Survey on the implementation of the environmental information directive in EU Member States

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Abstract

The Directive on public access to environmental information (2003/4/EC; AEI-Directive, The European Commission, 2003-1), forms a cornerstone of the European Union’s environmental policy. It requires member states to progressively make available environmental information and disseminate it to the public in order to achieve the widest possible systematic availability and dissemination.

The AEI-Directive has been in effect for 6 years now. In the context of the EU FP7 Project “ICT-ENSURE” a survey was conducted on the state of implementation of the AEI-Directive in member states (The European Commission, 2008-2). This paper summarizes the results of this study, which is essentially based on an internet survey. Moreover, following this survey, a questionnaire has been completed in advance for each country which was sent to the publication departments of the Ministries of Environment of the EU 27 for review, correction and completion. Until today 22 countries have responded, 19 of which sent back the reviewed questionnaires.

The study shows that all member states use the internet as the main distribution tool for environmental information. Legislation for free access to environmental information is in effect in the majority of the countries. More than 50% transposed the AEI-Directive into national legislation. Germany seems to be the only country which developed a special information system for the implementation of the directive.

Furthermore, the study proved that, due to the language barrier, access to environmental information is in most cases restricted to the national level. In conclusion it can be affirmed that the current lack of organisational, technical and semantic harmonisation and interoperability makes it almost impossible to access environmental information on a supra-national level.

1. Introduction

The rapidly changing natural environment asks for appropriate political, legal and technical measures in order to continue to facilitate the resources necessary for a life in comfort and safety in the European Community. The availability, accessibility, accuracy and accountability of environmental data and information are the prime requisites for mastering the challenges that lie ahead. The European Community has addressed this notion with a series of legislation that aims at making environmental information available to the public.

The Directive on public access to environmental information (2003/4/EC) requires Member States to progressively make available environmental information and disseminate it to the public in order to achieve the widest possible systematic availability and dissemination. The ancestor is the Directive 90/313/EEC on the freedom of access to information on the environment where early implementations can be found in German speaking countries with the development of the meta-information system Umweltdatenkatalog, the European Topic Centre on Catalogue of Data Sources, ETC/CDS multilingual Environmental Thesaurus, and the Central European Environmental Data Request Facility CEDAR (Zirm, Pillmann 1996). The AEI-Directive granted a general right of access to information to any person, not limited to EU citizenship and thereby constitutes one legal building block to what has recently become known as
the shared environmental information system, SEIS (The European Commission, 2008-1). Together with a suit of further cross-domain legislation e.g. the Directive on Reuse of Public Sector Information (The European Commission, 2003-2), the Directive on Public Participation and the INSPIRE Directive (The European Commission, 2007) the AEI-Directive built the basis for free access to environmental information.

According to the Directive’s Article 10, Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 February 2005. Member States were furthermore required to report on the experience gained in the application of this Directive not later than 14 February 2009 and to communicate the report to the Commission not later than 14 August 2009. Although the directive itself calls for free access to information the implementation process is everything but transparent on the European level. While citizens may be informed of the process on the respective national level, they have no means of following it on the supra-national level. This is even more relevant in the light of the directive’s Article 2, which states that ANY applicant must have access to the required information. Thus even non-EU citizens shall be able to request environmental information from any public authority within the European Union.

The AEI-Directive has been in force for 6 years now. There is no official site available supplying information on the status of its implementation and implication but private research has been documented in an internet blog (Pick, 2009 http://www.envid.blogspot.com/).

Within the context of the EU FP7 Project “ICT-ENSURE”, an empirical survey has been conducted on the state of implementation of the AEI-Directive in member states. On the basis of an internet-based study the publicly available information on this process was compiled in the form of a “report card” for each Member State. Evidence of the legal, semantic and technical implementation of the directive in each of the EU 27 countries was investigated.

After this first step a questionnaire which had been completed in advance was sent to contact addresses of the Member States’ environmental ministries for review. In a third step those ministries who had not replied to our written request by telephone were contacted. Firstly, a collection of basic information was performed in the workshops during the EnviroInfo conferences Warsaw 2007 and Lueneburg 2008. This paper summarizes the close to final results of this study.


