups provided advice to the public, submitted requests for information on the environment to public authorities, and brought environmental cases to court on behalf of citizens.<sup>60</sup> These groups built an impressive track record of using legal tools to resolve environmental problems and spread awareness of this approach (including how to win access to information held by

public authorities) throughout the post-Soviet states.<sup>61</sup> They put pressure on public authorities that gradually prompted changes in environmental decision making and in social acceptance of the growing role of NGOs and legal activism. They also slowly but surely worked to overcome the reluctance of the judiciary to accept and consider environmental cases brought by citizens and NGOs. These groups became highly visible inside their countries, and often were noted abroad.<sup>62</sup> In the early 1990s, court hearings on their cases often attracted significant audiences, reflecting broad interest within society. Their victories and failures were highlighted in the print media<sup>63</sup> and on television.<sup>64</sup>

The turn to legal actions on environmental issues motivated the publication of manuals and guides for citizens and NGOs.<sup>65</sup> Published collections of environmental legislation were assembled by lawyers of public-interest environmental groups, which made laws and regulations more easily available to the public.<sup>66</sup> International programs supported seminars on environmental law for activists, officials, and judges, and often brought them for training to the West.<sup>67</sup>

Individuals and NGOs tried to obtain various kinds of environmental information from public authorities and often appealed to courts when it was not provided. This was sometimes part of a broader legal strategy to affect decision making, but sometimes it was the main focus of the groups' efforts. For example, in 1994 a Saint Petersburg NGO, Lawyers for the Environment, requested information from the municipal committee on statistics after the committee published a newspaper article on the financing of environmental protection. The group wanted to know the specific sources of financing and the specific activities that were undertaken.<sup>68</sup> The request was initially denied, but at least part of it was granted in subsequent court appeals.

Nevertheless, difficulties remained in getting access to information in the hands of public authorities, particularly environmental

information. In November 1997, Armenia's ministry of the protection of nature refused to provide information on air pollution in the city of Alaverdi to the Environmental Public Advocacy Center (EPAC) on the basis that it was secret. EPAC appealed to a court, which ruled that under law the ministry should provide the requested information, but the ministry still refused. Only in July 2000, after repeated court appeals, did the ministry provide the information.<sup>69</sup> This was a typical instance of the prolonged periods of time needed to obtain environmental information. Very often it took several years for NGOs and citizens to gain it, and doing so almost always required judicial involvement.<sup>70</sup> Although NGOs and citizens of the former Soviet republics were ready to use new legal opportunities, the executive branch generally was reluctant to recognize them.

#### **1.4 OBSTACLES TO ACCESS**

The continuing difficulties in receiving information from public authorities were in part rooted in the habits and traditions of Soviet-era governance, which was accustomed to controlling information and was slow to change. The absence of a philosophical and legal concept of government accountability to the citizenry kept blocking attempts to transform post-Soviet societies, while the move toward free markets and privatization that made information a valuable commodity did not inspire often-impoorished public officials to share it with the public either.

Even if there was a shift in overall state policy toward more openness, there was still little recognition among officials that they were obliged to provide environmental information upon request to the public.<sup>71</sup> Despite new legal provisions, NGOs and the citizens they assisted had to battle the inertia of legal systems historically not oriented to serving them. On top of that, the laws themselves were full of shortcomings.

First of all, many provisions of the information laws were simply confusing. Their transla-



tion into English often makes these provisions more coherent, reflecting the genuine effort of interpreters to make sense of them. In Ukraine, for example, information was defined as “documented or publicly announced records on events and occurrences which take place in society, the state, and the natural environment,”<sup>72</sup> leaving room for the argument that unless the event or data had been publicly announced, it may be considered not to be information at all, and therefore requirements for access might not apply. The law also did not clearly specify what documented information was.<sup>73</sup>

Second, information laws had no definition or underlying concept of public or public-interest information. A very few contained a weak reference to public interest, but in the context of informing the public (disseminating information) rather than providing information upon request by members of the public. The information laws as a rule did not regulate whether the public interest or the public significance of information should mandate that it be accessible to the public.<sup>74</sup> Nor was there any public-interest test mentioned in these laws.<sup>75</sup>

The absence of an underlying concept of public information, in combination with a re-emphasis on state ownership of information when its collection was underwritten by state funds, represented a crucial flaw in post-Soviet information laws stemming from a tradition of total state supremacy.

As was mentioned in chapter 1.2, many of these laws stipulated that there was open-access information and limited or closed-access information. But they failed to specify the criteria for distinguishing between the two. It was left to the authority of the state to decide this distinction, without clear regulatory guidance. Even while some post-Soviet laws stipulated that citizens could request any official document from public authorities regardless of whether it related to them personally or not, these same laws exempted information of limited access from this clause.

Generally, in terms of providing public access to information held by public authorities,

post-Soviet laws on information in the 1990s resembled games of “hide and seek”—sometimes coming close to granting public access but never completely getting there.

Third, the first generation of post-Soviet laws on information and state secrets treated environmental (ecological) information as a special kind of information to which access might not be limited. However, the impact of this important development was mitigated by the fact that it was not clear what comprised environmental information. In addition, the laws most often referred to information or data on the *ecological situation* or *state of environment* in general, which left out a whole range of environment-related information, including the impacts on the environment and human health from discharges of hazardous materials and other forms of pollution. The environmental and natural resource laws of post-Soviet countries have not offered a definition of environmental information either.

But even those laws that said environmental information should not be made secret or be classified as limited-access information did not stipulate that the government and public agencies had an *obligation* to provide such information to the public upon request. Nor did these laws provide exhaustive procedures and a solid legal basis for the public to request and receive information. The laws on citizens’ appeals were based on a clause that a particular citizen’s right or interest had to be infringed upon in order for an appeal to the public authority to be made. There was also the additional requirement that the public authority have legal competence over the matter in question in order to respond to the inquiry.

In light of these legal flaws and absent traditions of accountability and transparency regarding the government’s actions and decisions, many laws addressing access to information continued to remain “paper” provisions and were very difficult to enforce. These imperfections were actually addressed by post-Soviet decision-makers in a 1997 model law on ac-

cess to environmental information adopted by an inter-parliamentary assembly of the members of the Commonwealth of Independent States (CIS).<sup>76</sup> However, no laws based on this model law were enacted by any of the CIS countries.<sup>77</sup>

The numerous foiled attempts of citizens and NGOs to use the new legal opportunities to get access to information led to an aware-

ness of the urgent need to further expand and strengthen the legal requirements and procedures so as to widen such access in post-Soviet states. It was against this background of persistent legal action by NGOs and citizens in post-Soviet societies to receive information, and the spreading awareness of difficulties arising from these actions, that the Aarhus Convention came along.

## 2 Overview of Access to Environmental Information under the Aarhus Convention

### 2.1 INTRODUCTORY NOTE

The Aarhus Convention developed in the framework of the Environment for Europe process.<sup>78</sup> It culminated a decade-long evolution of international instruments addressing access to information and public participation in environmental decision making, and resulted from two years of intense negotiations.<sup>79</sup> In many ways, the Convention itself is an outstanding example of public participation in shaping international environmental laws and policies.<sup>80</sup> Environmental NGOs from Central and Eastern Europe, Western Europe,<sup>81</sup> and the United States<sup>82</sup> made major contributions to the Convention's text. The Convention was signed at the fourth Conference of European Environmental Ministers in Aarhus (Århus), Denmark, in June 1998. Fifty-two of the 55 UNECE member countries and more than 70 international intergovernmental and nongovernmental organizations were represented at the Conference.<sup>83</sup>

The Aarhus Convention came into force and thus became a legally binding document for its parties on October 30, 2001. As of April 1, 2007, 40 countries<sup>84</sup> and the European Community had become parties to the Convention. The first meeting of the parties took place in October 2002, the second in May 2005.<sup>85</sup> The Convention is open for accession to any member state of the United Nations upon approval from a meeting of the parties.

The Aarhus Convention introduced obligations for its parties in three areas, called “pillars,” reflected in its title: access to environmental information, public participation in environment-related decision mak-

ing, and access to review procedures by independent bodies on matters related to the first two pillars, labeled more broadly as access to justice. It established minimum standards in these areas, described by the secretary of the Convention, Jeremy Wates, as “a floor, not a ceiling.”<sup>86</sup> All three pillars of the Convention are closely connected, and for their implementation they depend on each other. However, it is the first pillar—access to information—that is the focus of the present study.<sup>87</sup> The other two pillars—public participation and access to justice—are discussed to the degree they address or enhance access to information.

### 2.2 DEFINITION OF ENVIRONMENTAL INFORMATION

The Aarhus Convention defines environmental information as any information in written, visual, aural, electronic, or any other material form that relates to one of three groups.<sup>88</sup> The first group comprises the state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among all these elements.

The second group includes two different types of factors: (1) substances, energy, noise, and radiation, and (2) activities or measures, including administrative measures, environmental agreements, policies, legislation, plans, and programs affecting or likely to affect the elements of the environment in the first group. It also covers cost-benefit analyses and other economic analyses and assumptions used in environmental decision making.

The third group extends to the state of human health and safety, conditions of human life, and cultural sites and built structures, as long as they are or may be affected by the state of the environment or, through its elements, by the factors, activities, or measures determined by the second group.

### 2.3 CIRCLE OF COVERED INSTITUTIONS

The Convention is based on the assumption that environmental information may be in the possession of any public authority and that each such authority should make it available to the public. Such authority might not necessarily be a government agency or ministry with explicitly pronounced environment-related functions. According to the Convention, every public authority that holds environmental information is required to provide access to it. The Convention outlines four types of public authorities that are covered by its requirements:<sup>89</sup>

- (a) Government at national, regional, and other levels;
- (b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities, or services in relation to the environment;
- (c) Any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within paragraphs (a) or (b) above; and also
- (d) The institutions of any regional economic integration organization which is a Party to the Convention.

An exception to the list of covered public authorities is bodies or institutions acting in a judicial or legislative capacity. Therefore, the Convention mainly establishes obligations for the executive branch of government. A request to receive information under the Convention

cannot be directed to a court or legislative body of a country.

### 2.4 WHO IS THE “PUBLIC”?

Under the Convention, the “public” means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations, or groups.<sup>90</sup> This definition entitles any person or legal entity to be considered *the public* for the purpose of receiving environmental information. Moreover, the Convention requires that the public have access to information without discrimination as to citizenship, nationality, or domicile, and, in the case of a legal person, without discrimination as to where he or she has his or her registered seat or the effective center of his or her activities.<sup>91</sup>

### 2.5 ACCESS ON REQUEST

The Convention established detailed procedures and requirements for public authorities for providing environmental information in response to a request from the public.<sup>92</sup> They must make environmental information available to anyone requesting it as soon as possible—at the latest, within one month. The state cannot require that the interest in information be stated. An exception is when the volume and the complexity of the information justify an extension of this period of up to two months after the request is made. The Convention defines occasions when a request for information may be refused, specifying that grounds for refusal should be interpreted in a restrictive way. It says that a refusal should be in writing if the request was made in writing or if the applicant so requests. The refusal should be explained and include information on the available review procedures. Refusals must be made within the same time frame as set for providing the requested information (i.e., one month, extended to two for complex requests).

According to the Convention, governments may allow their public authorities to require a

reasonable fee for supplying information. Public authorities intending to charge for supplying information are required to make available to applicants a schedule of charges, indicating the circumstances in which charges may be levied or waived and in which the supply of information is conditional on advance payment.

## 2.6 COLLECTION AND DISSEMINATION

The Convention set requirements on the collection and dissemination of environmental information.<sup>93</sup> It obliges public authorities to possess and update environmental information relevant to their functions, and to establish systems to ensure an adequate flow of information about proposed and existing activities that may have significant effects on the environment. In the event of an imminent threat to human health or the environment, all information that could enable the public to take preventive or mitigating measures must be immediately disseminated.

The Convention language on measures and institutional arrangements for assembling environmental information and making it accessible goes far beyond what was legally required even in the most open post-Soviet laws on information. It is a road map for countries attempting to collect and disseminate information. First, governments are obliged to inform their citizens about the types and scope of environmental information held by relevant public authorities and how citizens may obtain access to it. Second, they are to establish and maintain practical arrangements for making environmental information accessible, such as creating publicly accessible lists, registers, or files free of charge, and identifying points of contact. The Convention also introduces what can be seen more as a behavioral rather than a legal rule, requiring officials to support the public in seeking access to information.

In a reflection of the cyberspace era, the Convention requires governments to make environmental information progressively

available in electronic databases, which have to be easily accessible to the public through telecommunications networks. Provided that it exists in electronic form, the following information should be made electronically accessible:

- (a) Reports on the state of the environment;
- (b) Text of legislation on or relating to the environment;
- (c) Policies, plans, and programs on or relating to the environment, and environmental agreements, as appropriate; and also
- (d) Any other information, to the extent that the availability of such information in electronic form would facilitate the application of the national law implementing the Aarhus Convention.

The Convention states that every three to four years governments have to publish and disseminate a national report on the state of the environment that should include not only information on the quality of the environment but on pressures on the environment as well. Within the framework of their national legislation, governments also have to take measures to disseminate:

- (a) Legislation and policy documents such as documents on strategies, policies, programs, and action plans relating to the environment, and progress reports on their implementation, prepared at various levels of government;
- (b) International treaties, conventions, and agreements on environmental issues; and
- (c) Other significant international documents on environmental issues.

The Convention also obliges governments to develop specific mechanisms to ensure that sufficient product information is made public to enable consumers to make informed environmental choices. In addition, governments have to establish a coherent, nationwide system

of pollution inventories or registers compiled through standardized reporting and to make them available in a structured, computerized, publicly accessible database. Although much of the scientific data on monitoring the environment was collected and maintained in the final years of the Soviet Union, it was scarcely available even for the internal use of state authorities. The absence of computers and appropriate software is just one reason.

## **2.7 ACCESS TO INFORMATION DURING DECISION MAKING**

The Aarhus Convention obliged governments to provide opportunities for public participation during decision making related to the environment (referred to as the second pillar of the Convention).<sup>94</sup> Three areas of decision making are targeted by the Convention with different degrees of certainty in terms of procedural requirements, discussion of which is beyond the scope of the present study. The areas include: first, decisions on specific activities that may have a significant effect on the environment; second, decisions concerning plans, programs, and policies related to the environment; and third, decisions during the preparation of executive regulations or generally applicable legally binding normative instruments. It is within the public participation requirements with regard to specific activities (the first area) that the Convention prescribes that public authorities must give the concerned public access to all information relevant to decision-making.<sup>95</sup>

## **2.8 REVIEW PROCEDURES AND ACCESSIBILITY OF FINAL DECISIONS**

The Convention set up a framework for challenging public authorities when requests for information are refused or ignored.<sup>96</sup> It requires governments to safeguard the right of appeal within their national legislation when requests for information are ignored, wrongfully refused, or inadequately answered by a court of justice or other independent and impartial body established by law. It also provides that members of the public with sufficient legal interest shall have access to administrative or judicial procedures to challenge acts or omissions by private persons and public authorities that violate provisions of national environmental law. In addition, they can challenge the substantive and procedural legality of a decision subject to the provisions of the Convention on public participation in decisions on specific activities. This constitutes the third “pillar” of the Convention, access to justice. Governments must ensure that procedures to supply access to justice will provide adequate and effective remedies and not be prohibitively expensive for the public.

The Convention stipulates that the final decisions of the courts and, whenever possible, of other bodies must be made publicly accessible. With regard to decisions on access to information, the Convention also prescribes that they be binding on the public authority holding the information. Governments are encouraged to establish appropriate assistance mechanisms to remove or reduce financial barriers and other impediments to access to justice.

## 3 The Role of the Convention in the Opening of Post-Soviet States

### 3.1 MISSING CONCEPTS AND NEW APPROACHES

As was discussed earlier, rights to information were stipulated in many post-Soviet constitutions and addressed by post-Soviet laws. The criticism that those rights were pure declarations is commonplace in legal writing. But what is usually not mentioned is that the shortcomings of laws regulating these rights revealed the weakness of transitioning societies that wanted to change but for certain historical reasons did not necessarily know how to. With regard to environmental information, it was the Aarhus Convention that showed them how. In other words, the right to access environmental information in post-Soviet states was wishful thinking, indicating a goal rather than the means to achieve it. The Convention provided the means, as well as the necessary institutional and regulatory support, and offered the legal concepts and approaches that had been missing.

The Convention is focused on the obligations of the states with regard to people. Thus, the Convention obliges each party to take the necessary legislative, regulatory, and enforcement measures to establish and maintain access to information (as well as participation in and access to justice) for the public.<sup>97</sup> The Convention addresses the executive branch of government, prescribing what should be done so that the members of the public may obtain access to environmental information. It provides a step-by-step guide to how public authorities have to act in response to requests or when, on their own initiative, they collect and disseminate environmental information.

As mentioned in chapter 2.2, the Convention launched the concept and definition of en-

vironmental information. This definition is unusual for post-Soviet states in that what is included under the rubric of environmental information goes far beyond how environmental information was perceived. It not only includes text on the state of environment but also covers discharges, emissions, pollution, and other forms of environmental degradation. It touches on any kind of policy, legislation, plan, or program that would or might affect the environment. Moreover, it encompasses the state of human health and safety and the conditions of human life affected by the elements of the environment.

The Convention applies to a broad range of public authorities (see chapter 2.3). It goes beyond the typical approach in earlier post-Soviet legislation that ministries of the environment and their regional or local divisions should provide environmental information. For countries that still have overlapping and complex bureaucracies in the environmental area, this has far-reaching consequences. It requires any public agency that has in its possession information that falls under the Convention's definition to be responsive to public requests, and obliges that agency to share this information with the public.

