Basic information

2000/0169(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Public access to environmental information (repeal. Directive 90/313 /EEC) **Subject** 3.70 Environmental policy 4.60.02 Consumer information, advertising, labelling	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
DELE EP Delegation to Conciliation Committee	KORHOLA Eija-Riitta (PPE-DE)	26/06/2002

Former committee responsible	Former rapporteur	Appointed
ENVI Environment, Public Health, Consumer Policy	KORHOLA Eija-Riitta (PPE-DE)	12/07/2000
ENVI Environment, Public Health, Consumer Policy	KORHOLA Eija-Riitta (PPE-DE)	12/07/2000

Former committee for opinion	Former rapporteur for opinion	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	LUDFORD Baroness Sarah (ELDR)	29/08/2000
ITRE Industry, External Trade, Research, Energy	LANGE Bernd (PSE)	13/09/2000
PETI Petitions	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2406	2002-01-28
Agriculture and Fisheries	2476	2002-12-16
Environment	2473	2002-12-09
Environment	2321	2000-12-18

	Environment	2355	2001-06-07
	Health	2056	1997-12-04

European Commission	Commission DG	Commissioner
	Environment	

Key events

Date	Event	Reference	Summary
30/01/1995	Additional information		Summary
29/06/2000	Legislative proposal published	COM(2000)0402	Summary
07/07/2000	Committee referral announced in Parliament, 1st reading		
18/12/2000	Debate in Council		
26/02/2001	Vote in committee, 1st reading		Summary
26/02/2001	Committee report tabled for plenary, 1st reading	A5-0074/2001	
13/03/2001	Debate in Parliament		
14/03/2001	Decision by Parliament, 1st reading	T5-0136/2001	Summary
06/06/2001	Modified legislative proposal published	COM(2001)0303	Summary
28/01/2002	Council position published	11878/1/2001	Summary
06/02/2002	Committee referral announced in Parliament, 2nd reading		
23/04/2002	Vote in committee, 2nd reading		Summary
23/04/2002	Committee recommendation tabled for plenary, 2nd reading	A5-0136/2002	
29/05/2002	Debate in Parliament		
30/05/2002	Decision by Parliament, 2nd reading	T5-0262/2002	Summary
12/09/2002	Formal meeting of Conciliation Committee		
06/11/2002	Report tabled for plenary, 3rd reading	A5-0435/2002	
07/11/2002	Final decision by Conciliation Committee		Summary
08/11/2002	Joint text approved by Conciliation Committee co-chairs	3667/2002	
09/12/2002	Parliament's amendments rejected by Council		
16/12/2002	Decision by Council, 3rd reading		
17/12/2002	Debate in Parliament		
18/12/2002	Decision by Parliament, 3rd reading	T5-0622/2002	Summary
28/01/2003	Final act signed		
28/01/2003	End of procedure in Parliament		
14/02/2003	Final act published in Official Journal		

Technical information	
Procedure reference	2000/0169(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 175-p1
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/16393

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0074/2001	26/02/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0136/2001 OJ C 343 05.12.2001, p. 0104-0165	14/03/2001	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0136/2002	23/04/2002	
Text adopted by Parliament, 2nd reading		T5-0262/2002 OJ C 187 07.08.2003, p. 0021-0118 E	30/05/2002	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0435/2002	06/11/2002	
Text adopted by Parliament, 3rd reading		T5-0622/2002 OJ C 031 05.02.2004, p. 0161-0170 E	18/12/2002	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	11878/1/2001 OJ C 113 14.05.2002, p. 0001 E	28/01/2002	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2000)0400	29/06/2000	Summary
Legislative proposal	COM(2000)0402 OJ C 337 28.11.2000, p. 0156 E	29/06/2000	Summary
Modified legislative proposal	COM(2001)0303 OJ C 240 28.08.2001, p. 0289 E	06/06/2001	Summary

Commission communication on Council's position	SEC(2002)0103	31/01/2002	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2002)0498	05/09/2002	Summary
Follow-up document	COM(2012)0774	17/12/2012	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1434/2000 OJ C 116 20.04.2001, p. 0043	29/11/2000	
CofR	Committee of the Regions: opinion	CDR0273/2000 OJ C 148 18.05.2001, p. 0009	14/02/2001	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3667/2002	08/11/2002	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2003/0004
OJ L 041 14.02.2003, p. 0026-0032 Summary