- to guarantee the right of access to environmental information held by or for public authorities and to set out the basic terms and conditions of, and practical arrangements for, its exercise; and
- to ensure that, as a matter of course, environmental information is progressively made available and disseminated to the public in order to achieve the widest possible systematic availability and dissemination to the public of environmental information by means of computer telecommunication and/or electronic technology where available.

Directive 2003/4/EC is basically the first step for adoption of the Århus Convention (1998) into European Community legislation (UNECE, 1998). The Århus Convention aims at furthering access to information, public participation in decision-making and access to justice in environmental matters. Prior to this, the EU and their Member States had already undertaken first steps to elaborate the public’s right of access to information in the European Community via Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment.

The goal of directive 2003/4/EC is to produce one set of EU rules for a harmonized implementation of the right of access to environmental information throughout Europe. The main changes introduced by this “new” Directive mainly concern the obligation to make environmental information available on the Inter-
According to the directive’s Art. 7, this “mandatory” information shall be updated as appropriate and shall include at least:

(a) texts of international treaties, conventions or agreements, and of Community, national, regional or local legislation, on the environment or relating to it;
(b) policies, plans and programs relating to the environment;
(c) progress reports on the implementation of the items referred to in (a) and (b) when prepared or held in electronic form by public authorities;
(d) the reports on the state of the environment;
(e) data or summaries of data derived from the monitoring of activities affecting, or likely to affect, the environment;
(f) authorisations with a significant impact on the environment and environmental agreements;
(g) environmental impact studies and risk assessments concerning the environmental elements.

Furthermore, the directive’s Art. 2 states that the term “environmental information” covers ANY kind of environmental information, such as on the state of the environment, but also on measures and policies likely to affect or designed to protect the environment. Should environmental elements have impacts, information on human health and safety those are also to be covered.

![Figure 1: “Mandatory” Environmental Information, to be actively supplied by public authorities](image-url)

The Directive furthers the concept of its predecessor in that environmental issues are best handled with the participation of all concerned citizens at the relevant level. Public awareness and involvement depends above all on public access to information. By making provision for improved access to information on the environment, the Directive shall contribute to an increased awareness of environmental matters and thereby to improved environmental protection.
3. Survey Methodology

To start out on a survey without prior knowledge of the subject matter would mean travelling on a rough road. Since the publication of the AEI-Directive in 2003 we have accompanied the implementation process both on the national level in Germany and Austria and on the European level. On the way we have gathered considerable amounts of information. However, due to the nature of the game, this information had severe gaps and was not available in a structured way.

The 10 year anniversary of the Århus convention helped us to a smoother start in the sense that on the occasion of the third meeting of the Parties to the Århus Convention in Riga, Latvia, on 11-13 June 2008, the UNECE has published the national implementation reports of the signatory countries (UNECE, 2008).

Amongst others, these reports summarized the national legislative, regulatory and other measures implementing the provisions on access to environmental information laid down in Article 4 of the Århus Convention. In some reports member states made reference to Directive 2003/4/EC. These reports were used as a starting and reference point for our survey.

The survey itself was conducted in three steps. We started with an Internet-based survey on the web-presences of the member states’ ministries of environment and their related agencies. Information on implementation of Directive 2003/4/EC was collected and the results were recorded in so called report cards (one for each member state; see Annex for an example).

Afterwards, the report cards were sent to the responsible ministries for review, correction and completion by email. The parties that had not answered the request within the time of six weeks received an email reminder. After another six weeks, the contact persons were contacted by telephone.

3.1 The report card

In order to register the Member State specific information on implementation of directive 2003/4/EC for this study, we have developed a “report card”. It is organized by the following sections:

The header (section) with information on the reporting country, date and national legislative act for the implementation of the AEI-Directive.

Section 2 accommodates the information on the legislative act(s) by which Directive 2003/4/EC has been implemented in national law in the Member State, the date when the legislative act has entered into force and, if possible the link (URL) to online documentation for the respective legislative act.

Information sites or applications that give access to environmental information in the respective country, including the URL to the online resource were recorded in section 3.

Section 4 was reserved for the name and contact information of the government institutions, responsible for the implementation of directive 2003/4/EC in the member state.

Information collected from the internet study was entered into the report card. Those fields for which no information was available were highlighted in blue.