The Convention also expands the circle of people who can receive environmental information beyond national borders (see chapter 2.4). Post-Soviet laws on information and on environmental protection referred to citizens' rights to receive information. Therefore, non-citizens residing in a particular country or citizens of another country were basically excluded from this legal privilege. The same was true for environmental NGOs. There were no provisions in post-Soviet laws that implied that pub-

lic associations, organizations, or groups from a different country could request or obtain environmentally related information from national authorities. Under the Convention, questions of citizenship, nationality, or residence do not effect eligibility to receive information. Nor does it matter where the public associations or NGOs requesting information are legally registered or located. This is a totally new global approach to recognizing and providing for a universal right to environmental information that every country bound by the Convention is obliged to respect and follow.

Another novel legal approach in the Convention is its specification that public officials have an obligation to respond to a request for environmental information (see chapter 2.5). Also novel is the requirement that governments apply a public-interest test in decision making with regard to requests for information. The Convention says that in deciding whether to refuse a request for information on the grounds of confidentiality, intellectual property rights, national defense, public security, or other reasons, the government must take into account the public interest that would be served by a disclosure of information and consider whether the requested information relates to emissions. In addition, the Convention states that the grounds for refusal to provide the requested information should be narrowly interpreted.<sup>98</sup>

A breakthrough provision in the Convention in relation to post-Soviet legal systems is that officials should provide environmental information without demanding that an interest in obtaining the information be explained by the requester. This is particularly significant for these countries emerging from 70 years of state supremacy over the individual, with its implication that any communication from a person to a state, if allowable at all, must be justified. Introducing such a legal requirement within post-Soviet systems is a philosophical and conceptual recognition that the public has the right to know.<sup>99</sup>

In practical terms, it makes requests for information easier to submit for an individual or organization and responses less burdensome for an official because there is no need to examine the interest or motive. Moreover, this requirement dramatically expands the circle of people who may request information, giving civil society opportunities to be broadly informed and involved.

Overall, the Aarhus Convention is built upon the approach of spelling out the obligations of public authorities toward the general public. In doing so, the Convention switches the traditional focus of Soviet law that many post-Soviet states could not yet overcome themselves—from obligations of the citizens to obligations of the state.

### **3.2 IMPACT ON NATIONAL LAWS AND POLICIES**

The Aarhus Convention affects the shape of post-Soviet laws and policies on access to information. Legal commentators from the Soviet successor states emphasize the Convention in their studies and guides on access to information, public participation, and the right to a favorable environment.<sup>100</sup> States bound by the Convention are to various degrees revising their national laws and practices to implement it.

Of the three areas the Convention addresses—access to information, public participation, and access to justice in environmental matters—it is the first that has most engaged the post-Soviet states, as international experts working in these countries have pointed out.<sup>101</sup> This was also reflected in reports prepared by the Aarhus Convention Secretariat for the meeting of Convention parties in May 2005 based on national reports submitted by the parties.<sup>102</sup>

According to the Convention Secretariat's *Synthesis Report on the Status of Implementation of the Convention*, legislative provisions for providing access to information under the Convention are currently in place in almost all of the post-



Soviet states.<sup>103</sup> Overall implementation of the Convention was judged most advanced in Belarus, Kazakhstan, Moldova, and Ukraine, and somewhat less advanced in Armenia, Azerbaijan, and Georgia, while Kyrgyzstan, Tajikistan, and Turkmenistan appeared to have made the least progress. However, even in Kyrgyzstan and Tajikistan, hopeful signs included decisions to undertake gap analyses between the Convention and national laws and to prepare “national profiles” for the assessment of implementation capabilities.<sup>104</sup>

There are various examples in the former Soviet Union of how the Convention stimulates efforts to bring openness and transparency to laws and policies. In 2002, Azerbaijan introduced a Law on Obtaining Environmental Information<sup>105</sup> that includes definitions, rules for dissemination, and procedures for gaining access to information that reflect some of the Convention’s requirements and approaches.<sup>106</sup> A law enacted the following year introduced administrative penalties for officials illegally limiting access to environmental information.<sup>107</sup>

In December 2001, Belarus enacted a government decree implementing the Convention that introduced a detailed working plan.<sup>108</sup> In 2003, following the decree, Belarus’s environmental ministry adopted a list of types of accessible environmental (ecological) information that was in line with the Convention’s definition.<sup>109</sup> With the support of national experts, in 2004 the environmental ministry drafted a regulation on providing environmental information upon the request of physical and judicial persons, which has been broadly discussed with the public.<sup>110</sup>

In 2002, Georgia’s environmental ministry and an NGO, the Strategy Research and Development Center, prepared draft legislation concerning “access to information, public participation in decision making, and access to justice in environmental matters.”<sup>111</sup>

In Kazakhstan, state-owned enterprises are obliged to provide information upon

public request.<sup>112</sup> In an effort to implement the Convention, the *Majilis* (the lower chamber of the Kazakh parliament) has drafted an environmental information law that was distributed to experts and NGOs for comments.

Moldova also developed a national plan for implementing the Convention provisions.<sup>113</sup> In addition, following the requirement under the Convention that persons exercising their rights in conformity with the Convention not be penalized, persecuted, or harassed in any way,<sup>114</sup> Moldova introduced legislative provisions protecting public officials who disclose limited access information if this disclosure does not effect national security interests and if the public interest in disclosure prevails over possible damage from disclosure.<sup>115</sup>

In 2002, Ukraine enacted legislation amending a number of previous laws in light of Convention requirements, and introduced administrative penalties for government officials who delay or refuse to provide environmental information.<sup>116</sup> In 2003, Ukraine’s environmental ministry adopted the Regulation on Providing Environmental Information, a rule on public access reflecting some of the Convention’s approaches.<sup>117</sup> In 2004, the Ukrainian legislature adopted the Decree on Informing the Public on Matters Concerning the Environment.<sup>118</sup>

Almost all post-Soviet states have well-developed legislative provisions on the collection and dissemination of environmental information; in addition, they use various laws, state programs, government decrees, and educational courses to promote environmental education and awareness.<sup>119</sup> According to the national reports drawn up in keeping with Convention requirements, many post-Soviet states have established natural resources databases and are in the process of developing pollutant registers. In a majority of these states, national laws and multilateral environmental agreements are published and are publicly accessible.<sup>120</sup>

### 3.3 ENVIRONMENTAL MINISTRIES AS PIONEERS OF CHANGE

The ministries of the environment of post-Soviet states, or sometimes their state committees for environmental protection, are the main public authorities with statutory competence to collect and disseminate environmental information. They are not necessarily the most powerful agencies in their countries, but in the area of opening up access to information for the public they have established a worthy example for other authorities.

As noted in chapter 2, the Convention developed within the “Environment for Europe” process, which unites European environmental ministers in their efforts to improve the regional environment. Therefore, environmental ministries have a mandate to implement the Convention in their countries. They are the public agencies that represented their countries (together with the ministries of foreign affairs) at the Convention signing, and they participate at the meetings of the parties. Since 2005, environmental ministries are obliged to prepare national reports on the implementation of the Convention for the meetings of the parties and some of them put these reports on their websites. Thus, it is not surprising that they demonstrate a clearer commitment to the Convention relative to other public agencies within the country and put greater efforts into implementing it. The examples below illustrate how some Convention-inspired measures encourage changes in post-Soviet habits of governance.

Many post-Soviet environmental ministries provide training for their officials on how to handle requests for information and how to involve the public in decision making. Using funding and technical expertise available through international assistance projects, environmental ministries in Belarus, Kazakhstan, and Ukraine have prepared, published, and placed on their websites manuals for officials that explain the Convention’s obligations and outline how to work with requests from the

public for environmental information (see Table 3). Guides to the Convention have also been prepared and published by the environmental ministry in Armenia for official use.<sup>121</sup>

Comprehensive data is lacking on the number of requests answered or declined annually by environmental ministries in post-Soviet states. Partial records indicate some activity. For example, for the period January 1 to March 16, 2006, the website of Belarus’s environmental ministry listed 36 requests for environmental information from citizens that were answered through the ministry’s *public reception room*.<sup>122</sup> The environmental ministry of Azerbaijan reported answering more than 500 requests for information from NGOs and nongovernmental associations from 2002 to 2004.<sup>123</sup>

Overall, almost all post-Soviet states have made significant progress in recent years in putting environmental information in electronic databases and making it available through their websites. All the post-Soviet environmental ministries except that of Turkmenistan now have websites (although access to them may be sometimes sporadic and their addresses may change). Table 3 illustrates that the environmental ministries websites provide various kinds of environmental information. During 2002–04, when the main research for the present study was undertaken, these websites changed and expanded enormously. They continue to be improved and expanded in terms of the volume of environmental information provided, including announcements of upcoming projects, results of environmental impact assessments, texts of environmental legislation, multilateral environmental agreements, “state of the environment” reports, and notices of public hearings, among other items (see Table 3). The development of these websites cannot be attributed solely to the Aarhus Convention. Other agencies and ministries of post-Soviet states also established websites in the early 2000s. Both Russia and Uzbekistan, neither of which is a party to the Convention, have environmental ministry websites. Nevertheless,

during 2002–04 the environmental ministries of the other post-Soviet states (save that of Turkmenistan) provided much more diverse and broad environmental information on their websites than these two countries.<sup>124</sup>

The use of information technologies and the Internet, often supported by international assistance projects, has become commonplace in most post-Soviet environmental ministries. Some of the post-Soviet states have put significant resources into developing electronic environmental databases. For example, Kazakhstan launched an electronic environmental information system at a cost of around \$662,000.<sup>125</sup>

Environmental ministry websites may also give insight on their commitment to the Aarhus Convention and may offer information on activities they have undertaken to implement it (see Table 3). In addition, they may illustrate the current status of access to environmental information electronically in each country.

The environmental ministries became an important entry point for the public in the post-Soviet states for developing a dialogue with government officials. In the last few years, many environmental ministries have opened their doors to the public, creating what are often officially or informally called Aarhus centers or information centers, where the public can obtain environmental information. Such centers exist at the environmental ministries in Armenia, Azerbaijan, Moldova, Tajikistan, Ukraine, and Georgia (see Table 3). Moldova, which in 1999 became the first country to ratify the Aarhus Convention, has reported more than 2,000 visitors to its Ecological Information Center annually; it has plans to create local Aarhus centers and has already opened one in Shtefan Vode.<sup>126</sup> In the Fergana Valley in Central Asia, local Aarhus centers have opened in Osh, Kyrgyzstan, and Khujand, Tajikistan.<sup>127</sup>

The environmental ministry of Belarus has been working steadily to create an Aarhus center for several years. First, in 2001 it opened a public reception room and established a public

coordination environmental council. In 2005 it also established an Aarhus Center<sup>128</sup> The environmental ministry of Kazakhstan adopted a regulation to create an Aarhus center in 2005.<sup>129</sup> At the time this paper was completed no Aarhus Center has been opened. Nevertheless, within the information analytical center of the ministry, an ecological information fund containing annual reports on the state of environment and environmental legislation has been introduced. Aarhus Center Georgia was established in Tbilisi, Georgia in December 2005 and began its activities in August 2006.<sup>130</sup>

The Azerbaijan Aarhus Center opened in 2003 with support of OSCE. It was intended to provide NGOs and government and science organizations with free access to a library, the Internet, and conference rooms. More important, it was expected to serve as the link between the government and NGOs in environmental policymaking.<sup>131</sup> According to Minister Hussein Bagirov, the center was established to serve the needs of everyone who is interested in the environmental situation of Azerbaijan and wants to contribute to decision making.<sup>132</sup> Since then, the center has been receiving about a hundred visitors a week, who come to use one of the country's largest environmental libraries, which offers more than 500 books and 100 videos, all in local languages. Center events included training in NGO management and environmental journalism, public hearings on biodiversity legislation, environmental youth congresses, and monthly NGO roundtable meetings. According to the OSCE, not only does the center provide NGOs with opportunities to meet and discuss environmental issues, but, because of its location within the environmental ministry, it has also encouraged greater cooperation between NGOs and state officials on environmental activities.<sup>133</sup>

In Tajikistan, during the opening of the Aarhus center in Dushanbe (with support of OSCE), the first deputy minister of nature protection emphasized that opening this center was “one more important step in the pro-

cess of democratization and development of transparency.”<sup>134</sup>

The environmental ministries of the post-Soviet states use the Aarhus centers for public hearings on pending legislation and decisions on upcoming projects; for seminars, meetings, and discussions between the public and the ministry’s representatives; and for press conferences on environmental issues and other environmentally related public events. Many centers have libraries that include collections of documents that visitors may review and copy as necessary. Some of the centers provide computer access and Internet connections. Some also respond to particular requests for information.

Many environmental ministries in the states of the former Soviet Union have prepared public directories or registers on the types of environmental information held by different public authorities. These are often assembled with the help of foreign experts as part of technical assistance projects. The environmental ministries of Armenia, Belarus, Kazakhstan, Moldova, and Ukraine posted these directories, registers, or lists on their websites, and in some instances on their Aarhus center websites (see Table 3).<sup>135</sup> A similar list reportedly was also prepared by the environmental ministry of Azerbaijan.<sup>136</sup> Georgian laws require each public agency to provide such registers.<sup>137</sup>

In some post-Soviet countries, environmental ministries also have been seeking to ensure the involvement of other public authorities in implementing the Aarhus Convention. For instance, they have created inter-ministerial groups and conduct workshops and seminars to which representatives of other public agencies are invited.<sup>138</sup>

Many post-Soviet states prepare national reports on the state of the environment and put them on their environmental ministry website (see Table 3). Reportedly, the governments of Moldova and Ukraine publish and disseminate printed national reports at least once a year, while the governments of Azerbaijan, Armenia,

and Belarus also do so, though sometimes less frequently.<sup>139</sup> The environmental ministries of Belarus and Kazakhstan put their 2003 “state of the environment” reports in a reader-friendly format on their websites.<sup>140</sup>

Overall, it may be concluded that influenced by the Aarhus Convention, many environmental ministries in the post-Soviet region perhaps slowly but surely are becoming the leading proponents of making their governments more open, transparent, and accountable.

### **3.4 AN ADDITIONAL TOOL FOR CIVIL SOCIETY**

The positive changes in national laws and policies and in the role of environmental ministries in post-Soviet states could not have occurred without the constant pressure placed on public agencies by citizens and NGOs. Of particular consequence were efforts to compel the environmental ministries to become more transparent, with NGOs embracing the Aarhus Convention as a tool for effecting greater openness and accountability on the part of government.

On several occasions, a Georgian NGO, Association “Green Alternative,” applied Aarhus Convention provisions to obtain environmental information from the environmental ministry and to bring court actions on the construction of the Baku-Tbilisi-Ceyhan (BTC) pipeline. The NGO claimed that the government approval process that sanctioned the pipeline’s route through Georgia was flawed and violated the requirements of the Georgian constitution, Georgian laws, and the Aarhus Convention, particularly the Convention’s provisions on access to information.<sup>141</sup> In March 2003, the environmental ministry’s representative admitted in court that the ministry made no public announcement and did not hold a legally required public meeting before making the decision to grant the environmental permit. Nevertheless, the NGOs lost the case.<sup>142</sup> In another case, in April 2004, a Georgian district court satisfied the Green Alternative ap-

peal and called on parliament to guarantee the official publication of the intergovernmental agreement on the BTC construction, signed by Georgia, Azerbaijan, and Turkey, which had not been officially published beforehand.<sup>143</sup>

In Georgia, 38 legal actions reportedly were brought to court in exercise of the right to information access between 2000 and 2004. In at least one case, thanks to the Aarhus Convention provisions, the court reduced the state tax assessed on an NGO by 75 percent.<sup>144</sup> Reportedly, Armenian courts also refer to Convention requirements in their decisions.<sup>145</sup>

In May 2001, a Ukrainian NGO, Ecopravo-Lviv, requested information from a municipal water supply company, Brodyvodokanal, about water quality and sanitation issues. Initially Brodyvodokanal refused the request, stating that the Ukrainian information access law did not designate such information as publicly available. In response, Ecopravo-Lviv filed a lawsuit in the economic court of the Lviv Region, referring to the provisions of the constitution and laws of Ukraine, and those of the Aarhus Convention. In November 2001, the court ruled in favor of Ecopravo-Lviv, ordering Brodyvodokanal to provide the requested information, which it did the following month.<sup>146</sup>

In 2006, EcoPravo-Kyiv, another renowned public-interest environmental law organization in Ukraine, successfully pressed the regional departments of the state forestry committee to provide information related to hunting permits referring to the Aarhus Convention, in addition to national legal requirements.<sup>147</sup>

A Kazakhstan NGO, the Green Salvation Ecological Society, regularly relies on requirements of the Aarhus Convention in its activities. In one case brought to the economic court of the Kazakh capital, Astana, which referred to Convention provisions, Green Salvation won a court decision obliging the ministry of agriculture to provide information it had previously refused to release.<sup>148</sup>

The Aarhus Convention strengthens the legal arguments of individuals and NGOs that the obligation to provide environmental information is stipulated not only in national law but in an international treaty. The moral weight added to a request by the fact that there is an international convention, broadly recognized in Europe and by which their country is abiding, obliges public agencies to release information. This is particularly true at a time when post-Soviet states look to European law as a model. There are networks of NGOs, by now quite experienced and mature, that are able to and in fact do apply the provisions of the Convention. However, awareness of the right to environmental information and knowledge of how to use the Convention still need to be expanded among other NGOs in the region and the general public.

### **3.5 COMPLIANCE MECHANISM UNDER THE CONVENTION**

The Aarhus Convention compliance mechanism was established at the first meeting of the Convention parties,<sup>149</sup> and an international “Compliance Committee” became operational in 2003.<sup>150</sup> It has eight independent members who serve in their personal capacity. The unique feature of the Convention compliance mechanism is that members of the public, including NGOs, may submit complaints, known as “communications,” concerning how states comply with Convention requirements. If domestic remedies first prove inadequate, NGOs or individuals can approach the Compliance Committee. Complaints can be considered after a country has been a party for one year. The mechanism is designed to enhance compliance with the Convention by parties, rather than provide redress for infringement of an individual’s rights.