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 31/01/2002 - Commission communication on Council's position

The Commission considers that the common position does not alter the basic approach and aims of the original proposal and that it actually clarifies some aspects thereof. However, in other aspects, the proposal has been weakened and the deadlines for the transposition and for the review procedure have been prolonged. Though in general less ambitious than the original proposal, the text as it now stands is consistent with the provisions of the Aarhus Convention. The Commission can thus broadly support the common position but will be flexible in its approach to second reading.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 29/06/2000 - Legislative proposal

PURPOSE : to present a proposal for a European Parliament and Council Directive on public access to environmental information. CONTENT : this proposal for a Council Directive on access to environmental information, which upon adoption will replace Council Directive 90/313/EEC on the freedom of access to information on the environment has been prepared in accordance with Article 8 of that Directive, which calls upon the Commission to submit any proposal for revision it may consider appropriate in the light of experience gained in the operation of the Directive. The experience gained since 1 January 1993, the latest day of the transposition of Directive 90/313/EEC by Member States, shows that this Directive initiated a process of openness as regards public access to environmental information. It was a catalyst for change in the way that public authorities approach the process of openness and transparency. Individuals and organisations throughout the Community have made use of the possibilities. Improved access by the public to environmental information has contributed to an increase in public awareness of environmental matters. The objective of the proposal is two-fold. On the one hand, it aims at ensuring a right of access to environmental information held by or for public authorities and to set out the basic terms and conditions of its exercise. On the other hand, it also aims at ensuring that, as a matter of course, environmental

information is made available and disseminated to the public, in particular, by means of available computer telecommunications and/or electronic technology. In contrast with Directive 90/313/EEC which only ensured freedom of access to environmental information, it was felt more appropriate to establish a right of access to environmental information. The establishment of such right will enable Community legislation to be aligned with the Aarhus Convention.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 28/01/2003 - Final act

PURPOSE : to set out the terms and conditions to grant right of access to environmental information. COMMUNITY MEASURE : Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information and repealing Council Directive 90/313/EEC. CONTENT : the Council adopted this Directive on public access to environmental information. The new Directive repeals Directive 90/313/EC of 7 June 1990 on the freedom of access to information on the environment. It sets out the basic terms and conditions to grant right of access to environmental information held by or for public authorities and aims to achieve the widest possible systematic availability and dissemination of this type of information to the public. Moreover, it is aimed at aligning Community law with the provisions of the United Nations/Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the so-called "Arhus Convention") with a view to its ratification by the Community. The Convention was adopted on 25 June 1998 in Arhus (Denmark). Sixteen countries are required to ratify, approve, accept or accede to the Convention in order to bring about its entry into force. The Directive comprises the following key elements: - Disclosure of information is the general rule, unless there is an overriding public interest in refusal; - Access to information is in principle free of charge, however, public authorities may, under certain circumstances, charge for supplying environmental information as long as it does not exceed a reasonable amount; - Information on the contamination of the food chain is also covered, where relevant, by the scope of the Directive; - Information requests must be answered to within one month of being received, with the possibility of this deadline being extended by an additional month if necessary; - When replying to requests of information public authorities must specify the different procedures used in compiling it or refer to the standardised procedure used. Moreover, Member States should report on the experience gained in the application of this Directive no later 14 February 2009. They shall communicate the report to the Commission no later than 14 August 2009. In light of the experience and taking into account developments on computer telecommunications and/or electronic technology, the Commission shall make a report to the European Parliament and to the Council together with any proposal for revision, which is may consider appropriate. TRANSPOSITION : 14 February 2005. ENTRY INTO FORCE : 14 February 2003.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 14/03/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Mrs Eija-Riitta Anneli KORHOLA (EPP/ED, FIN) with 502 votes in favour, no votes against and two abstentions. The aim is to adapt existing legislation to reflect developments in information technologies such as the internet and to pave the way towards ratification of the UN/ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. (Please refer to the previous text). More specifically, the 30 amendments that were adopted seek to broaden the defintion of public authorities to include natural persons performing administrative functions under national law. With regard to the dissemination of information, Parliament wants the Internet to be explicity mentioned and adds that account should also be taken of the future development of information and communication technologies, points which are not mentioned by the Commission. It wants Member States to create publicly accessible data bases where environmental documents would be held. Search aids should be provided to make it easy for the public to locate information. In addition, quality criteria are laid down regarding the information, to be provided, which must be up-to-date, comprehensible and scientifically sound.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 18/12/2002 - Text adopted by Parliament, 3rd reading

The European Parliament adopted a resolution approving the joint text agreed by the Conciliation Committee. (Please refer to the document dated 08 /11/02).