3.2 The Internet-based Survey

At the beginning, we compiled a list of the ministries of environment for the EU 27 (see Annex 3). The list includes the name of the responsible organization, the URL of the related website, the URL of the English web resource (if available) and contact information. On the basis of this list we started our internet survey. Each site was visited and searched and scanned for reference to the AEI directive, for legislation on free access to environmental information and for contact information. Except for France, Italy, Luxembourg and Malta, all member states had English web-sites available for their ministries of environment. Of course the content was in most cases only an excerpt of that held at the native site and references were of-
ten cross-linked from the English site to the native resource. However, except for Luxemburg, all member states kept English web-sites running for their environmental agencies.

All web-presences were studied for information on the status of implementation of the environmental information directive. Special attention was paid to the existence of legal information systems and applications explicitly designed for the dissemination of environmental information.

4. The results

Eventually 22 out of 27 countries replied to our request. These were: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Luxemburg, Malta, Poland, Portugal, Romania, Slovenia, Spain, Sweden, the Netherlands, the United Kingdom. Of those Malta, Romania and United Kingdom replied that they had received our request but failed to review the report card submitted to their ministry of environment. The others sent back the reviewed report cards. Until June 2009, no response was received from Bulgaria, Cyprus, Hungary, Lithuania and the Slovak Republic.

Those countries that had replied had in general only minor changes and additions to what we had already compiled. No complaint about false information was received.

However, from the returned report cards, it is evident that the scrutiny with which member states reviewed reporting cards is of rather heterogeneous quality. While the authors expected reviewers to indicate a single legislative act implementing the AEI directive for their country (often we had found a variety of legislative acts for the respective member state from our internet study, recorded them and send them off in the hope that reviewers would select THE single one that pertains most the implementation of the AEI directive). Thus, they often submitted a bundle of legislation without semantic qualification.

Extrapolated to the rest of the EU 27, it may be concluded that the information pulled from the member states’ web-presence is mostly correct and complete.

4.1.1 Implementation of Directive 2003/4/EC into national law

The most prominent result of this study is that all member states have legislation in place that guarantees free access to environmental information to their citizens. Table 1 shows a summary of the current situation in the EU.
Table 1: Status of implementation of AEI directive in EU member states

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>State</th>
<th>Directive</th>
<th>Year</th>
<th>State</th>
<th>Directive</th>
</tr>
</thead>
</table>

With the checkmark ✓ we indicate that legislation has been passed, that explicitly refers to the implementation of directive 2003/4/EC. The arrow mark ⇝ indicates that legislation is in force that regulates free access to environmental information, but that this legislation has been passed before the environmental information directive was in force. It is possible, that more up-to-date legislation is in effect for these 3 countries. However, it was not possible to find it and we had to resort to the status at the reported dates.

The legal instrument for implementation of the directive is rather heterogeneous throughout the EU 27. While some countries laid down the right of free access to information as a constitutional right (e.g. Sweden) others passed discrete laws in the form of freedom of information rights (e.g. Slovak Republic). Others again implemented corner stones of the directive in e.g. their environmental protection acts. This is true e.g. for Slovenia. Finally, member states used the possibility to pass discrete legislation especially for access to environmental information. This is e.g. true for the UK, Austria and Germany with the additional “complication” that due to the federal structure of the latter, the federal states have even passed individual legislation for the individual federal states.

4.2 Applications for distribution of environmental information in Member States

All member states are running websites for their ministries of environment. The majority of these are available in English as well. Of course, the web-presence of the respective ministry (and its subordinate agencies) therefore is the most prominent distribution instrument for the national environmental information.

One of the problems for those searching for information on a supra-national level is that the information presented on the web-site is often offered in such a way that it is in line with the organizational structure of its native administrative body. Since these are generally composed in an individual manner, we find a
diversity of semantic, technical, organizational and functional structuring of this information. As a result, we have to conclude that there is no harmonized way across the EU 27 for presenting environmental information on the internet and that the retrieved information is not comparable across national boundaries. In federally organized countries, like e.g. Germany, this is even true across the administrative boundaries of the states. Different approaches to build a structure in this area can be found in the national and EEA’s State of the Environment Reports, and from a pragmatic point of view in the structure of the websites with environmental indicators. From a system modelling point of view basic approaches are included in the EnvirolInfo conferences (Pillmann 2002).