Once the Compliance Committee reaches its final conclusions on a particular communication, they are sent to the state and to the member of the public who submitted them, the “communicant.” Measures proposed by the

Committee with regard to communications are subject to the decision of the parties when they meet. The parties can then make recommendations to the concerned state on specific measures to address the matter.<sup>151</sup> In May 2005, the Compliance Committee presented the second meeting of the parties with recommendations regarding five communications from the public, all of which were subsequently adopted by the meeting.

Altogether, 16 communications from NGOs and individuals of various countries that are parties to the Convention were considered by the Compliance Committee by August 2006.<sup>152</sup> These communications dealt with such issues as rights of legal standing for NGOs, the failure of national laws to reflect the Convention requirements, and the failure of public agencies to provide access to information and public participation procedures. Eight of the 16 communications were submitted by NGOs of post-Soviet countries: Armenia, Kazakhstan, Moldova, and Ukraine.

For example, in February 2004 the Kazakhstan-based Green Salvation Ecological Society became the first NGO to have a communication considered by the Compliance Committee. Green Salvation claimed that Kazakhstan's national atomic company, Kazatomprom, had violated the NGO's right to information, refusing to respond to a request concerning a proposal to import and dispose of foreign radioactive waste. The NGO's previous appeals to various national courts were rejected on grounds of jurisdiction, then on procedural grounds, as the court declined to acknowledge an NGO's right to file a suit in its own name, rather than as an authorized representative of its members.

Following the recommendation of the Compliance Committee on this communication, the second meeting of the parties adopted a decision that found Kazakhstan in incomplete compliance with Aarhus Convention requirements, including those on access to information, and made recommendations on how

Kazakhstan could achieve compliance.<sup>153</sup> One recommendation was that the government of Kazakhstan prepare a strategy, including a timetable, for transposing the Convention's provisions into national law and developing practical mechanisms and legislation to set out clear procedures for their implementation; another was that the government provide officials of all the relevant public authorities at various administrative levels with training on how to implement the Guidelines on Handling Public Requests for Environmental Information prepared by Kazakhstan's environmental ministry.

The second meeting of the parties also found Ukraine not in full compliance with its obligations under the Convention, particularly in failing to ensure that information was provided by responsible public authorities upon request. The decision was triggered by a communication from the Ukrainian NGO Ecopravo-Lviv on construction of a navigation canal in the core area of the Danube Biosphere Reserve. The meeting of the parties requested that the government of Ukraine bring its legislation and practice into compliance with the Convention and prepare a strategy to achieve that objective.<sup>154</sup>

### **3.6 SEMINARS, MANUALS, TRAINING, AND INTERNATIONAL ASSISTANCE**

The particular role of the Aarhus Convention in effecting and nurturing openness and transparency for transitioning post-Soviet states was recognized by international donors and technical assistance programs. During 2000–2005 across the former Soviet Union, there were various conferences, seminars, workshops, and training programs related to the Convention and funded by multilateral and bilateral donor agencies promoting democratic change. Building on the willingness of the states to implement the Convention, these activities contributed to the process of opening up post-Soviet governmental systems and helping

NGOs to navigate these systems in their quests for information.

For example, in 2000 in Kazbegi, Georgia, the Caucasus Environmental NGO Network conducted a regional seminar titled “Implication and Enforcement of Aarhus Convention in the Caucasus,” with the support of the U.S. Agency for International Development (USAID).<sup>155</sup> In 2001, the AVA network,<sup>156</sup> which comprises NGOs from eight Central and East European countries, conducted campaigns on the Convention, arranging roundtable discussions in regional capital cities and rural areas.<sup>157</sup> During 2000–2002, two regional workshops on the Convention were conducted in both the Central Asian<sup>158</sup> and South Caucasus<sup>159</sup> regions with support from a group of donors.

A national workshop on implementing the Convention was held in Issyk-Kul, Kyrgyzstan, in October 2003, funded by the Norwegian government.<sup>160</sup> Some events were focused particularly on improving access to information.<sup>161</sup>

Throughout 2000–2004, the Danish Environmental Protection Agency alone supported projects on implementing the Convention in Belarus, Kazakhstan, Moldova, and Ukraine, as well as a project to consider the possibilities for Russia’s accession to the Convention.<sup>162</sup> Other countries that supported projects related to implementation of the Aarhus Convention in the post-Soviet states included Italy and the Netherlands.

The OSCE and its field offices have sponsored the development of Aarhus centers in the

Caucasus, Central Asia, and Eastern Europe since 2002.<sup>163</sup> The EU funded a project on implementing the Convention in Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine during 2002–04 through the EuropeAid Programme.<sup>164</sup>

Working jointly with UNECE, the United Nations Institute for Training and Research (UNITAR) assisted Kyrgyzstan and Tajikistan in 2004 with preparations for their National Profile to Assess and Strengthen Capacities to Implement the Aarhus Convention.<sup>165</sup> The Access Initiative (TAI), a worldwide coalition of public-interest groups working to promote national-level implementation of commitments to information access, participation, and justice in environmental decision making, developed an interactive tool kit to help civil society groups assess their government’s commitment in these areas.<sup>166</sup> Under TAI auspices, the first analytical report on a post-Soviet state was prepared in Ukraine.<sup>167</sup>

Assessment of the results of these and other international projects and initiatives is beyond the scope of the present study. However, these activities clearly have helped to expose representatives of public authorities and NGOs, environmental activists, judges, and decision-makers to the Convention requirements, moving the post-Soviet states toward greater transparency and openness in governance. Further, they have produced and left behind a wide range of training materials and publications available for the use of public officials and civil society.<sup>168</sup>





## 4 Challenges in Place

Despite positive developments in the post-Soviet states, total transparency on environmental matters has not been achieved. Various factors account for this.

### 4.1 THE CASE OF TWO NONPARTIES: RUSSIA AND UZBEKISTAN

The most obvious limit on the Convention's ability to foster transparency in the post-Soviet states is that two former Soviet republics have declined to join: Russia and Uzbekistan.

The Russian Federation played an active role during the negotiations over the Aarhus Convention (1997–98). But almost invariably Russia opposed any provision that would strengthen the text of the Convention or require changes in domestic legislation.<sup>169</sup> Despite the fact that other countries compromised with the Russian positions, in the end, Russia did not sign the Convention. The agencies that strongly opposed signing included the Ministry of Defense and the Federal Security Service. At the time of the conference in Aarhus (see Chapter 2.1), Alexander Nikitin, a former naval captain of the Soviet Northern Fleet who coauthored a report revealing the deterioration of submarine nuclear reactors and the consequent radioactive contamination, was charged with high treason and divulging state secrets for his work on the report. The case drew broad attention in Russia and abroad,<sup>170</sup> and probably contributed to the Kremlin's decision not to join the Convention.

In response to repeated requests from the State Committee of Ecology to join the Convention, in 1999 a special interagency commission was created by the Security Council of the Russian Federation. It concluded that although the Aarhus Convention

was an important international document that protected the right to live in a favorable environment, it might create a threat to Russian national security. The special commission further concluded that the scope of environmental information defined by the Convention could provide cover for spying activities.<sup>171</sup>

Discussion continues in Russia on joining the Convention.<sup>172</sup> The Convention is vocally supported by well-known environmental activists and public-interest lawyers.<sup>173</sup> However, some of the prominent Russian environmental NGOs are more cautious.<sup>174</sup> They worry that some provisions of the Convention, in particular the national security information exclusion, could limit the degree of access they have already gained.

Uzbekistan follows Convention-related events carefully. For example, representatives of the government and domestic NGOs attended the first meeting of the Convention parties, and government representatives attended the second. According to a 2001 statement of the chairman of the State Committee for Environment of the Republic of Uzbekistan, the Convention stimulates great interest among state and public organizations in Uzbekistan.<sup>175</sup> Despite this, Uzbekistan has not joined the Convention.

### 4.2 BUREAUCRATIC RESISTANCE AND AN INCOMPLETE LEGAL BASE

The governments of the post-Soviet states, particularly their executive branches, do not like to share information. This is not just a problem peculiar to the post-Soviet states; it is in the nature of bureaucracy. However, in Soviet successor states, traditions of governance make the opening of the governmental systems to

the public and implementation of the Aarhus Convention particularly challenging. Very often, relevant legislative provisions are spread among various laws and regulations, which makes it difficult for the public to apply them. The absence of a clear legal base and contradictions between different regulations have been mentioned as problems by governments themselves in their national reports on implementing the Convention.<sup>176</sup> Some national reports have indicated that public authorities do not always explain why a request for information is refused, do not meet required deadlines, and sometimes fail to provide any answer at all (e.g., Armenia and Kazakhstan). The reports also show that in some cases discrepancies exist between provisions in national laws concerning information that may be withheld and the provisions of the Convention (Belarus, Ukraine).<sup>177</sup>

It also has taken time for post-Soviet states to adopt new legislation on access to information and to endorse new institutional developments. Even those countries that seem most active in implementing the Convention experience regular delays. For example, in 1996 legal experts from a Moldovan NGO, Ecological Society Biotica, prepared a draft law “On Access to Environmental Information” based on EU directives and international guidelines.<sup>178</sup> In 2000, a version of this draft in line with the Aarhus Convention requirements was prepared for a second reading in the Moldovan parliament, but as of April 2007 it had not yet been adopted.

In Kazakhstan, a draft act has been discussed by public agencies and NGOs for more than seven years, first as a government decree stipulating procedures for requesting and supplying environmental information, then as a draft law on environmental information, both in line with the Convention. The act has been considered in Kazakhstan’s lower parliamentary chamber, the *Majilis*, but has yet to be enacted.

In Ukraine, a draft act stipulating procedures for the provision of environmental in-

formation by public officials was enacted as an environmental ministry regulation instead of a decree of the Cabinet of Ministries, as was intended. While the law’s enactment was welcomed, it limited the circle of public agencies obliged to provide environmental information on request to the public. The act applies only to the environmental ministry, while the Convention states that *all* public authorities of the executive branch that hold environmental information should be obliged to provide it on request (for more details, see chapter 2.3).

Such jurisdictional issues have been an ongoing challenge for all post-Soviet states. Much environmental information is accumulated and held by ministries of health and agriculture, committees on land resources and forestry, agencies on nuclear safety and emergencies, and ministries of defense, among others. They all remain beyond the scope of the regulations adopted by the various states’ environmental ministries.

Particularly at the regional and local levels, other public authorities in the post-Soviet countries do not appear to be actively engaged in fulfilling their obligations under the Convention or sometimes even to be aware of them. The report by the Convention Secretariat on implementation trends lists poor implementation both by public authorities at the local and provincial levels and by national-level public authorities other than environmental ministries among the remaining challenges in the Soviet successor states.<sup>179</sup>

The laws of some post-Soviet states define information in the area of environmental protection (e.g., Kazakhstan).<sup>180</sup> At least two countries (Azerbaijan and Belarus) have attempted to introduce a definition in line with the Aarhus Convention (see chapter 4.1). However, at the time of the present study, none of the post-Soviet states had provided a definition of environmental information in total correspondence with the Convention at the level of law or government decree.

### **4.3 FINANCIAL AND TECHNOLOGICAL CONSTRAINTS**

Among the challenges to implementation in the post-Soviet countries is a lack of financial resources. In many ways, the Aarhus Convention implies the availability of highly developed information technologies that enable public agencies to put environmental information into electronic databases and that permit the public to access it. In many post-Soviet countries, however, despite a rapid increase in the availability of computers and other necessary infrastructure in recent years, such technology, particularly at the advanced level, is not widely found. Some countries are simply too poor. Though public agencies in the capital cities are usually well equipped with computers, regional and local public authorities routinely lack them, and the general public often cannot afford them.

### **4.4 A PROMISE OF CHANGE OR UNMET EXPECTATIONS?**

The Aarhus Convention was met with tremendous enthusiasm and great hopes by the NGOs of post-Soviet countries. But with the passage of time, some NGO activists have become disillusioned with the implementation of the Convention in their respective countries. From Central Asia to Ukraine, in private conversations and e-mails, the author has heard disappointed comments, even from an NGO whose communication to the Aarhus Compliance Committee led to the organization's home country being found not in compliance with the Convention.

A similar sentiment was expressed by Manana Kochladze, a prominent Georgian environmental activist and scientist who is the Caucasus coordinator for the monitoring organization CEE Bankwatch. In 2004, she won the Goldman Environmental Prize for her grassroots campaigning against the Baku-Tbilisi-Ceyhan pipeline, which pumps Caspian oil to the Turkish Mediterranean.<sup>181</sup> Association "Green Alternative," the Georgian NGO she had founded, actively employed provisions of the Aarhus Convention in legal cases over information access and in appeals to Georgian courts (see chapter 3.4). Kochladze concluded, "In a country like Georgia ... the judicial system simply does not work and access to justice remains a dream..."<sup>182</sup>

This disillusionment of leading environmental activists in post-Soviet countries, who are in the vanguard of applying the Aarhus Convention and other legal tools to environmental problems, may be temporary, and in part is perhaps explained by the high standard established by the Convention. Nonetheless, it is profoundly disturbing. It shows the complexity of the changes that post-Soviet countries face on the way to democracy, the pressures on the people working for change, and the connection between the building of transparency and openness in post-Soviet societies and the development of other democratic institutions such as an independent judiciary. Environmentalists' disillusionment underscores the need to pursue legal and institutional developments that will sustain the momentum built by civil society for change in Soviet successor states.



## 5 Conclusion and Policy Recommendations

### 5.1 STUDY FINDINGS

In this study, I argue that there were forces pursuing more openness, transparency, and accountability in environmental governance before the Soviet Union fell apart. Starting in the late 1980s, intellectuals, scholars, and NGO activists raised issues of access to information and public participation in environmental decision making in articles, newspapers, legal writing, and public debate. The push from civil society found its reflection in laws and policies of the time as well. In both government and civil society, there was a mixture of general concern about access to information and a concern about the environment. When the Soviet Union broke up, the overall liberalization of the erstwhile Soviet republics accelerated. And when international funds became available to work at what still was not a priority for post-Soviet governments, NGOs and environmental activists took impressive initiatives to get involved in decision making, formulate environmental policies, and obtain environmental information. However, successful cases of the acquisition of requested environmental information from public authorities were still few and far between, while understanding of the need for legal reforms increased.

When the Aarhus Convention came along in 1998, the soil for its sociological acceptance in the mentality of post-Soviet societies—both on the governmental level and among civil society—was well prepared. The difference was that while environmental activists and NGOs were eager to move ahead, the bureaucratic systems, coming out of Soviet traditions of governance, were slow if not reluctant to change. Nevertheless, the vocabulary of the Convention was already in place in the laws

and constitutions of the Soviet successor states. It might have seemed that not much needed to be changed to put the Convention's requirements in practice. This proved to be wrong.

Since its signing, the Aarhus Convention has gained a special position in the post-Soviet states. They were among the first countries to ratify the Convention, and consequently it was mostly their recognition that made it a binding international law. As the present study suggests, post-Soviet states' support may be explained by the fact that recognition of the necessity for approaches embodied in the Convention had evolved from the bottom up. Unlike most multilateral environmental agreements, the decision to sign on to the Aarhus Convention was not made solely by high-ranking government officials, diplomats, and the scientific elite. It was rooted in civil societies determined to change their countries laws and practices. And it reflected a longing of the newly independent states to find a new voice, a new identity, and a new future that would be welcomed among Western democracies.

Perhaps many of the post-Soviet governments did not completely realize the consequences of joining the Aarhus Convention at the time. For them, burdened by Soviet traditions and the Soviet culture of governance, implementation continued to be a challenge. But from the legal and institutional points of view, in the area of access to information the Convention provided instruments and other solutions to the post-Soviet states to show them *how* to become more open and transparent if they were really serious about it. The Convention introduced important legal procedures and concepts that the post-Soviet legal systems were missing. As the post-Soviet states

proceeded to fill gaps in their legal systems, the Convention helped them move from declarations of intent to provide access to information to the realization of that objective.

Becoming a party to the Aarhus Convention could be considered a sign of the intention of post-Soviet states to become more open and transparent. However, the true test remains whether the Convention will be fully implemented in national laws, policies, and practices, and reflected in new system-wide habits of governance.<sup>183</sup>

Although the Aarhus Convention covers *environmental* information, it affects access to information in the hands of public authorities in general. Implementation of the Convention has the potential to quicken the processes of openness and transparency in the post-Soviet states and to facilitate their move to democracy. Still, such changes strongly depend on civil society being involved and using the tools provided by the Convention. While applauding the remarkable efforts that have been made by citizens and NGOs in the Soviet successor states by means of the Convention, some of which have been recognized internationally,<sup>184</sup> one should note that broader public involvement remains vital. If that were achieved, the potential linkage between pressure from the environmental movements and Convention-inspired reform of government processes and procedures would make a real transformation of the post-Soviet states possible.

## **INSTITUTIONAL ARRANGEMENTS AND LEGAL SAFEGUARDS**

For those decision-makers and citizens in the post-Soviet states who are committed to the move to democracy, the following measures, if taken by these states' governments, could advance this process. Some of the measures have already been shown in practice in Soviet successor states to improve access to environmental information and generally bring more transparency to environmental governance. Various attempts have been made lately to develop lists

of instruments and international principles to facilitate access to information that may be useful to the post-Soviet states as well.<sup>185</sup>

The following suggestions are tailored particularly to the post-Soviet states based on their traditions of governance, experiences to date, and challenges they face. This does not pretend to be an exhaustive list. A country's particular situation, culture, challenges, and advances on the way to transparent governance should be taken into account to further shape, adjust, and improve these recommendations. I strongly recommend gap analysis of countries' legislation and institutional arrangements in comparison to the requirements of the Aarhus Convention, provision by provision.