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 30/05/2002 - Text adopted by Parliament, 2nd reading

The European Parliament adopted the report drafted by Anneli KORHOLA (EPP-ED, Finland) and adopted several amendments to the Council's common position. (Please refer to the document dated 23/04/02.) Parliament stipulated that public authorities may be permitted to refuse a request for environmental information only in exceptional cases. The public interest served by disclosure should be weighed against the interest served by the refusal to disclose, and access to the information requested should be granted if the public interest served by disclosure outweighs the specific interest protected by non-disclosure. Information on emissions, discharges and other releases into the environment should not be withheld by virtue of the protection of commercial, industrial or other interests. Parliament wants free access to the information requested. Examination in situ of the information requested is also to be free of charge. Public authorities may, however, make a charge for supplying information, so long as the charge does not exceed the actual cost of reproducing the material requested. It should not include the cost of staff time spent on searches. Parliament went on to emphasise the importance of improving the quality of information made available upon request, in the interest of making that information

comprehensible, accurate and comparable. The method used in compiling the information should be disclosed, as this is an important factor in assessing the quality of the information supplied and determining whether it is misleading. Finally, the European Parliament wants the Directive to be evaluated every four years after submission of the relevant reports by the Member States.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 05/09/2002 - Commission opinion on Parliament's position at 2nd reading

Of the 47 amendments passed by the European Parliament at second reading, 9 can be accepted by the Commission in full, and three in principle. The remaining amendments are rejected. As a general rule, the Commission states that it prefers to align the wording and concepts of the Directive as closely as possible with the Aarhus Convention. Those amendments accepted include the following: - charges must be reasonable and advance payment should not be required; - 4 years for the evaluation of the Directive, such evaluation to be based not just on the Member States' reports but also in the light of the experience gained; - information must be easily accessible by the applicant; - public authorities are obliged, in the case of a refusal of a request, to state the name of the person preparing material and the estimated time needed for completion. In the case of a refusal on the grounds of confidentiality, the latter must be required by national or Community law; - the grounds for refusal must be interpreted narrowly; The following amendments are amongst those that are not accepted: -textual modifications that deviate from the wording of the Aarhus Convention. - the clause that information on emissions and discharges cannot be withheld by virtue of protection of commercial and industrial interests; - on the information supplied, the Commission states that it is not up to the public authority to guarantee that the content of the information is of good quality when the information originates from sources other than the public authority. The proposed directive is a framework directive, which should give the Member States a certain degree of flexibility when transposing the Directive into national law; - the Commission cannot accept the limitation that the charges shall not exceed the actual cost of reproducing them material requested. This limitation goes beyond the Aarhus Convention and is unduly burdensome for public authorities; - the deadline for transposition is two years, since a shorter period is too burdensome for Member States.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 29/06/2000 - Document attached to the procedure

This Commission Report is made in accordance with article 8 of Directive 90/313/EEC on freedom of access of information on the environment. It is written in the light of the experience gained by Member States in the operation of the Directive which has been the subject of reports made by them. It also takes into account reports made by non-governmental organisations (NGOs) active in the environmental sphere and developments in Community and international law. The national reports indicated that Member States themselves raised questions about the scope and interpretation of the Directive and made suggestions for improvement. In some cases, such as the definition of authorities required to supply information, time-limits and exceptions, some Member States had adopted legislation which marked an advance on the strict provisions of the Directive. The national reports showed that the implementation of the Directive brought positive results. In many cases, few problems were encountered. Nonetheless, experience gained in the application of the Directive has enabled the identification of a number of concrete difficulties identified by Member States, NGOs and those requesting access to environmental information. The main problems were to be found in the following areas (where provisions of the Aarhus Convention improve on the provisions of the Directive): -the definitions of the information required to be disclosed and of the public authorities and other bodies required to disclose it. -the practical arrangements for ensuring that information is effectively made available; -the exceptions from the duty to provide access. -the duty to "respond"; -the time-limits for fulfilling the duty.; -the duty to give reasons for a refusal; -procedure for review of decisions to refuse access to information; -charges; -active supply of information. The Commission considers it desirable to replace the Directive with a new directive on freedom of access to environmental information. A proposal for such a new directive accompanies this report. The proposal aims to remedy the shortcomings in the Directive and to align Community legislation with the Aarhus Convention so as to enable the Community to ratify the Convention.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 06/06/2001 - Modified legislative proposal