### ***Some Recommended Institutional Arrangements***

- Prepare and make available through websites, publication, and broad dissemination the inventories of environmental information in the hands of public agencies, with contact information for environmental ministries and other public authorities for those who wish to submit requests for information.
- Create and sustain Aarhus information centers within the environmental ministries and their regional and local branches. Periodically evaluate the effectiveness of these centers in terms of providing information to the public and giving NGOs and the public the opportunity to voice their concerns.
- Support training of officials from environmental ministries and their regional and local branches on access to information and public participation. Provide them with user-friendly manuals and guidelines. Environmental ministries are well positioned to play the leading role in opening up access to environmental information in the post-Soviet states, assuming there is a political will and the necessary leadership. However, the ministries' leading role may

easily fade if they are left without nurturing and pressure from the public.

- Involve a broad spectrum of governmental actors in bringing about societal changes, and provide transparency in environmental governance. Environmental ministries may share their experiences with other relevant agencies holding environmental information through means such as inter-ministerial working groups and joint workshops.
- Support and expand efforts to make environmental information further available through the Internet in user-friendly form.
- Explore opportunities to create an independent body to review disputes over the provision of information upon request.<sup>186</sup> A good example is provided by Mexico, which in 2003 established the Federal Institute for Access to Public Information, an agency that is authorized to resolve cases in which the authorities refuse to respond to petitions for access to information.<sup>187</sup>
- When such an independent body is created in post-Soviet states, its decisions should be made binding on public authorities.<sup>188</sup>

### ***Some Recommended Legal Safeguards***

In terms of legal safeguards, first of all a legal basis for access to environmental information in the hands of public authorities still needs to be completed in post-Soviet states. Several other measures should also be considered:

- Concentrate provisions related to access to environmental information in one legal act.
- Introduce a definition of environmental information in line with the Aarhus Convention at the level of law (statute) or government decree, which will apply to information in the hands of all government agencies.<sup>189</sup>
- Establish clear requirements and procedures for acquisition of environmental information by the public, including pro-

cesses for responding to requests. These processes should also be stipulated in the law or by government decree, and therefore be applicable to all public authorities holding information.

- Require a public-interest test before classifying environmental information.
- Introduce administrative penalties for public officials who do not provide environmental information to the public as required by law. (This measure should follow, not precede, completion of the legal base and the provision of system-wide training for government officials on how to handle information requests from the public.)
- Provide the possibility of appeal to an independent, impartial body when a request is refused or inadequately answered, or when information is classified as a state secret.

For the last 15 years, the post-Soviet countries have been searching for ways to integrate themselves into the world without communism, to transform their societies and deal with the complex choices and hardships of implementing reform. This has not been an easy time for any of the post-Soviet states and their people. Some of them went from the euphoria of raising the flag of democracy on the ruins of the Soviet Union to denouncing the value of democracy. Unfortunately, the harsh changes in most people's everyday lives—the evaporation of quality health care, free education, and secure jobs—that were often associated with the transition to democratic societies frequently discredited the very idea of democracy itself. Nevertheless, almost all the Soviet successor states now strive to be seen as democratic and claim that they are on their way to democracy, though they frequently insist that their democracy is of a special nature. The Aarhus Convention offers post-Soviet states a unique test of the seriousness of their announced intentions to build open societies as well as an opportunity to experience how transparency in governance works.





# Appendix

**Table 1:** Articles in post-Soviet constitutions related to information, the environment, and the right to live in a healthy environment

COUNTRY AND DATE OF ADOPTED CONSTITUTION	INFORMATION, ACCESS TO AND/OR FREEDOM OF INFORMATION	ENVIRONMENT, ENVIRONMENTAL PROTECTION, THE RIGHT TO LIVE IN A HEALTHY OR FAVORABLE ENVIRONMENT AND TO INFORMATION RELATED TO THE ENVIRONMENT
<p><b>REPUBLIC OF ARMENIA</b> <i>Adopted June 5, 1995</i></p> <p><a href="http://www.oefre.unibe.ch/law/icl/am00000_.html">http://www.oefre.unibe.ch/law/icl/am00000_.html</a></p>	<p><b>Article 20</b> Everyone is entitled to defend his or her private and family life from unlawful interference and defend his or her honor and reputation from attack.</p> <p>The gathering, maintenance, use, and dissemination of illegally obtained information about a person's private and family life are prohibited.</p> <p>Everyone has the right to confidentiality in his or her correspondence, telephone conversations, mail, telegraph, and other communications, which may only be restricted by court order.</p> <p><b>Article 24</b> Everyone is entitled to assert his or her opinion. No one shall be forced to retract or change his or her opinion.</p> <p>Everyone is entitled to freedom of speech, including the freedom to seek, receive, and disseminate information and ideas through any medium of information, regardless of state borders.</p>	<p><b>Article 8</b> The right to property is recognized and protected in the Republic of Armenia. The owner of property may dispose of, use, and manage the property at his or her discretion. The right to property may not be exercised so as to cause damage to the environment or infringe on the rights and lawful interests of other persons, society, or the state.</p> <p><b>Article 10</b> The state shall ensure the protection and reproduction of the environment and the rational utilization of natural resources.</p>
<p><b>REPUBLIC OF AZERBAIJAN</b> <i>Adopted November 12, 1995</i></p> <p><a href="http://confinder.richmond.edu/local_azerbaijan.html">http://confinder.richmond.edu/local_azerbaijan.html</a></p>	<p><b>Article 50. Freedom of Information.</b> Every person shall have the right to legally seek, get, pass, prepare, and spread information. Freedom of mass media shall be ensured. State censorship in mass media, including print media, shall be forbidden.</p>	<p><b>Article 39. Right to Live in a Healthy Environment.</b> Every person shall have the right to live in a healthy environment. Everybody shall have the right to collect information on the environmental situation and to get compensation for damage rendered to health and property due to the violation of ecological rights.</p> <p><b>Article 78. Environmental Protection.</b> Protection of the environment shall be the duty of every person.</p>

**Table 1** (cont.)

COUNTRY AND DATE OF ADOPTED CONSTITUTION	INFORMATION, ACCESS TO AND/OR FREEDOM OF INFORMATION	ENVIRONMENT, ENVIRONMENTAL PROTECTION, THE RIGHT TO LIVE IN A HEALTHY OR FAVORABLE ENVIRONMENT AND TO INFORMATION RELATED TO THE ENVIRONMENT
<p><b>REPUBLIC OF BELARUS</b> <i>Adopted March 15, 1994 (November 24, 1996)</i></p> <p>English translation: <a href="http://www.oefre.unibe.ch/law/icl/bo00000_.html">http://www.oefre.unibe.ch/law/icl/bo00000_.html</a></p> <p>Russian text: <a href="http://icpo-vad.tripod.com/const-rb.html">http://icpo-vad.tripod.com/const-rb.html</a></p>	<p><b>Article 34</b> Citizens of the Republic of Belarus shall be guaranteed the right to receive, store, and disseminate complete, reliable, and timely information on the activities of state bodies and public associations, on political, economic, and international life, and on the state of the environment.</p> <p>State bodies, public associations, and officials must provide to citizens of the Republic of Belarus an opportunity to familiarize themselves with materials that affect their rights and legitimate interests.</p>	<p><b>Article 46</b> Everyone shall be entitled to a favorable environment and to compensation for loss or damage caused by the violation of this right.</p> <p><b>Article 55</b> It shall be the duty of everyone to protect the environment.</p>
<p><b>GEORGIA</b> <i>Adopted August 24, 1995</i></p> <p>English translation: <a href="http://www.parliament.ge/files/68_1944_951190_CONSTIT_27_12.06.pdf">http://www.parliament.ge/files/68_1944_951190_CONSTIT_27_12.06.pdf</a></p>	<p><b>Article 24</b> Every individual has the right to freely receive and disseminate information, to express and disseminate his opinion orally, in writing or in any other form.</p> <p>The mass media are free. Censorship is prohibited.</p> <p>Monopolization of the mass media or the means of dissemination of information by the state or natural persons is prohibited.</p> <p>Clauses 1 and 2 of this article can be restricted by law, on such conditions which are necessary in a democratic society, for the guarantee of state and public security, territorial integrity, prevention of crime, and the defense of rights and dignities of others, to avoid the revelation of confidentially received information or to guarantee the independence and impartiality of justice in a democratic society.</p> <p><b>Article 41</b> Every citizen of Georgia shall have the right to become acquainted, in accordance with a procedure prescribed by law, with the information about him/her stored in state institutions as well as official documents existing there unless they contain state, professional, or commercial secrets.</p> <p>The information existing on official papers pertaining to individual's health, his/her finances, or other private matters shall not be accessible to anyone without the consent of the individual in question except in the cases determined by law, when it is necessary for ensuring the state security or public safety, for the protection of health, rights, and freedoms of others.</p>	<p><b>Article 37</b> Everyone has the right to health insurance as a means of gaining medical assistance. In circumstances determined by law, free medical services are guaranteed.</p> <p>The state supervises every health institution and the production and distribution of medicine.</p> <p>Everyone has the right to live in a healthy environment and use natural and cultural surroundings. Everyone is obliged to protect the natural and cultural surroundings.</p> <p>The state guarantees the protection of nature and the rational use of it to ensure a healthy environment, corresponding to the ecological and economic interests of society, and taking into account the interests of current and future generations.</p> <p>Individuals have the right to complete, objective, and timely information on their working and living conditions.</p>

Table 1 (cont.)

COUNTRY AND DATE OF ADOPTED CONSTITUTION	INFORMATION, ACCESS TO AND/OR FREEDOM OF INFORMATION	ENVIRONMENT, ENVIRONMENTAL PROTECTION, THE RIGHT TO LIVE IN A HEALTHY OR FAVORABLE ENVIRONMENT AND TO INFORMATION RELATED TO THE ENVIRONMENT
<p><b>REPUBLIC OF KAZAKHSTAN</b> <i>Adopted August 30, 1995</i></p> <p>English translation: <a href="http://www.president.kz/articles/state/state_container.asp?lng=en&amp;art=constitution">http://www.president.kz/articles/state/state_container.asp?lng=en&amp;art=constitution</a></p> <p>Russian text: <a href="http://www.president.kz/articles/state/state_container.asp?lng=ru&amp;art=constitution">http://www.president.kz/articles/state/state_container.asp?lng=ru&amp;art=constitution</a></p>	<p><b>Article 18</b> Everyone shall have the right to inviolability of private life, personal or family secrets, protection of honor and dignity.</p> <p>Everyone shall have the right to confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph, and other messages. Limitation of this right shall be permitted only in the cases and according to the procedure directly established by law.</p> <p>State bodies, public associations, officials, and the mass media must provide every citizen with the possibility to familiarize himself with documents, decisions and other sources of information concerning his rights and interests.</p> <p><b>Article 20</b> The freedom of speech and creative activities shall be guaranteed. Censorship shall be prohibited.</p> <p>Everyone shall have the right to freely receive and disseminate information by any means not prohibited by law. The list of items constituting state secrets of the Republic of Kazakhstan shall be determined by law.</p> <p>Propaganda of or agitation for the forcible change of the constitutional system, violation of the integrity of the Republic, undermining of state security, and advocating war, social, racial, national, religious, class, and clannish superiority as well as the cult of cruelty and violence shall not be allowed.</p> <p><b>Article 39</b> Rights and freedoms of the person and citizen may be limited only by law and only to the degree necessary in order to defend the constitutional system and protect the social order, the rights and freedoms of the person, and the health and morality of the population.</p> <p>Any actions capable of violating interethnic harmony are recognized as anticonstitutional.</p> <p>Limitation of the rights and freedoms of citizens for political reasons is not permitted in any form. The rights and freedoms anticipated in Articles 10, 11, 13-15, paragraph 1 of Article 16, Article 17, Article 19, Article 22, and paragraph 2 of Article 26 of the Constitution are not subject under any circumstances to limitation.</p>	<p><b>Article 31</b> The state shall set an objective to protect the environment favorable for the life and health of the person.</p> <p>Officials shall be held accountable for the concealment of facts and circumstances endangering the life and health of the people in accordance with law.</p> <p><b>Article 38</b> Citizens of the Republic of Kazakhstan must preserve nature and protect natural resources.</p>
<p><b>KYRGYZ REPUBLIC</b> <i>Adopted May 5, 1993, amended October 21, 1998</i></p> <p><a href="http://www.kyrgyzstan.org/Law/constitution.htm#c1a">http://www.kyrgyzstan.org/Law/constitution.htm#c1a</a></p>	<p><b>Article 16</b> Every person in the Kyrgyz Republic shall enjoy the right: –to free expression and dissemination of one’s thoughts, ideas, opinions; freedom of literary, artistic, scientific, and technical creative work; freedom of the press, transmission and dissemination of information; –to association; –to assemble peacefully and without weapons; to free meetings and demonstrations; –to freedom and secrecy of correspondence; –to honor and freedom of private life, personal and family secrets; –to secrecy of postal, telephone, and telegraph communication....</p>	<p><b>Article 35</b> Citizens of the Kyrgyz Republic shall have the right to a healthy and safe environment and to the indemnification of damage caused to one’s health or property by the improper use of nature.</p> <p>Protection of the environment, natural resources, and historical monuments shall be a sacred duty of every citizen.</p>

**Table 1** (cont.)

COUNTRY AND DATE OF ADOPTED CONSTITUTION	INFORMATION, ACCESS TO AND/OR FREEDOM OF INFORMATION	ENVIRONMENT, ENVIRONMENTAL PROTECTION, THE RIGHT TO LIVE IN A HEALTHY OR FAVORABLE ENVIRONMENT AND TO INFORMATION RELATED TO THE ENVIRONMENT
<p><b>REPUBLIC OF MOLDOVA</b> <i>Adopted July 29, 1994</i></p> <p><a href="http://confinder.richmond.edu/moldova3.htm">http://confinder.richmond.edu/moldova3.htm</a></p>	<p><b>Article 34. The Right of Access to Information</b> Having access to any information of public interest is everybody's right, which may not be curtailed.</p> <p>According with their established level of competence, public authorities shall ensure that citizens are correctly informed both on public affairs and matters of personal interest.</p> <p>The right of access to information may not prejudice either the measures taken to protect the citizens or the national security.</p> <p>The State and private media are obliged to ensure that correct information reaches public opinion.</p> <p>The public media shall not be submitted to censorship.</p>	<p><b>Article 37. The Right to Live in a Healthy Environment</b> Every human being has the right to live in an environment that is ecologically safe for life and health, to obtain healthy food products and harmless household appliances.</p> <p>The State guarantees every citizen the right of free access to truthful information regarding the state of the natural environment, living and working conditions, and the quality of food products and household appliances.</p> <p>Nondisclosure or falsification of information regarding factors detrimental to human health constitute offenses punishable by law.</p> <p>Private individuals and legal entities shall be held responsible before the law for any damages they may cause to personal health and property due to an ecological offense.</p> <p><b>Article 46. The Right of Private Property and Its Protection</b> The right of private property carries with it the duty to observe the rules regarding the protection of the environment, the maintenance of good neighborly relations, and the observance of all the other duties that have to be fulfilled by owners of private property under the law.</p> <p><b>Article 59. Protection of the Environment and Public Monuments</b> It is the duty of every citizen to protect the natural environment, and to preserve and protect the country's historical and cultural sites and monuments.</p>
<p><b>THE RUSSIAN FEDERATION</b> <i>Ratified December 12, 1993</i></p> <p>English translation: <a href="http://www.departments.bucknell.edu/russian/const/constit.html">http://www.departments.bucknell.edu/russian/const/constit.html</a></p> <p>Russian text: <a href="http://www.ibiblio.org/sergei/Law/Constitution/const.html">http://www.ibiblio.org/sergei/Law/Constitution/const.html</a></p>	<p><b>Article 29.</b> Everyone shall have the right to freedom of thought and speech.</p> <p>Propaganda or campaigning inciting social, racial, national, or religious hatred and strife is impermissible.</p> <p>The propaganda of social, racial, national, religious, or language superiority is forbidden.</p> <p>No one may be coerced into expressing one's views and convictions or into renouncing them.</p> <p>Everyone shall have the right to seek, get, transfer, produce, and disseminate information by any lawful means. The list of information constituting the state secret shall be established by the federal law.</p> <p>The freedom of the mass media shall be guaranteed.</p> <p>Censorship shall be prohibited.</p>	<p><b>Article 42.</b> Everyone shall have the right to a favorable environment, reliable information about its condition, and to compensation for the damage caused to his or her health or property by ecological violations.</p>

**Table 1** (cont.)

COUNTRY AND DATE OF ADOPTED CONSTITUTION	INFORMATION, ACCESS TO AND/OR FREEDOM OF INFORMATION	ENVIRONMENT, ENVIRONMENTAL PROTECTION, THE RIGHT TO LIVE IN A HEALTHY OR FAVORABLE ENVIRONMENT AND TO INFORMATION RELATED TO THE ENVIRONMENT
<p><b>REPUBLIC OF TAJIKISTAN</b> <i>Adopted June 11, 1994</i></p> <p><a href="http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan003670.htm">http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan003670.htm</a>.</p>	<p><b>Article 30:</b> Each person is guaranteed the freedoms of speech and the press, as well as the right to use information media. Government censorship and prosecution for criticism are forbidden. A list of information considered secrets of the state is determined by law.</p>	
<p><b>TURKMENISTAN</b> <i>Adopted May 18, 1992</i></p> <p><a href="http://www.ecostan.org/laws/turkm/turkmenistancon.html">http://www.ecostan.org/laws/turkm/turkmenistancon.html</a></p>	<p><b>Article 26:</b> Citizens of Turkmenistan have the right to freedom of conviction and the free expression of those convictions. They also have the right to receive information unless such information is a governmental, official, or commercial secret.</p> <p><b>Article 36:</b> Citizens of Turkmenistan have the right to freedom of artistic, scientific, and technical creation. Intellectual property rights and the legal interests of citizens in the fields of scientific and technical creation and artistic, literary, and cultural activity are protected by law. The government facilitates the development of science, culture, art, folk art, sport, and tourism.</p>	<p><b>Article 10:</b> The government is responsible for preserving the national historico-cultural heritage and natural environment, as well as for ensuring equality between social and national groups. The government encourages the scientific and creative arts and the dissemination of their achievements, and facilitates the development of international contacts in the fields of science, culture, education, sports, and tourism.</p>
<p><b>UKRAINE</b> <i>Adopted June 28, 1996</i></p> <p>English translation: <a href="http://www.rada.kiev.ua/const/conengl.htm">http://www.rada.kiev.ua/const/conengl.htm</a></p> <p>Ukrainian text: <a href="http://www.infoukes.com/history/constitution/index-koi8u.html">http://www.infoukes.com/history/constitution/index-koi8u.html</a></p>	<p><b>Article 34</b> Everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his or her views and beliefs.</p> <p>Everyone has the right to freely collect, store, use and disseminate information by oral, written, or other means of his or her choice.</p> <p>The exercise of these rights may be restricted by law in the interests of national security, territorial indivisibility, or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice.</p>	<p><b>Article 50</b> Everyone has the right to an environment that is safe for life and health, and to compensation for damages inflicted through the violation of this right.</p> <p>Everyone is guaranteed the right of free access to information about the environmental situation, the quality of food and consumer goods, and also the right to disseminate such information. No one shall make such information secret.</p>
<p><b>REPUBLIC OF UZBEKISTAN</b> <i>Adopted December 8, 1992</i></p> <p>English translation: <a href="http://www.umid.uz/Main/Uzbekistan/Constitution/constitution.html">http://www.umid.uz/Main/Uzbekistan/Constitution/constitution.html</a></p>	<p><b>Article 30.</b> All state bodies, public associations, and officials in the Republic of Uzbekistan shall allow any citizen access to documents, resolutions, and other materials relating to their rights and interests.</p>	

**Table 2:** Post-Soviet laws addressing access to information<sup>1</sup>

COUNTRY	LAWS ON INFORMATION AND/OR ON FREEDOM OF OR ACCESS TO INFORMATION	LAWS ON SECRECY OR SECRETS <sup>2</sup>	LAWS AND/OR OTHER LEGISLATION ON ENVIRONMENTAL INFORMATION <sup>3</sup>
<b>ARMENIA</b>	2003 Law on Freedom of Information <sup>4</sup>	1996 Law on State and Official Secrecy <sup>5</sup>	
<b>AZERBAIJAN</b>	1998 Law on Information, Informatization and Protection of Information <sup>6</sup> 1998 Law on Freedom of Information <sup>7</sup> 2005 Law on the Right to Obtain Information <sup>8</sup>	1996 Law on State Secrecy, <sup>9</sup> replaced by 2004 Law on State Secrecy <sup>10</sup>	2002 Law on Obtaining Environmental Information <sup>11</sup>
<b>BELARUS</b>	1995 Law on Informatization <sup>12</sup> New draft Law on Informatization has been developed in 2004 <sup>13</sup>	1994 Law on State Secrets <sup>14</sup> 2003 Law amending the 1994 Law on State Secrets <sup>15</sup>	The Decree of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus of May 29, 2003, N. 22, approved the list of records belonging to environmental information in compliance with the definition of environmental information provided in the Aarhus Convention.
<b>GEORGIA</b>	Chapter 3 of the 1999 General Administrative Code of Georgia "Freedom of Information" <sup>16</sup>		
<b>KAZAKHSTAN</b>	2003 Law on Informatization <sup>17</sup>	1999 Law on State Secrets <sup>18</sup>	
<b>KYRGYZSTAN</b>	1999 Law on Informatization <sup>19</sup> 1997 Law on Guarantees and Freedom of Access to Information <sup>20</sup>	1994 Law on Protection of State Secrets <sup>21</sup>	
<b>MOLDOVA</b>	2000 Law on Access to Information <sup>22</sup>	1994 Law on State Secrecy <sup>23</sup>	
<b>RUSSIA</b>	1995 Law on Information, Informatization, and Protection of Information <sup>24</sup>	1993 Law on State Secrecy <sup>25</sup>	
<b>TAJIKISTAN</b>	2002 Law on Information. <sup>26</sup> 2002 Law on Protection of Information <sup>27</sup> 2001/2005 Law on Informatization <sup>28</sup>	2003 Law on State Secrecy (replaced 1996 law) <sup>29</sup>	
<b>TURKMENISTAN</b>		1995 Law on Protection of State Secrets <sup>30</sup> 2000 Law on Commercial Secrecy <sup>31</sup>	
<b>UKRAINE</b>	1992 Law on Information <sup>32</sup>	1994 Law on State Secrecy <sup>33</sup>	2004 Decree on Informing the Public on Matters Concerning the Environment <sup>34</sup> 2003 Ministry of the Environment Regulation on Providing Environmental Information <sup>35</sup>
<b>UZBEKISTAN</b>	1997 Law on Guarantees and Freedom of Access to Information, <sup>36</sup> replaced by 2002 Law on the Principles and Guarantees of Freedom of Information <sup>37</sup> 1998 Law on Informatization <sup>38</sup>	1993 Law on the Protection of State Secrets	

**Notes**

1. For relevant articles in the post-Soviet constitutions, see Table 1.
2. In this table, to distinct two different words used in Russian, *taina* and *secrecy*, two translations are given: "secrecy" and "secrets," respectively.
3. For laws on environmental protection, see overview in chapter 1.1.
4. Law on Freedom of Information of the Republic of Armenia from 23 Sept. 2003. [online]. Available: <http://www.foi.am/en/content/53/>.

5. Law on State and Official Secrecy of the Republic of Armenia from 3 Dec. 1996.
6. Law of the Republic of Azerbaijan on Information, Informatization and Protection of Information N.460-IQ from 3 April 1998. See also Decree of the President of the Republic of Azerbaijan N. 729 from 9 June 1998 on Implementation of Law of the Republic of Azerbaijan on Information, Informatization, and Protection of Information.
7. Law of the Republic of Azerbaijan on Freedom of Information N.505-IQ from 19 June 1998 as amended on 1 Feb. 2000.
8. Law of the Republic of Azerbaijan on the Right to Obtain Information from 30 Sept. 2005.
9. Law of the Republic of Azerbaijan on State Secrecy N.196-1 from 15 Nov. 1996. See also Decree of the President of the Republic of Azerbaijan from 17 Jan. 17 1997 on Implementation of the Law of the Republic of Azerbaijan on State Secrets.
10. Law of the Republic of Azerbaijan on State Secrecy from 7 Sept. 2004.
11. Law of the Republic of Azerbaijan on Obtaining Environmental Information from 12 March 2002, as amended 25 March 2003.
12. Law of the Republic of Belarus on Informatization from 6 Sept. 1995 N.3850-XII, *Vedomosti Verkhovnogo Soveta Respubliki Belarus*, 1995, N.33, St.428 (in Russian).
13. In Spring 2004, the Council of Ministers of Belarus submitted a new version of the informatization law to the Chamber of Representatives.
14. Law of the Republic of Belarus on State Secrets from 29 Nov. 1994 N.3410-XII, *Vedomosti Verkhovnogo Soveta Respubliki Belarus*, 1995, N.3, St.5 (in Russian). See also 1999 Presidential Decree on List of Records That Are State Secrets of the Republic of Belarus.
15. Law of the Republic of Belarus on Amendments to the Law of the Republic of Belarus on State Secrets from 4 Jan. 2003, N.172-3, *Natsionalnyi Reestr Pravovykh Aktov Respubliki Belarus*. 2003. N. 8. 2/921 (in Russian).
16. The General Administrative Code of Georgia from 25 June 1999. No. 2181-IIR, as amended on 9 Sept. 1999, under the Law of Georgia No. 2372-IS.
17. Law of the Republic of Kazakhstan on Informatization from 8 May 2003 N412-II as amended by Law of the Republic of Kazakhstan from 20 Dec. 2004 N13-III.
18. Law of the Republic of Kazakhstan on State Secrets from 15 March 1999, N. 349-1.
19. Law of the Republic of Kyrgyzstan on Informatization from 30 Sept. 1999 as amended by Law of the Republic of Kyrgyzstan from 24 Jan. 2002, N10.
20. Law of the Republic of Kyrgyzstan from 11 Nov. 1997 on Guarantees and Freedom of Access to Information as amended by Law of the Republic of Kyrgyzstan from 18 Oct. 2002, N 147.
21. Law of the Republic of Kyrgyzstan on Protection of State Secrets of the Republic of Kyrgyzstan from 14 April 1994, N 1476-XII.
22. Law of the Republic of Moldova on Access to Information from 11 May 2000, N 982-XIV.
23. Law of the Republic of Moldova on State Secrets from 17 May 1994, N. 106-XIII.
24. Law of the Russian Federation on Information, Informatization and Protection of Information from 25 Jan. 1995, N 24- , *Sobranie zakonodatelstva Rossiiskoi Federatsii (Collection of Legislation of the Russian Federation)*, 1995, N.8 (in Russian).
25. Law of the Russian Federation on State Secrecy from 21 July 1993 as amended by the Federal Law of the Russian Federation from 6 Oct. 1997, N 131-F3.
26. Law of the Republic of Tajikistan on Information from 10 May 2002, N 55.
27. Law of the Republic of Tajikistan on Protection of Information from 2 Dec. 2002, N 71.
28. Law of the Republic of Tajikistan on Informatization from 6 Aug. 2001, N 40, as amended by the Law of Republic of Tajikistan from 26 Dec. 2005, N 124.
29. Law of the Republic of Tajikistan on State Secrecy from 22 April 2003, N 4. (This law is by and large unchanged from the 1996 version).
30. Law of Turkmenistan on Protection of State Secrets from 24 Nov. 1995, N 84-I.
31. Law of Turkmenistan on Commercial Secrecy from 19 Dec. 2000.
32. Law of Ukraine on Information from 2 Oct. 1992, N 2657-XI1, *Vidomosti Verkhovnoii Rady Ukrainy*. 1992, N 48, St. 650 (in Ukrainian).
33. Law of Ukraine on State Secrecy from 21 Jan. 1994, N 3855-XII as amended 21 Sept. 1999, *Vidomosti Verkhovnoii Rady Ukrainy*. 1999, N.49. St.428(in Ukrainian).
34. Decree of the Supreme Rada of Ukraine on Informing the Public on Matters Concerning the Environment from 4 Nov. 2004 No. 2169-IV.
35. Order of the Ministry of Environmental Protection No. 169 of 18 Dec. 2003 on Approval of Regulation on the Procedure for Providing Environmental Information.
36. Law of the Republic of Uzbekistan on Guarantees and Freedom of Access to Information from 24 April 1997.
37. Law of the Republic of Uzbekistan on the Principles and Guarantees of Freedom of Information from December 2002.
38. Law of the Republic of Uzbekistan on Informatization from 3 April 1998.

**Table 3:** Access to information and commitment to the Aarhus Convention reflected on the ministry of the environment websites

COUNTRY AND MoE's WEBSITE ADDRESS*	ARE THERE NAMES AND CONTACTS OF OFFICIALS TO REQUEST INFORMATION?	DOES THE WEBSITE PROVIDE "STATE OF THE ENVIRONMENT" REPORT(S)**?	DOES IT HAVE AN INVENTORY OF ENVIRONMENTAL INFORMATION (WHO HOLDS WHAT INFORMATION AND ADDRESS)?	ANY TRAINING MATERIALS ON THE AARHUS CONVENTION FOR OFFICIALS?	ENVIRONMENTAL INFORMATION CENTER OR AARHUS CENTER WITHIN THE MoE AND ITS WEBSITES?	WHAT OTHER ENVIRONMENTAL INFORMATION DOES THE MoE WEBSITE PROVIDE?
<p>ARMENIA Ministry of Nature Protection of the Environment <a href="http://www.mnpiac.am">http://www.mnpiac.am</a> (or <a href="http://www.mnp.am">http://www.mnp.am</a>)</p>	<p>Neither the MoE, nor the Public Environmental Center websites provide any contact information. The MoE website provides an e-mail address for sending remarks.</p>	<p>Yes, the MoE provides links to the 2002 and 2000 reports.</p>	<p>No. But such a directory was prepared and published in 2002. The MoE Aarhus center website has a "Directory of Governmental Agencies Providing Environmental Data" under construction.</p>	<p>Not placed at the website.</p>	<p>On May 24, 2002, the Public Environmental Information (Aarhus) Center was opened. It has its own website, currently at: <a href="http://www.armaarhus.am">http://www.armaarhus.am</a>.</p>	<p>It provides information on projects and programs funded by international agencies. It includes news, weather, monitoring information and information on multilateral environmental agreements that Armenia is a party to (including Aarhus Convention). In addition, the Environmental Information Center's website provides environmental legislation, information on a citizen's right to information and participation, and on sustainable development.</p>
<p>AZERBAIJAN Ministry of Ecology and Natural Resources <a href="http://www.eco.gov.az/">http://www.eco.gov.az/</a></p>	<p>There is only an electronic form to provide suggestions or ask questions.</p>	<p>No (as of August 29, 2004).</p>	<p>No (as of August 29, 2004).</p>	<p>Not placed at MoE website.</p>	<p>An Aarhus public information center located within the MoE was opened on September 23, 2003. The center website is <a href="http://www.aarhuscenter.az">www.aarhuscenter.az</a>.*</p>	<p>The MoE website provides general information on the Caspian Sea, forests, hydrometeorology, and its environmental policy.</p> <p>There is a report of the national activities on implementing the Convention and new laws and regulations introduced to meet its requirements.</p>



**Table 3** (cont.)

COUNTRY AND MoE's WEBSITE ADDRESS*	ARE THERE NAMES AND CONTACTS OF OFFICIALS TO REQUEST INFORMATION?	DOES THE WEBSITE PROVIDE "STATE OF THE ENVIRONMENT" REPORT(S)**?	DOES IT HAVE AN INVENTORY OF ENVIRONMENTAL INFORMATION (WHO HOLDS WHAT INFORMATION AND ADDRESS)?	ANY TRAINING MATERIALS ON THE AARHUS CONVENTION FOR OFFICIALS?	ENVIRONMENTAL INFORMATION CENTER OR AARHUS CENTER WITHIN THE MoE AND ITS WEBSITES?	WHAT OTHER ENVIRONMENTAL INFORMATION DOES THE MoE WEBSITE PROVIDE?
<p>BELARUS Ministry of Natural Resources and Environmental Protection <a href="http://www.minpriroda.by/">http://www.minpriroda.by/</a> (previously: <a href="http://www.president.gov.by/Minpriroda/index_e.htm">http://www.president.gov.by/Minpriroda/index_e.htm</a>)</p>	<p>Yes. The website provides both the ministry's and a specific governmental official's address, phone number, fax number, and e-mail address to contact for information.</p>	<p>"State of the environment" reports are available in Russian for 1999-2002. One version (without a date) is available in English.</p>	<p>With the support of a Danish Environmental Protection Agency (DEPA) project, a list of the type and scope of environmental information held by public authorities has been prepared and posted on the website. It includes contacts of public agencies that are authorized to keep and disseminate environmental information.</p>	<p>Implementing the Aarhus Convention: A User Guide for Officials in Belarus is posted on the Aarhus Convention page of the website.</p>	<p>In December 2003, MoE opened the public reception room. (See footnote 122). In 2005, it also established an Aarhus Center.</p>	<p>The website provides a vast amount of environmental information, including on the ministry's organizational structure, information on Belarus' natural resources, environmental legislation, and reviews of citizens' rights by legal experts.</p> <p>Additional information is provided at the official Aarhus Convention webpage, <a href="http://www.ac.minpriroda.by/60.htm">http://www.ac.minpriroda.by/60.htm</a>.</p>
<p>GEORGIA Ministry of Environmental Protection and Natural Resources <a href="http://moe.caucasus.net/ENG/">http://moe.caucasus.net/ENG/</a> <a href="http://www.garemo.itdc.ge/eng/">http://www.garemo.itdc.ge/eng/</a> (or <a href="http://www.moe.gov.ge">www.moe.gov.ge</a>)</p>	<p>Not clear from the English version of the website.</p>	<p>Not clear from the English version of the website.</p>	<p>Not clear from the English version of the website.</p>	<p>No information available.</p>	<p>Aarhus Centre established in December 2005.</p>	<p>In the English version, besides structure of the ministry and various departments, there are headings for projects, legislation, auctions, natural resources, and tenders.</p>