Of the thirty amendments adopted by Parliament, only one relating to the alignment of the proposal with the Aarhus Convention was accepted in full by the Commission. Nine amendments were accepted in part, including the following: - the definition of "information held by a public authority" - grounds for refusal to disclose information to be interpreted restrictively. Seven were accepted in principle, including - the directive to be reviewed four years after the deadline for implementation. - clarification and assistance in reformulating requests that are too general. - the name of the official completing the information requested and the estimated timetable for completion. Seventeen were rejected, the following being noteworthy: - the reference to future developments in the area of information and communication technologies. The Commission takes the view that reference to technology which does not currently exist is inappropriate in a legislative measure. - the amendment extending scope to the EC institutions is rejected. - for complex requests, the Commission regards two weeks and six weeks deadlines as being too short. - the requirement that public bodies supply information in the format or form requested by the applicant is rejected, since the Commission believes that such bodies should be allowed some flexibility in this matter. - since this is a framework directive, the practical arrangements under which the information should be made available to the applicant is left to the Member States. - public bodies must be able to refuse access to specific internal documents. - the amendment seeking to prevent public authorities from invoking any of the exceptions provided for on emissions and discharges is rejected. - the introduction of positive silence is rejected, since the proposal provides redress mechanisms for failure to reply within the deadline. - the amendment preventing public authorities from making charges when the information is for educational purposes is rejected, since this is a matter for Member States. This is also the case for the amendment referring to access to justice, and active dissemination of environmental information. A degree of flexibility in transposition of the directive should be granted to Member States. - a twelve month deadline for transposition is considered too short.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 28/01/2002 - Council position

On 14 March 2001, the European Parliament adopted all 30 amendments that had been tabled. In general, the Commission accepted those amendments seeking to make the proposal more consistent with the Aarhus Convention. Other amendments which usefully clarified some provisions of the proposal were accepted in principle or in part. However, those amendments which substantially deviated from the Aarhus acquis or which fell outside the scope of the proposal were not accepted. The Council's common position, whilst maintaining the approach proposed by the Commission, modifies the provisions of the proposal in order to clarify or to strengthen them in order to make them more practicable. Many modifications aim at re-instating the original text of the Aarhus Convention. The common position widens the definition of "information relating to the environment" contained in Directive 90/313/EEC so as to cover not only written, visual, aural or data-base information, but also electronic information. The definition not only covers the elements of the environment and the activities and measures affecting or protecting them, but also genetically modified organisms, the interaction among the above elements, economic analyses and the state of human health, conditions of life, cultural sites and built structures affected by the environment. Where the former directive only addressed public administrations with the responsibilities relating to the environment and private natural or legal persons having public responsibilities in relation to the environment under the control of administrations, the common position also covers all governments and public administrations as well as private persons independently performing public administrative functions in relation to the environment. Regarding the "passive right of information", the common position shortens from two months to one month the period within which information in the format asked by the applicant, unless it is already publicly available and unless it is reasonable to provide it in another form, and requests defining practical arrangements for making the information available. If the requested information is held by another authority, the request has to be transferred to that authority or the applicant has to be informed of the identity of the authority that is believed to hold the information. A refusal must be notifed in writing if the request was in writing or if the applicant requested a written reply. If a request is formulated in too general a manner, the public authorities will within the one-month period ask the applicant to specify his request and assist in doing so. As under the 1990 Directive, charges must be publicised and be of a reasonable amount. The common position adds that they may not cover the consultation of publication registers nor the consultation in situ of the information. The administrative or judicial review of Directive 90/313/EEC is replaced by an administrative and judicial review in two stages. Regarding the "active right of information", Directive 90/313/EEC only required providing the public with general information on the state of the environment by such means as the periodic publication of descriptive reports. The common position aims atdisseminating, in addition, legal texts, policies, progress reports, data from monitoring, information about preventing or mitigating harm arising from imminent threats to human health or the environment etc, through several means, but in particular, through telecommunication technology. In a public statement for the minutes, the Council agrees to undertake steps in order to apply to the Community's Institutions the same rules as those laid down in the "information" pillar of the Aarhus Convention and calls upon the Commission to present a proposal for that pillar, taking into consideration the more extensive requirements of the present Directive. This should contribute to enabling the Community to ratify the Aarhus Convention.

Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 17/12/2012 - Follow-up document

The Commission presents a report on the experience gained in the application of Directive 2003/4/EC on public access to environmental information. Taking into account developments in electronic technology, the review forms part of the Digital Agenda for Europe. It focuses on the new provisions, such as the broader definitions of terms and more active dissemination of information. It must also be seen in the context of recent policy developments such as the Communication on Implementation, in which the Commission identified access to information as a key priority for improving implementation of environmental law and committed itself to assessing how to make the Directive more effective.

The report recalls that the Directive built on the experience gained under its predecessor, Directive 90/313/EEC, and it examines the changes introduced by the Directive.

In the Commission's view, **overall, the level of transposition seems satisfactory**. However, there are a **number of difficulties** in both transposition and practical application. It highlights the following points:

New definition of “environmental information”: the Commission has found only isolated instances of incorrect, notably incomplete or ambiguous, transposition of the definition of “environmental information” into the laws of the Member States. It is following these up with the Member States concerned. As for application of the definition, the Commission has learned of instances where national authorities have been reluctant to classify certain sector-specific or technical documents as “environmental information”. It discusses the broad interpretation by the Court of Justice in its case-law. The Commission is following up on only a limited number of apparently too narrow interpretations by public authorities.

Article 4 – exceptions: Article 4 is one of the key provisions of the Directive. It contains an exhaustive list of all cases where Member States may refuse a request for environmental information. Disclosure is the general rule, unless one of the specific exceptions applies. The report notes the following points:

- some national legislation unduly adds grounds for refusal to those in the Directive;
- Member States feel that certain terms, although used in the previous directive, still pose difficulties when it comes to interpretation;
- the relationship between Article 4 and provisions on access to information in sector-specific EU legislation is sometimes obscure;

Article 5 - charges: access to clear rules on the fees charged could be further improved to ensure greater transparency. This is particularly valid in cases where Member States opted to make the rules available only at local level. In that case, availability should be improved by further means, such as dedicated websites, in order to create an easily accessible, well-structured framework on charges. Some Member States have adopted legislation clearly indicating the costs charged. This solution ensures legal certainty and, at the same time, guarantees wide availability.

Article 6 - access to justice: there are certain shortcomings with application of Article 6 in some Member States. If the provisions in the Directive are to be effective, they must be applied to all levels of appeal.

Article 7 - dissemination of environmental information: Member States have implemented this provision in different ways. Most offer electronic portals and/or websites to give access to some of the categories of information listed in Article 7(2) at different levels of government. However, it can be difficult to find online information on how individual environmental directives are implemented in national legislation and how authorities are meeting their demands. In general, to allow easier and more effective use of information, further progress is needed on how active dissemination is organised.

Article 8 - quality of environmental information: data quality proved a difficult objective as it largely depends on resources, capacity and technology. Moreover, there is often no standard method to ensure and measure data quality and achieve comparability of environmental information.

Overall, the Commission considers that application of the Directive has substantially improved access to environmental information on request. The Commission follows up individual instances of infringements in specific Member States. It expects that, over time, the new provisions will be adequately integrated into the Member States' legal orders and duly applied by their authorities.

The report adds that the emergence of an information society with an increased emphasis on wide access requires a shift from an approach dominated by information-on-request needs to an approach centred on active and wide dissemination using the latest technologies. The Directive leaves flexibility for Member States to choose the appropriate means to disseminate environmental information actively and accommodate changes in computer telecommunications and electronic technology. Some Member States have developed user-friendly websites – for example, allowing the public to see on a map the level of waste-water treatment for their city or town. In that context, the Commission calls on all Member States to make the widest possible use of the provisions on active dissemination.

In line with its Communication on Implementation and the proposed 7th Environmental Action Programme, the Commission will seek to help Member States to structure information better for active dissemination. It will also conduct separate studies to review in more detail the current practices on active dissemination and the challenges related to the quality of environmental information. Depending on the outcome and on wider developments in information technology, the Commission will decide whether any further amendments to the Directive might be necessary in the future.