**Table 3** (cont.)

COUNTRY AND MoE'S WEBSITE ADDRESS*	ARE THERE NAMES AND CONTACTS OF OFFICIALS TO REQUEST INFORMATION?	DOES THE WEBSITE PROVIDE "STATE OF THE ENVIRONMENT" REPORT(S)**?	DOES IT HAVE AN INVENTORY OF ENVIRONMENTAL INFORMATION (WHO HOLDS WHAT INFORMATION AND ADDRESS)?	ANY TRAINING MATERIALS ON THE AARHUS CONVENTION FOR OFFICIALS?	ENVIRONMENTAL INFORMATION CENTER OR AARHUS CENTER WITHIN THE MoE AND ITS WEBSITES?	WHAT OTHER ENVIRONMENTAL INFORMATION DOES THE MoE WEBSITE PROVIDE?
<p>KAZAKHSTAN Ministry of Natural Resources and Environmental Protection www.nature.kz</p>	<p>Gives the ministry's contact information; and contacts for all the departments.</p>	<p>The website provides the 2003 report on the state of the environment.</p>	<p>A memorandum on how to handle requests for information posted on the website contains list of public agencies holding environmental information, describes their competence, and provides their website addresses.</p>	<p>A memorandum on how to handle requests for information is posted.</p>	<p>In 2005, the MoE adopted a regulation on creating an Aarhus Convention center.</p>	<p>The website provides extensive information. It includes legislation, international assistance projects, information on sustainable development, regional programs, etc. It also provides information on the MoE organizational structure, ratified multilateral environmental agreements, and upcoming conferences held by the ministry.</p> <p>Provides detailed information on activities and implementation of the Convention. See <a href="http://www.nature.kz/Orhus/index1_1.htm">http://www.nature.kz/Orhus/index1_1.htm</a>.</p>
<p>KYRGYZSTAN Ministry of Ecology and Extraordinary Situations <a href="http://www.ecomon.kg/">http://www.ecomon.kg/</a>*</p>				<p>Not identified.</p>		<p>During the time of research, the website had an Aarhus Convention webpage, <a href="http://www.ecomon.kg/aarhus/">http://www.ecomon.kg/aarhus/</a> that provided Convention texts and its popular description, and included national activities for implementing the Convention.</p>

**Table 3** (cont.)

COUNTRY AND MoE's WEBSITE ADDRESS*	ARE THERE NAMES AND CONTACTS OF OFFICIALS TO REQUEST INFORMATION?	DOES THE WEBSITE PROVIDE "STATE OF THE ENVIRONMENT" REPORT(S)**?	DOES IT HAVE AN INVENTORY OF ENVIRONMENTAL INFORMATION (WHO HOLDS WHAT INFORMATION AND ADDRESS)?	ANY TRAINING MATERIALS ON THE AARHUS CONVENTION FOR OFFICIALS?	ENVIRONMENTAL INFORMATION CENTER OR AARHUS CENTER WITHIN THE MoE AND ITS WEBSITES?	WHAT OTHER ENVIRONMENTAL INFORMATION DOES THE MoE WEBSITE PROVIDE?
<p>MOLDOVA Ministry of Ecology and Natural Resources <a href="http://mediu.gov.md">http://mediu.gov.md</a> (previously: <a href="http://www.moldova.md/moldova.html">http://www.moldova.md/moldova.html</a>)</p>	<p>Yes. It provides the contact information (job title, phone number, and e-mail address) for officials according to unit within the ministry.</p>	<p>No, but the Ecological Information Center website does for 2002-04.</p>	<p>No, but the Ecological Information Center website has such an inventory, including contact information.</p>	<p>Not identified at the time of research.</p>	<p>The Ecological Information Center was created within MoE. It provides environmental information for the public; holds press conferences, and undertakes other activities. It has a separate website: <a href="http://www.cim.moldova.md/">http://www.cim.moldova.md/</a>.</p>	<p>It provides information on multilateral environmental agreements, the ministry's organizational structure, and other things.</p>
<p>RUSSIA Ministry of Environmental Protection and Natural Resources <a href="http://www.mnr.gov.ru">http://www.mnr.gov.ru</a></p>	<p>Yes. It provides contact information (name and phone number only) on each unit, and where to go for certain environmental information.</p>	<p>None as of August 30, 2004.</p>	<p>No. Such a directory was prepared in the framework of technical assistance project funded by DEPA to consider accession to the Convention, accessible at the Russian Regional Environmental Center website at <a href="http://www.rusrec.ru/">http://www.rusrec.ru/</a>.</p>	<p>Not party to the Aarhus Convention.</p>	<p>No.</p>	<p>It provides information on water resource issues and domestic environmental legislation.</p>
<p>TAJIKISTAN Ministry of Nature Protection <a href="http://www.mop.tojikiston.com/">http://www.mop.tojikiston.com/</a>* (Currently, transferred into the State Committee on Environmental Protection and Forestry)</p>	<p>Yes. It provided the contact information (phone, fax, and e-mail address) of the ministry.</p>	<p>In August 2006, the website was not working.</p>			<p>An Aarhus center within the MoE was opened on September 2003. The center's webpage was previously found at <a href="http://tojikiston.com/aarhus/">http://tojikiston.com/aarhus/</a>, but became unavailable in September 2004.</p>	<p>It provides information on the various domestic laws of Tajikistan, as well as geographical and environmental resources information (e.g., water issues).</p>

**Table 3** (cont.)

COUNTRY AND MoE'S WEBSITE ADDRESS*	ARE THERE NAMES AND CONTACTS OF OFFICIALS TO REQUEST INFORMATION?	DOES THE WEBSITE PROVIDE "STATE OF THE ENVIRONMENT" REPORT(S)**?*	DOES IT HAVE AN INVENTORY OF ENVIRONMENTAL INFORMATION (WHO HOLDS WHAT INFORMATION AND ADDRESS)?	ANY TRAINING MATERIALS ON THE AARHUS CONVENTION FOR OFFICIALS?	ENVIRONMENTAL INFORMATION CENTER OR AARHUS CENTER WITHIN THE MoE AND ITS WEBSITES?	WHAT OTHER ENVIRONMENTAL INFORMATION DOES THE MoE WEBSITE PROVIDE?
<p>TURKMENISTAN The Ministry of Nature Protection <a href="http://enrin.grida.no/htmls/turkmen/soe2/">http://enrin.grida.no/htmls/turkmen/soe2/</a>*</p>						
<p>UKRAINE Ministry of Environment and Natural Resources <a href="http://www.menr.gov.ua/">http://www.menr.gov.ua/</a></p>	<p>Yes. Website provides contact information for officials of the ministry and regional bodies of the ministry. Contact information for the Aarhus center is also provided.</p>	<p>Yes. The website provides "state of the environment" reports for 1996, and 1998–2001, and regional "state of the environment" reports, e.g., Kyiv Region, 2003.</p>	<p>At the Aarhus Convention page of the website, the list of ministries and agencies holding environmental information and their websites is provided.</p>	<p>Provides a manual for trainers on developing courses for officials on how to implement the Convention and how to provide information.</p>	<p>Aarhus Information and Training Center was opened in May 2003 with support from DEPA project assisting Ukraine in implementing the Convention.</p>	<p>It gives a wide range of environmental information such as information on environmental laws and multilateral agreements; activities to prevent climate change; events at the MoE; "state of the environment" reports; materials on environmental impact assessments; information on upcoming environmental conferences and events; environmental indicators and statistics; and advice on what to do in emergency situations.</p> <p>It has an Aarhus page that provides the vast information on implementation of the Convention in Ukraine, it's text, practical examples, and various links.</p>

**Table 3** (cont.)

COUNTRY AND MoE's WEBSITE ADDRESS*	ARE THERE NAMES AND CONTACTS OF OFFICIALS TO REQUEST INFORMATION?	DOES THE WEBSITE PROVIDE "STATE OF THE ENVIRONMENT" REPORT(S)**?	DOES IT HAVE AN INVENTORY OF ENVIRONMENTAL INFORMATION (WHO HOLDS WHAT INFORMATION AND ADDRESS)?	ANY TRAINING MATERIALS ON THE AARHUS CONVENTION FOR OFFICIALS?	ENVIRONMENTAL INFORMATION CENTER OR AARHUS CENTER WITHIN THE MoE AND ITS WEBSITES?	WHAT OTHER ENVIRONMENTAL INFORMATION DOES THE MoE WEBSITE PROVIDE?
UZBEKISTAN State Committee of the Republic of Uzbekistan for Nature Protection <a href="http://www.uznature.uz/eng/index.php">http://www.uznature.uz/eng/index.php</a> * (or <a href="http://www.gov.uz/en/section.scm?sectionId=2523">http://www.gov.uz/en/section.scm?sectionId=2523</a> )	Yes. The website provides contact information for the MoE, some specific contacts (address, phone/ fax numbers, and e-mail address), and form for sending e-mails to the ministry.	"State of the environment" reports can be found via the UNEP, Grid-Arendal website, but are supported by Uzbekistan: <a href="http://www.grida.no/enrin/htmls/uzbek/env2001/content/soe/index_frame.htm">http://www.grida.no/enrin/htmls/uzbek/env2001/content/soe/index_frame.htm</a> .	The website offers the ministry's contact information, an electronic form for submitting information, and contact information of various individuals in management and other divisions within the ministry.	Not party to the Aarhus Convention.	No information center within the State Committee.	The website provides information on the ministry's organizational structure and multilateral environmental agreements it has signed, plus a list of environmental publications.

\* Websites that have periodical problems with access are identified by \*

\*\* State of the Environment Reports of the post-Soviet countries may be also found at UNEP Grid-Arendal website at <http://enrin.grida.no/>.

# Endnotes

1. The study focuses on 12 post-Soviet countries. It does not cover the three former Soviet Baltic states, which are all members of the European Union and parties to the Convention. Occasional references to them are intended for comparison purposes or are made in regard to their Soviet period. Estonia was a party to the Convention when it took effect, while Lithuania and Latvia were merely signatories. These two countries ratified the Convention in January and June 2002, respectively.

2. *International Covenant on Economic, Social, and Cultural Rights*, and *International Covenant on Civil and Political Rights*, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976.

3. UNECE is the United Nations Economic Commission for Europe. It is one of five regional commissions of the United Nations created in 1947 to encourage greater economic cooperation among their member states and other interested UN members. UNECE became an important agency with a broader range of activities such as policy analysis, development of conventions, and technical assistance. It eventually widened its focus to environment and human settlements, among other areas. Currently, UNECE includes 55 member states. For more information, visit <http://www.unece.org/about/about.htm>.

4. The text of the Convention is available at <http://www.unece.org/env/pp/treatytext.htm>.

5. See, e.g., Resources for the Future et al., *Public Access to Environmental Information and Data: Practice Examples from the United States, the European Union, and Central and Eastern Europe* (Washington, DC: Resources for the Future, 2001), 3-36. Available at <http://www.rec.org/REC/Programs/PublicParticipation/DanubeInformation/PDF/PublicInfoAccess.pdf>.

6. For analysis of how the traditions and mentality of the Soviet past effect implementation of the Aarhus Convention, see Tatiana R. Zaharchenko and Greta Goldenman, "Accountability in Governance: The Challenge of Implementing the Aarhus Convention in Eastern Europe and Central Asia," *International Environmental Agreements: Politics, Law, and Economics* 4 (2004): 229-51.

7. For information on bilateral agreements in place between individual post-Soviet countries and the EU, see Zaharchenko and Goldenman, note 6: 232-33.

8. Alena Ledeneva, "Commonwealth of Independent States," in *Global Corruption Report 2003* (Berlin: Transparency International, 2003), Available at <http://www.globalcorruptionreport.org/download.shtml>.

9. See Andrei D. Sakharov, *Alarm and Hope*, 2nd ed. [in Russian] (Moscow: Inter-Verso, 1991), 48-58.

10. See William G. Miller, ed., *Toward a More Civil Society? The USSR under Mikhail Sergeevich Gorbachev* (New York: Harper & Row, 1989), 87-96.

11. See, e.g., Alla Yaroshinskaya, *Chernobyl: Completely Classified* [in Russian] (Moscow: Drygie Berega); Murray Feshbach and Alfred Friendly Jr., *Ecocide in the USSR: Health and Nature under Siege* (New York: Basic Books, 1992), 152.

12. Kristen Suokko, "The Former Soviet Union. A Poisonous Legacy," in *Defending the Earth: Abuses of Human Rights and the Environment* (Washington, DC: Human Rights Watch and the Natural Resources Defense Council, 1992), 89-96.

13. In 1962, Rachel Carson's *Silent Spring* exposed the hazards of the pesticide DDT and helped set the stage for the environmental movement in the United States. See Rachel Carson, *Silent Spring* (New York: Houghton Mifflin, 1962).

14. See Tatiana Zaharchenko, "The Environmental Movement and Ecological Law in the Soviet Union: The Process of Transformation," *Ecology Law Quarterly* 17 (1990): 455-75.

15. "Green World' of Ukraine: Conclusions, Problems, Perspectives" [in Ukrainian], *Zelenyi Svit* (April 1991), no. 5.

16. Alexey Yablokov, "Ecological Ignorance and Ecological Irresponsibility: Obstacles on the Way to Perestroika" [in Russian]. In *No Other Way*, ed. Yu. N. Afanasiev (Moscow: Progress, 1988), 238-53.

17. The Ecological Society Green Salvation. 2000. *Herald 2000* [in Russian]. Almaty-Kazakhstan: Hermes. 10.

18. See, e.g., M. Ya Lemeshev, ed., *Ecological Alternative* [in Russian]. (Moscow: Progress, 1990).

19. Viktor Yaroshenko, *Expedition "Alive Water"* [in Russian] (Moscow: Molodaia Gvardiia, 1989), 505.

20. See, e.g. Feshbach and Friendly Jr., note 11; D. J. Peterson, *Troubled Lands: The Legacy of Soviet Environmental Destruction* (Boulder, CO: Westview Press, 1993).

21. See, e.g., N. R. Malysheva, "Democratization of Environmental Decisions: Making Progress," in *State and Public Control in the Area of Environmental Protection* [in Russian] (Kyiv: Naykova Dymka, 1988), 28; S. N. Kravchenko, *Realization of Law in Environmental Protection: Author's Summary of the Doctoral Dissertation* [in Russian]. (Kharkov: Kharkov Law Institute, 1991).

22. See, e.g., Tatiana R. Zaharchenko, "Social-Legal Factors of Environmental Law Realization: USA Experience" [in Russian], *Soviet State and Law* 2 (1992): 131-40.

23. See Decree of the Council of Ministers and the Central Committee of the Communist Party, "On the Radical Restructuring of Nature Protection in the USSR," 1988, SP SSSR, No.6., Item 14 [in Russian].

24. Peterson, note 20, 161.

25. *Sobranie postanovlenii pravitelstva Ukrainiskoi Sovetskoi Sotsialisticheskoi Respubliki* (Collection of Government Decrees of Ukrainian Soviet Socialist Republic). 1990. N.8. St. 42.

26. In the present study, the terms "state authorities" and "public authorities" are both used. It should be noted, however, that it is the terms "state authorities"—authorities of the state—and "state officials" (not public officials) that were and are still, by and large, used in Russian. This reveals an important dichotomy in understanding the nature of governance in post-Soviet states. In a carry-over from Soviet times, it is the state's will that authorities must reflect, not the will of the public. It is the state, not the public, that officials must serve. Thus, the term for a government official used in the present article reflects the Russian expression *gosudarstvennyi sluzhashchii*: "state servant," not "public servant."

27. *Vedomosti S'ezda Narodnykh Deputatov SSSR i Verkhovnogo Soveta SSSR*. 1989. N.22. St. 416.

28. This was the case even though the 1977 constitution of the Soviet Union, as amended in 1988, provided for such a right (Article 58). For more information, see Zaharchenko, note 14, 470-71.

29. *The 1992 Law on Protection and Use of Nature of the Republic of Azerbaijan*. 1992 Feb. 25. N. 79.

30. *The 1992 Law on Protection of Environment of the Republic of Belarus*. 1993. *Vedomosti Verkhovnogo Soveta Respubliki Belarus*. NN.1. 10 [in Russian].

31. *The 1990 Law on Protection of Nature of the Estonian Soviet Socialist Republic*, 1990 *Vedomosti Verkhovnogo Soveta i Pravitelstva*, N. 6, St.103 [In Russian].

32. *The 1991 Law on Protection of Natural Environment in the Kazakh SSR of the Kazakh Soviet Socialist Republic*. 1991. Almaty [in Russian].

33. *The 1993 Law on Protection of Environment of the Republic of Moldova*. N.1515, June 16, 1993.

34. *The 1991 Law on Protection of Natural Environment of the Russian Federation*. 1992. *Vedomosti S'ezda narodnykh deputatov Rossiiskoi Federatsii i Verkhovnogo Soveta Rossiiskoi Federatsii*. N. 20. St. 641 [in Russian].

35. *The 1993 Law on Protection of Nature of the Republic of Tajikistan*, Dec. 27, 1993.

36. *The 1991 Law on Protection of Natural Environment of the Ukrainian Soviet Socialist Republic*. 1991. *Vedomosti Verkhovnoi Rady Ukrainy*. N.41. St.546 [in Ukrainian].

37. See, e.g., chapter 2 of the 1992 Law on Protection and Use of Nature of the Republic of Azerbaijan; Article 7 of the 1991 Kazakh Law on Protection of Natural Environment; Article 12 of the 1991 Russian Law on Protection of Natural Environment; Articles 10 and 12 of the 1993 Law on Protection of Nature of the Republic of Tajikistan; and Article 9 of the 1991 Ukrainian Law on Protection of Natural Environment.

38. For a discussion of relevant legal provisions in Armenia, Belarus, Moldova, Russia, and Ukraine,

see also Ecopravo-Lviv and Regional Environmental Centre for Central and Eastern Europe, *Doors to Democracy: Current Trends and Practices in Public Participation in Environmental Decision Making in the Newly Independent States* (Szentendre, Hungary: Regional Environmental Centre for Central and Eastern Europe, 1998).

39. See, e.g., Article 71 of the 1991 Law on Protection of Natural Environment in the Kazakh SSR, note 32.

40. Ukraine, however, followed a clause in its environmental protection law adding in 1991 to the contemporary Criminal Code of Ukraine a provision about criminal liability for concealing or distorting information on environmental conditions or morbidity among the population and also for the preparation, processing, or selling of radiation-contaminated foodstuffs or other products (Articles 227-1 and 227-2).

41. For example, Ukraine has published annual national reports on the state of the natural environment since 1991. See *Natsionalna dopovid pro stan navkolyshniogo pryrodnoho seredovyshcha* (Kyiv: Ministry for Environmental Protection of Ukraine, 1993). National reports starting in 1996 can be accessed at the website of the Ministry for Environmental Protection, <http://www.menr.gov.ua/>.

42. See Tatiana R. Zaharchenko, "An Experience Worth Learning: Public Participation in Environmental Protection in the USA" *Law of Ukraine* 6 (1992): 39-42 [in Ukrainian]; Svitlana Kravchenko, "Protection of Ecological Rights in Ukraine and the USA: A Comparative Study" *Law of Ukraine* 5-6 (1995): 33-36 [in Ukrainian]. Thorough legal studies suggesting possible information disclosure strategies in the post-Soviet states were undertaken in the United States. See Katherine M. Harman-Stokes, "Community Right-to-Know in the Newly Independent States of the Former Soviet Union: Ending the Culture of Secrecy Surrounding the Environmental Crisis" *Virginia Environmental Law Journal* 15 (1995): 77-138.

43. See, e.g., Sofia Slobodyanik and Tatiana Zaharchenko, "Right to Know: From a Draft to a Law," *Holos Ukrainy* (The Voice of Ukraine). Sept. 18, 1992 [in Ukrainian].

44. "Law on Information of Ukraine. 1992 Oct. 2," *Holos Ukrainy* (The Voice of Ukraine), Nov. 13, 1992 [in Ukrainian].

45. See, e.g., the 1993 Law on Informatization and the 1997 Law on Guarantees and Freedom of Access to Information of Uzbekistan; the 1995 Federal Law on Information, Informatization, and Protection of Information of the Russian Federation; the 1998 Law on Freedom of Information and the 1998 Law on Information, Informatization, and Protection of Information of the Republic of Azerbaijan; the 1995 Law on Informatization of the Republic of Belarus; and the 1998 Freedom of Information Law of Latvia.

46. Description of some approaches and the laws themselves of several countries may be found at [freedominfo.org](http://freedominfo.org), the online network of freedom of information advocates. See <http://www.freedominfo.org/countries/index.htm>.

47. See, e.g., the 1994 Law on State Secrets of Ukraine, the 1993 Law on State Secrets of the Russian Federation, the 1996 Law on State Secrets of the Republic of Azerbaijan, and the 1997 Law on State Secrets of Latvia.

48. For example, the 1992 Law on Information of Ukraine has 54 articles; the 1995 Federal Law on Information of Russia includes 25 articles.

49. See, e.g., Article 2 of Belarus's 1995 Law on Informatization; Article 2 of Azerbaijan's 1998 Law on Information, Informatization, and Protection of Information; and Article 2 of Russia's 1995 Federal Law on Information.

50. See also Svitlana Kravchenko, "Regional Overview: NIS Countries," in *Doors to Democracy*, note 38, 11-37.

51. See, e.g., the Law of the Republic of Belarus on Citizens' Appeals, June 6, 1996, N. 407-XIII, *Vedomosti Verkhovnoho Soveta Respubliki Belarus*, 1996, N. 21 St.376 [in Russian]; the Law of Ukraine on Citizens' Appeals, Oct. 2, 1996.

52. For example, the 1996 Law on Citizens' Appeals of Belarus established procedures for citizens' appeals to officials of state bodies in the form of suggestions, statements, and complaints. It provides for the possibility of judicial review of decisions made with regard to citizens' appeals (Article 8).

53. Oleg Yanitsky, *Russian Environmentalism: Leading Figures, Facts, Opinions* (Moscow: Mezhdunarodnyie Otnosheniia, 1993) 90-101.

54. See, e.g., Ashat Kayumov, "Where Have We Gone?" *Beregina*, Feb. 1, 1993 [in Russian].

55. Alexei Portanskiy, "Trial about Oil, as Never Happened Before," *Izvestiia*, Nov. 23, 1992; and "Suit to Government Rejected, Road to Oil Is Open," *Izvestiia*, Nov. 24, 1992 [in Russian].

56. For example, in Moscow "Ecojuris-WLED" (Women Lawyers for Environment and Development) was created from the efforts of two lawyers, a practicing attorney, Olga Razbash, and a legal scholar, Vera Mishchenko, both with years of legal experience. (In 1996 the group split apart, and later the Ecojuris Institute and the Regional Public Center for Human Rights and Environmental Defense were established. Ecojuris Institute stays active in pursuing legal solutions to environmental problems). In Lviv, a longtime professor of environmental law at the university, Svitlana Kravchenko, founded, with her students, an environmental public advocacy center, Ecopravo-Lviv. (See also Kravchenko, note 50). A group of lawyers led by an environmental law professor, Alexei Shumilo, organized Ecopravo-Kharkiv in Kharkiv.

57. For example, in Saint Petersburg, Konstantin Ryabchikhin gathered around himself a group of young lawyers to establish an NGO called "Lawyers for the Environment."

58. For example, in Kyiv, Borys Vasylykivskyi and his colleagues founded EcoPravo-Kyiv; Vasylykivskyi obtained a legal degree a few years later.

59. Svitlana Kravchenko, "Citizen Enforcement of Environmental Law in Eastern Europe," *Widener Law Review* 10 (2004) 475-502.

60. For examples of legal actions by public-interest environmental groups in Russia, see Tatiana Zaharchenko, *Environmental Protection: Guide to Legal Actions by Russian Citizens* [in Russian] (Saint Petersburg: Natural Resources Defence Council, 1994). For Ukraine, see Ecopravo-Lviv Charitable Foundation et al., *Ecological Rights of Citizens: How to Protect Them with the Help of Law* [in Ukrainian] (Kyiv: Ekho-Vostok Information Agency, 1997). Additional examples may be found in *Doors for Democracy*, note 38; Stephen Stec, ed., *Handbook on Access to Justice under the Aarhus Convention* (Szendentre, Hungary: Regional Environmental Center for Central and Eastern Europe, 2003), available at <http://www.rec.org/REC/Programs/EnvironmentalLaw/PDF/accesstojustice.pdf>; Zaharchenko and Goldenman, note 6; and Kravchenko, note 50.

61. Groups that emerged in Russia and Ukraine in the early 1990s were joined by ones created in other post-Soviet states, such as an Almaty, Kazakhstan-based NGO called Green Salvation ([www.greensalvation.org](http://www.greensalvation.org)); Ecolex, in Baku, Azerbaijan (<http://ecolex-az.org>); and Ecopravo, in Minsk, Belarus, among others.

62. See, e.g., "To the Supreme Court of Russia," *Zelenyi Mir* [Green World] (1997, no. 5/240) [in Russian]; and Anna Menner, "Environmental Victory! The Russian Supreme Court Rules in Favor of Forests," *Russian Conservation News* 15 (1998): 11-12. In 2000, Vera Mishchenko, president of the Ecojuris Institute, which had been featured in these articles, received the Goldman Environmental Prize for supporting citizens' rights in the environmental area. See: <http://www.goldmanprize.org/node/134>.

63. See, e.g. Vladimir Esipov, "Mission to the Northern Wasteland," *Smena*, Jan. 15, 1993 [in Russian].

64. For example, in 1994 a documentary, *Ryabchikhin against Vodokanal*, filmed by Gennadii Shabarin, was shown on one of the most popular Saint Petersburg TV stations. It concerned a court case brought by an NGO, "Lawyers for Ecology," against the municipal water supply company. It generated significant feedback from viewers.

65. For Russia, see Zaharchenko, note 60; M. I. Vasilyeva, *Judicial Protection of Ecological Rights: Legal Questions of Compensation and Prevention of Environmental Damage* [in Russian] (Moscow: Center for Ecological Policy of Russia, 1996); S. A. Bogolubov, *Protection of Ecological Rights: Manual for Citizens and NGOs* [in Russian] (Moscow: Center for Ecological Policy of Russia, 1996); and Ecojuris Institute, "How to Defend Your Ecological Rights: Guide for Citizens and NGOs" [in Russian], *Zelenyi Mir* [Green World] (1997, no. 6). For Ukraine, see Ecopravo-Lviv Charitable Foundation et al., *Ecological Rights of Citizens: How to Protect Them with the Help of Law* [in Ukrainian] (Kyiv: Ekho-Vostok Information Agency, 1997).

66. In Russia, in 1993 Ecojuris started publishing regular collections of environmental laws. See *Russian Legislation on Environmental Protection and Use of Natural Resources* [in Russian], vols. 1-2 (Moscow: Ecojuris,



1993–94). In Ukraine in 1996, EcoPravo-Kyiv and Ecopravo-Kharkiv published *Ecological Legislation of Ukraine* [in Ukrainian]. See also *Ecological Legislation of the Republic of Moldova* [in Russian] (Kishinev: Cartier, 1997).

67. For example, in 1994 high-level decision makers and representatives of the executive branch and the academic and NGO communities of the Russian Federation were brought to the United States for a U.S. Agency for International Development–funded training course, “Developing and Implementing Effective Environmental Laws,” conducted by the Environmental Law Institute for Academy for Education. See *ELI Seminar Materials*. ELI, AED, USAID, Oct. 31–Nov. 11, 1994: Washington, D.C. Personal archive.

68. See Zaharchenko, note 60, 117–20.

69. *EPAC Cases*. Personal archive. For more information, visit <http://www.epac.am>.

70. See, e.g., Stec, note 60, 163–65, 181–83, 197–200.

71. See Zaharchenko and Goldenman, note 6.

72. Article 1 of the 1992 Law on Information of Ukraine.

73. In fact, a review of the 1992 Ukrainian Law on Information by the Organization for Security and Cooperation in Europe and the Council of Europe described it as “confusing” and noted problems with the lack of a definition of official information and with overly discretionary exemptions. See David Banisar, *Freedom of Information around the World 2006: A Global Survey of Access to Government Information Laws* (Privacy International, 2006), 153. Available at [http://www.freedominfo.org/documents/global\\_survey2006.pdf](http://www.freedominfo.org/documents/global_survey2006.pdf).

74. An exemption would be Article 10 of the 1995 Russian information law. It is the article that imposed a ban on making ecological information limited-access information, which was also extended to documents being accumulated in open stacks of libraries and archives, and in state information systems, which contain information of public interest.

75. See also Kravchenko, note 50.

76. Model Law on Access to Environmental Information [in Russian]. Decree N.10–7. Dec. 6, 1997. *Information Bulletin of the Interparliamentary Assembly of the CIS* [in Russian]. N.16. 1998.

77. The Commonwealth of Independent States (CIS) (in Russian, *Sodruzhestvo Nezavisimykh Gosudarstv*) is an alliance of former Soviet republics initiated in 1991, when the Soviet Union was dismantled. Its 11 original members were Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan, joined in 1993 by Georgia. Turkmenistan discontinued its permanent membership in August 2005, and is now an associate member.

78. The “Environment for Europe” process formally started in 1991 with the first Conference of European Environmental Ministers at Dobris Castle in what was then Czechoslovakia, and subsequently went through several ministerial conferences in Lucerne, Switzerland (1993); Sofia, Bulgaria (1995); Aarhus, Denmark (1998); and Kyiv, Ukraine (2003). For information on the Environment for Europe

process, see <http://www.unece.org/env/wgso/welcome.html>.

79. On the international origins of the Aarhus Convention, see Stephen Stec, Susan Casey–Lefkowitz, and Jerry Jendroska, eds., *The Aarhus Convention: An Implementation Guide* (New York: United Nations, 2000), 1–4, Available at <http://www.unece.org/env/pp/publications.htm>. See also Jeremy Wates, “Towards an ECE Convention on Access to Environmental Information and Public Participation in Environmental Decision-Making,” *Environmental Law Network International* 1 (1996):15–21.

80. See, e.g., Jeremy Wates, “The Public Participation Convention—Progress Report on the Negotiation,” *Environmental Law Network International* 1 (1997): 29–32; and Elena Petkova and Peter Veit, “Environmental Accountability beyond the Nation-State: The Implications of the Aarhus Convention,” *Environmental Governance Notes*, (World Resources Institute), April 2000.

81. In preparation for the Fourth Ministerial Conference, in Aarhus, the European NGO Coalition organized an “ECO [Environmental Citizens’ Organization] forum” focused on the draft of the future Aarhus Convention. An NGO Aarhus agreement adopted during the Fourth Ministerial Conference now serves as a basis for the work of the Pan-European ECO Forum NGO Coalition for Sustainable Development, a network of more than 200 ECOs throughout Europe. For more information, see <http://www.eco-forum.org/>.

82. In the United States, an effort to develop a U.S. NGO statement to the Aarhus Convention and overall coordination among U.S. NGOs was led by the Environmental Law Institute in Washington, DC. Personal archive.

83. See *Fourth Ministerial Conference*. “Environment for Europe.” Aarhus, Denmark. 1998 Jun 23–25. Report on the Conference, UNECE: 3–4, 34.

84. They are Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Georgia, Greece, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Tajikistan, the Former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine, and the United Kingdom of Great Britain and Northern Ireland. At the conclusion of this study, several European countries yet remained signatories: Iceland, Ireland, Liechtenstein, Monaco, and Switzerland.

85. For more information and updates, visit the Aarhus Convention’s website, <http://www.unece.org/env/pp>.

86. Jeremy Wates, “The Aarhus Convention: A Driving Force for Environmental Democracy,” *Journal for European Environmental and Planning Law* 1 (2005): 2–11.

87. For an overview of other pillars of the Aarhus Convention and the challenges to their implementation see, e.g., Zaharchenko and Goldenman, note 6.

88. Article 2.3, (see footnote 4).

89. Article 2.2.
90. Article 2.4.
91. Article 3.9.
92. Article 4.
93. Article 5.
94. Articles 6–8.
95. Article 6.6. The Convention defines the “public concerned,” as “the public affected or likely to be affected by, or having an interest in, environmental decision making” (Article 2.5). However, the Convention further stresses that NGOs promoting environmental protection and meeting requirements under their national law should be deemed to have an interest.
96. Article 9.
97. Article 3.1.
98. Article 4.4.
99. In another region of the world striving to make democracy work, Latin America, requesting information in the hands of government without the necessity of demonstrating a personal motive has also been recognized as an important principal of legislation. See *Access to Information in the Americas* (Washington, D.C.: Inter-American Dialogue): 13. Available at <http://www.thedialogue.org/PublicationFiles/Access%20Report.pdf>.
100. See, e.g., in South Caucasus: Aida Iskoyan *Public Participation in Environmental Decision Making in the Countries of South Caucasus: Guide* [in Russian] (Tbilisi, Georgia: Regional Environmental Center for Caucasus, 2001); in Belarus: S. A. Balashenko, E. V. Laevskaya, and T. I. Makarova, *The Right to a Favorable Environment (How Can It Be Protected?): Practical Manual for Citizens and NGOs* [in Russian] (Minsk, 2000); in Ukraine: Maria Krasnova et al., *I Have the Right to Know. Guidelines on Access to Environmental Information* [in Ukrainian] (Kyiv: KM Akademia, 2000).
101. See Zaharchenko and Goldenman, note 4, 233–37.
102. *Synthesis Report on the Status of Implementation of the Convention*, ECE/MP.PP/2005/18, April 12, 2005, and *Conclusions on the Reporting Process and Implementation Trends*, ECE/MP.PP/2005/20, April 12, 2005. Available at <http://www.unece.org/env/pp/reports%20implementation.htm>. I was involved in the drafting of these reports.
103. *Synthesis Report*, note 102. The report prepared for the second meeting of parties illustrates the progress made by parties in bringing their laws and policies in line with the requirements of the Convention and the obstacles they encountered. Additional information from countries’ national implementation reports may be found at <http://www.unece.org/env/pp/reports%20implementation.htm>.
104. *Synthesis Report*, note 102.
105. Law of the Republic of Azerbaijan on Obtaining Environmental Information from March 12, 2002, as amended on March 25, 2003.
106. These elements derived from the Convention include providing environmental information without requiring an interest to be stated; introducing terms of response to requests for information; the possibility of appeal to a court whenever a request is wrongfully refused; requirements for publication of national “state of the environment” reports; and establishing publicly accessible pollutant registers. The law, however, divides environmental information into limited-access information and open-access information, but it does not specify criteria for classifying limited-access environmental information.
107. Law of the Republic of Azerbaijan, as amended on March 25, 2003, with the Amendments to Legislation in Light of Implementation of the Law on Obtaining Environmental Information.
108. Decree of the Council of Ministers of the Republic of Belarus of Dec. 29, 2001, N.1900. *Natsionalnyi Reestr Pravovyykh Aktov Respubliki Belarus*. 2002. N. 6, 5/9718 [in Russian]. The plan was prepared by the environmental ministry of Belarus together with other agencies and with the participation of NGOs.
109. Decree of the Ministry of the Environment of Belarus of May 29, 2003, N. 22 “On List of Records Belonging to Environmental Information.” Available at [http://www.ac.minpriroda.by/60\\_100.htm](http://www.ac.minpriroda.by/60_100.htm).
110. Available at the Belarus Ministry of the Environment Aarhus Convention website, [http://www.ac.minpriroda.by/50\\_45.htm](http://www.ac.minpriroda.by/50_45.htm).
111. *Implementation of the Aarhus Convention in Georgia. Adopted commitments within the framework of the Convention*. Information on Implementing the Aarhus Commitments in Georgia. (Ministry of Environmental protection and Natural Resources, Department of Public Relations, 2002); previously posted at the ministry’s website. Personal archive. No information is available whether this draft has been adopted. For additional information on current regulation of access to information in Georgia, see Green Alternative, *Environmental Governance in Georgia and How Can the EU Contribute to its Strengthening* (Tbilisi: Green Alternative, 2006): 8–11, available at [http://www.greenalt.org/en\\_publications.php?lng=en\\_](http://www.greenalt.org/en_publications.php?lng=en_).
112. *Synthesis Report*, note 102.
113. *Ibid.*
114. Article 3.8 of the Aarhus Convention.
115. Article 7.5 of 2000 Law on Access to Information of Moldova.
116. See 2002 Law of Ukraine on Introducing Changes to a Number of Legislative Acts of Ukraine, adopted in connection with ratification of the Aarhus Convention. 2003. *Vidomosti Verkhovnoii Rady*. [in Ukrainian]. N.4, St. 31.
117. Order of the Ministry of Environmental Protection N. 169 of Dec. 18, 2003 on Approval of Regulation on the Procedure for Providing Environmental Information.
118. Decree of the Supreme Rada of Ukraine on Informing the Public on Matters Concerning the Environment, from Nov. 4, 2004, No. 2169-IV.
119. *Synthesis Report*, note 102.
120. *Ibid.*
121. See *Implementation Report by Armenia*. ECE/MP.PP/2005/18/Add.1. Available at <http://www.unece.org/env/pp/reports%20implementation.htm>.
122. The public reception room (*obshetvennaia priemnaia*) is an old-fashioned Soviet office where people can come and ask questions, similar to some form of public affairs office that many institutions/agencies have in the West. For more information,

visit [http://www.minpriroda.by/public\\_rel/Public\\_Reception.htm](http://www.minpriroda.by/public_rel/Public_Reception.htm).

123. See *Implementation Report by Azerbaijan*. ECE/MP.PP/2005/18/Add. 2. Available at <http://www.unece.org/env/pp/reports%20implementation.htm>.

124. At some point, Kyrgyzstan had a very advanced and extensive website with a page on implementation of the Aarhus Convention, but after 2004 that website stopped working. At the time the present study was submitted for publication, the most extensive environmental information was offered on the websites of Belarus, Kazakhstan, and Ukraine.

125. *Synthesis Report*, note 102.

126. Implementation report by the Republic of Moldova. ECE/MP.PP/2005/18/Add. 19. Available at <http://www.unece.org/env/pp/reports%20implementation.htm>.

127. *The OSCE and the Aarhus Convention*. OSCE factsheet. Available at [http://www.osce.org/publications/eea/2005/07/15634\\_429\\_en.pdf](http://www.osce.org/publications/eea/2005/07/15634_429_en.pdf). Local Aarhus centers were also opened in Hrazdan, Kotayk province of Armenia (see *New Aarhus Centre opens in Kotayk region of Armenia with OSCE support*. OSCE press release, Dec. 5, 2007, available at <http://www.osce.org/item/28699.html>) and also in other provinces of Armenia (for more information, visit [http://www.armaarhus.am/index\\_eng.html](http://www.armaarhus.am/index_eng.html)).

128. For further developments, visit the Belarus environmental ministry's Aarhus website, <http://www.minpriroda.by/ru/orxus>.

129. Personal archive. Previously available at the Kazakhstan environmental ministry's website, [http://www.nature.kz/Orhus/Rus/polozhenie\\_1.htm](http://www.nature.kz/Orhus/Rus/polozhenie_1.htm).

130. See [http://aarhus.dsl.ge/index.php?lang\\_id=ENG](http://aarhus.dsl.ge/index.php?lang_id=ENG).

131. "Environmental Information Centre Opens in Azerbaijan," OSCE press release, Sept. 23, 2003. Personal archive; Minutes of the first meeting of the Aarhus Center Management Board in Baku, July 18, 2003 (Baku, Azerbaijan, 2003). Personal archive.

132. "Environmental Information Centre Opens in Azerbaijan", note 131.

133. *The OSCE and the Aarhus Convention*, note 127.

134. "Environmental Information Centre Opens in Azerbaijan", note 131.

135. In Armenia, a directory of 70 public authorities holding environmental information, and their contact information, was published in July 2002 with support from the United Nations Environment Program and OSCE; reportedly its preparation was inspired by information access requirements in the Aarhus Convention. See "OSCE Supports Armenian Environmental Handbook", OSCE press release, July 12, 2002. Personal archive. Available at <http://www.osce.org/item/6840.html>.

136. See *Implementation Report by Azerbaijan*, note 123.

137. See Article 35 of the 1999 General Administrative Code of Georgia. Available for example at <http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan004030.pdf>. It requires all public information kept by a public agency to be entered into the public register. This code was

prepared with participation of American legal experts and it is largely based on the Freedom of Information Act. Information on how it is implemented appears to be very scarce.

138. *Synthesis Report*, note 102.

139. *Ibid*.

140. For the Belarus report, see the environmental ministry website <http://www.nd.minpriroda.by/>; for Kazakhstan's report, see its ministry website, [www.nature.kz](http://www.nature.kz).

141. *To Tbilisi District Court*, May 17, 2003, suit of Association "Green Alternative," Personal archive; *First BTC Court Case Filed in Georgia*, June 27, 2003. CENN INFO. Press release. Personal archive. Information on activities of Green Alternative is available at [www.greenalt.org](http://www.greenalt.org).

142. "Green Alternative Loses Court Case against Georgian Ministry," Falkor News Release, March 22, 2003. Additional information is available at [www.greenalt.org](http://www.greenalt.org).

143. "NGO Targets Pipeline Disclosure," Falkor News Release, April 6, 2004. Personal archive. For additional developments see [http://www.greenalt.org/en\\_publications.php?lng=en](http://www.greenalt.org/en_publications.php?lng=en).

144. See *Implementation report by Georgia*. ECE/MP.PP/2005/18/Add. 9. Available at <http://www.unece.org/env/pp/reports%20implementation.htm>.

145. See *Implementation Report by Armenia*.

146. For more information, see [http://www.epl.org.ua/a\\_cases\\_Brodyvodokanal.htm](http://www.epl.org.ua/a_cases_Brodyvodokanal.htm). Ecopravo-Lviv later became an international nongovernmental organization, Environment-People-Law (EPL).

147. See Article 19 and *EcoPravo-Kyiv*, "For Internal Use Only": *Is Post-Chernobyl Ukraine Ready to Have Access to Ecological Information?* [in Ukrainian] (Kyiv: Article 19, 2008): 91-92.

148. For more information on Green Salvation cases, see <http://www.greensalvation.org>.

149. The first meeting of the parties to the Aarhus Convention took place in October 2002. At that time, they approved Decision 1/7, "Review of Compliance," following the mandate of the Article 15 of the Convention, which stipulates, "The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of consideration of communications from members of the public on matters related to this Convention."

150. For reports of the Compliance Committee and decisions of the second meeting of the parties on specific cases, and other information, visit <http://www.unece.org/env/pp/compliance.htm>.

151. For an overview of the procedures and decisions of the Aarhus Convention Compliance Committee, see Veit Koester, "The Compliance Committee of the Aarhus Convention: An Overview of the Procedures and Jurisprudence," *Environmental Policy and Law* 37 (2007): 83-96. This article is available at <http://www.iucn.org/themes/law/cel10.html>. Koester chairs the Aarhus Convention Compliance Committee.

152. Updates on submitted communications are available at <http://www.unece.org/env/pp/pubcom.htm>.
153. See Decision II/5a on Compliance by Kazakhstan with Its Obligations under the Aarhus Convention (ECE/MP.PP/2005/2/Add.7), available at <http://www.unece.org/env/pp/compliance.htm>.
154. See Decision II/5b on compliance by Ukraine with its obligations under the Aarhus Convention (ECE/MP.PP/2005/2/Add.8). Available at <http://www.unece.org/env/pp/compliance.htm>.
155. See, e.g., *Report of the Regional Seminar/Workshop "Implication and Enforcement of Aarhus Convention in the Caucasus,"* conducted by the Caucasus Environmental NGO Network (CENN) Aug. 8–11, 2000, in Kazbegi, Georgia. Available at [http://www.cenn.org/Seminar/Aarhus%20Workshop\\_Web.pdf](http://www.cenn.org/Seminar/Aarhus%20Workshop_Web.pdf).
156. The AVA network was founded in 1998 by the Danish Society for the Conservation of Nature and the Danish environmental organization Severin.
157. *The AVA Aarhus Campaign Newsletter* (no. 3, 2002): 1.
158. The first regional Central Asia Workshop on the Convention was held in May 2000 in Ashgabat, Turkmenistan. It was organized by UNECE, UNEP, and OSCE with financial assistance from the governments of Austria, Denmark, and Norway. The second workshop was held in Dushanbe, Tajikistan, in June 2002. This workshop was organized jointly by UNECE, UNEP, OSCE, and the American Bar Association, with the cooperation of the Tajik Ministry for the Environment and the United Nations Development Programme (UNDP). For more information, visit <http://www.unece.org/env/pp/acrwca.htm> and <http://www.unece.org/env/pp/workshops/caaws.report.final.eng.doc>.
159. For more information, visit <http://www.unece.org/env/pp/oa.htm>.
160. See information available at the website of the Regional Environmental Center for Central Asia, <http://www.carec.kz/news/21.10.2003/21.10.2003.htm> [in Russian].
161. See, e.g., *Agenda of the Conference "Access to Information: Problems and Perspectives."* July 29–30, 2004, Bishkek, Kyrgyzstan. Personal archive.
162. Personal archive of the terms of references for these projects.
163. Summarizing this experience, OSCE published *The OSCE and the Aarhus Convention* (note 127). In this document, the OSCE analyzed the activities of Aarhus centers, and assessed their importance for the countries where they were present.
164. For more information on the project, see *Implementing the Aarhus Convention: Resources Materials for Officials and Civil Society in the Eastern Europe and Caucasus Region*. Available at [http://www.rec.org/REC/Programs/PublicParticipation/PublicAwareness/INfo\\_about\\_proj\\_eng.html](http://www.rec.org/REC/Programs/PublicParticipation/PublicAwareness/INfo_about_proj_eng.html).
165. For more information, see <http://www.unitar.org/cwg/aarhus/index.html>.
166. For more information, see <http://www.accessinitiative.org/>.
167. EcoPravo-Kyiv et al., *Assessment of Access to Information, Participation in Decision Making, and Access to Justice in Ukraine* (Kyiv: EcoPravo-Kyiv, 2004) [in Ukrainian]. Available in Ukrainian and English at [http://www.ecopravo.kiev.ua/epk/index\\_ua.shtm](http://www.ecopravo.kiev.ua/epk/index_ua.shtm).
168. Examples of such publications for Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine can be found at <http://www.rec.org/REC/Programs/PublicParticipation/PublicAwareness/default.html>.
169. See, e.g., Wates, note 80. According to the late Sergey Kuraev, at the time Head of the International Relations Department of the State Committee of Ecology (*Goskomekologiya*) of the Russian Federation, who participated in the negotiations, the representatives of the Russian government were genuinely intending to sign the Convention at the conference in Aarhus, but at the last minute received instructions from the Kremlin not to. Personal interview. May 16, 2002.
170. In 1997, Alexander Nikitin received the Goldman Environmental Prize. For more information, see <http://www.goldmanprize.org/node/139>. In 2000, ending five years of legal battle, the Presidium of the Russian Supreme Court completely acquitted Nikitin of charges of treason and revealing state secrets. For more information, see [http://www.bellona.org/subjects/Nikitn\\_Case\\_2000](http://www.bellona.org/subjects/Nikitn_Case_2000).
171. See Conclusion of Interagency Commission of the Security Council of the Russian Federation on the Aarhus Convention. [in Russian] Personal archive.
172. See, e.g., Russian Regional Environmental Center, *Perspectives of Russia's Accession to the Aarhus Convention* [in Russian] (Moscow: Russian Regional Environmental Center, 2004), available at [http://rusrec.ru/aarhus/conference/materials/aarhus\\_book.pdf](http://rusrec.ru/aarhus/conference/materials/aarhus_book.pdf). See also Tatiana Zaharchenko, "Accession to the Aarhus Convention: Notes to Arguments in Favor," *Ecology and Law* [in Russian] (St Petersburg: Bellona, 2005), no. 19: 33–34, available at [http://www.bellona.ru/filearchive/fil\\_ER19\\_10-06-2005.pdf](http://www.bellona.ru/filearchive/fil_ER19_10-06-2005.pdf).
173. See, e.g., Olga Razbash, *Right to Know. Right to Participate. Right to Justice* [in Russian] (2000). Personal archive; *Aarhus Convention: The Place of the Public in Russia and the Place of Russia in Europe* [in Russian] (2002), available at <http://www.hrights.ru/text/b17/Chapter11.htm>.
174. See Ecojuris Institute, "Aarhus-98: Passions on the Convention" [in Russian], *EcoLogos* (Summer 1998), no. 6; Bellona. 2003 "Access to Environmental Information in Russia" [in Russian]. *Bellona on-line publication*. June 25, 2003. Available at [http://www.bellona.ru/russian\\_import\\_area/international/russia/enviroights/info\\_access/30214](http://www.bellona.ru/russian_import_area/international/russia/enviroights/info_access/30214).
175. See statement of Halilulla Sherimbetov, chairman of the State Committee for Environment of the Republic of Uzbekistan, in *What People Are Saying About the Aarhus Convention. A Compendium of Statements from Governments, Intergovernmental Organizations, and Non-Governmental Organizations Made upon the Occasion of the Convention's Entry into*

Force, Oct. 30, 2001. Available at <http://www.unece.org/env/pp/30.october/all.statements.pdf>.

176. *Synthesis Report*, note 102.

177. *Ibid.*

178. See *Elaboration of the Law Draft "On Access to Environmental Information."* Available at [http://www.biotica-moldova.org/act\\_law.htm](http://www.biotica-moldova.org/act_law.htm).

179. *Conclusions on the Reporting Process and Implementation Trends*, note 102.

180. See, e.g., the 1997 Law of the Republic of Kazakhstan on Environmental Protection (as amended on Jan. 31, 2006), Article 71, part 1.

181. For more information, see <http://www.goldmanprize.org/node/118>.

182. *CEE Bankwatch Network \* Green Alternative*. Press release, Oct. 11, 2005. Personal archive. This quote also available at <http://www.bankwatch.org/newsroom/release.shtml?x=695387>.

183. The present study has not focused on legal transplantation—a process by which laws and legal institutions developed in one country are then adopted by another—which is examined in recent literature such as Frederick Schauer, *The Politics and Incentives of Legal Transplantation*, [CID Working Paper No. 44, Law and Development Paper No. 2] (Cambridge, MA: Center for International Development at Harvard University, April 2000), available at <http://www.cid.harvard.edu/cidwp/pdf/044.pdf>; John Gillespie, "Globalisation and Legal Transplantation: Lessons from The Past," *Deakin Law Review* 6 (2001): 286, available at <http://www.austlii.edu.au/au/journals/DeakinLRev/2001/5.html>; and Daniel Berkowitz, Katharina Pistor, and Jean-François Richard, *Economic Development, Legality, and the Transplant Effect* [CID Working Paper No. 39] (Cambridge, MA: Center for International Development at Harvard University, March 2000). It does, however, provide evidence of the complexity of the adaptation of Western principles and rules of environmental democracy to post-Soviet legal systems. An analysis of how the traditions of the Soviet past effect implementation of the Aarhus Convention can be found in Zaharchenko and Goldenman, note 6.

184. In addition to Manana Kochladze, of Georgia, whose organization applied the Convention and who received the Goldman Environmental Prize in 2004, a Ukrainian lawyer, Olya Melen, from Lviv, was a Goldman Prize winner in 2006. The Aarhus Convention was among the legal means used by Melen and her organization, Environment-People-Law, in battling construction of a massive navigation canal that would have cut through the heart of the Danube Delta, one of the world's most valuable wetlands, without a proper environmental impact assessment. For more information, see <http://www.goldmanprize.org/node/143>.

185. See, e.g., 10 principles on the right of access to information developed by the Open Society Justice Initiative with partner organizations: 1. Access to information is a right of everyone. 2. Access is the rule—secrecy is the exception. 3. The right applies to all public bodies. 4. Making requests should be simple, speedy, and free. 5. Officials have a duty to assist requestors. 6. Refusals must be justified. 7. The public interest takes precedence over secrecy. 8. Everyone has the right to appeal an adverse decision. 9. Public bodies should proactively publish core information. 10. The right should be guaranteed by an independent body. From *Ten Principles on the Right to Know. International Right To Know Day*, Sept. 28, 2005. Justice Initiative press release. Available at <http://www.justiceinitiative.org/Principles/index>.

186. So far, none of the post-Soviet countries discussed in the present study decided to establish an independent and impartial body under the Aarhus Convention to review cases when a request for environmental information has been ignored, wrongfully refused, or inadequately answered. Some commentators suggested that post-Soviet states should introduce an environmental ombudsman as a neutral arbiter of complaints from citizens about the government. See Ruth Greenspan Bell, "Legitimacy, Trust, and the Environmental Agenda: Lessons from Armenia," *Environmental Law Reporter* 30 (2000): 1–7. The judiciary in these countries still remains weak and is often hampered by economic constraints and even corruption. Overall, the judiciary has not yet evolved into an independent branch of government. An ombudsman may be an effective alternative of an impartial body to fill this gap.

187. Instituto Federal de Acceso a la Informacion Publica, *Mexico: Transparency and Access to Information*. (Mexico City: 2004). See also Jonathan Fox, ed., *Mexico's Right-to-Know Reform: Civil Society Perspectives* (Washington, DC: Woodrow Wilson International Center for Scholars, 2007).

188. The Convention has a particular requirement that final decisions of such bodies be binding on the public authority holding the information (Article 9.1, part 3). This would be a key for such institution/body to be effective.

189. For Western democracies, it may not be necessary to have legal provisions on access to *environmental* information spelling out its definition as long as there is a general requirement that information in the hands of the government has to be open and accessible to the public and mechanisms to obtain it are in place. For post-Soviet countries, however, it is advisable not only to establish procedures and legal mechanisms for getting access to environmental information, but to define this information in line with the Aarhus Convention requirements.



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