The challenges of this diversity became evident in an exemplary way in the difficulty to conduct the survey. A typical example is that, there is no common way in the EU 27 for presenting national legislation. Consequently, it was not possible to find references to the AEI directive through e.g. a simple Google-type search. The language barriers aside, it was even impossible to navigate easily through the web site’s organizational structure in order to extract the desired information. Rather, each national ministry’s website had to be searched individually with an individual search strategy! Throughout our survey, new ways had to be found around the respective countries’ information sites.

Another reason for the need for individual searches on the supra-national level is the lack of meta-information, geo-reference and harmonized formats.

As a remedy, Germany and Bulgaria have established discrete information systems for cataloguing and retrieving environmental information. Bulgaria runs a meta-information system that is based on the technology of the German-Austrian co-production “Umweltdatenkatalog, UDK” which is a database for cataloguing metadata on environmental information (Vögele et al. 2005).

Germany invests considerable resources in the development of the PortalU technology (Kruse et al., 2009). The goal of the project is to harvest environmental information from designated information sites and to categorize them according to the requirements of the AEI directive. This effort is unique across the EU 27 and deserves consideration for future models of access to environmental information in the EC.

On the regional level, we can observe additional efforts for the organizational and technical implementation of the AEI-directive. The German state of Lower Saxony e.g. has started in the beginning of 2004 with designing its strategy for implementing EC directive 2003/4/EC. It is based on the following two pillars:

Registering all “Mandatory” environmental information with the Metadata Cataloguing System Umweltdatenkatalog (UDK-NI, The State of Lower Saxony, 2009-1), and making all relevant environmental information available on the Internet through the State’s Environmental Web portal (The State of Lower Saxony, 2009-2).

The state of Lower Saxony follows the strategy of progressively making every piece of relevant environmental information available on the internet. If this information is part of the group of “mandatory” information with respect to the directive, it is catalogued in the UDK-NI database and assigned an expiration date. A web-based editing system has been developed that enables the maintenance of this catalogue and notifies the author of the object to review the information object after the expiration date has passed (Pick, 2006). In this way the State of Lower Saxony complies with the proactive tenor of the directive and ensures to have at any time control on the mandatory environmental information available.

The Web portal covers all environmental information relevant to the ministry’s business division but does not necessarily include those information resources of other departments, such as e.g. the State’s Health Department or Department of Transportation.

In contrast, the UDK-NI registers exclusively the mandatory environmental information according to 2003/4/EC, Art. 7. Thus, it serves as a tool to control that the State of Lower Saxony has met its obligations towards the directive. In order to keep the information up-to-date the Ministry of Environment of Lower Saxony has developed a quality assurance process based upon assigning an expiration date to each information resource. This validation process is supported by the UDK Web Editor software. Upon notifi-
cation the author receives an email with a deep link to the resource in the UDK-NI database. Activating the link will automatically load a Web interface that allows the author to edit or delete the respective object.

4.3 Legislation information systems

Although the vast majority of member states do have English language websites available for their ministries of environment, the content of these sites is considerably reduced, when compared to the native language sites. In most cases only a small percentage of the native language information has been translated. When e.g. searching for national legislation on implementation of the AEI directive, we often encountered that the list of search results would point to the native language resources instead of an English language resource.

According to our survey, most member states collect information on environmental legislation in specific reservoirs. The exceptions are Cyprus, Greece, Hungary, Luxemburg, Latvia and the Slovak Republic.

The majority of the remainders present simple lists of environmental information sources on specific websites of the ministry’s or agency’s web-presence. Some of them however, are using the national legal information services to give access to environmental legislation to the public. According to our survey, these countries are Austria, Belgium, Germany, Denmark, Estonia, Finland, France and Sweden. These services are in general available free of cost and thereby practically implement chapter a) of the AEI directive’s Article 7.

Again, the respective websites as well as the information applications are set up in an individual manner. Metadata are not available and the information resources are stored following arbitrary approaches. A search (or as in this case a survey) across national boundaries is therefore a very resource intensive activity.

5. Looking Forward – a Single Information Space in Europe for the Environment

In the report of DG Information Society’s Experts Consultation Workshop on the strategy Towards a Single Information Space for the Environment in Europe - SISE, John O’Flaherty (2007) identified the following barriers against an interoperable digital Europe for environmental services:

- Environmental information gap between information sources & their users
- Very complex standards
- Data quality & uncertainty
- Lack of integration of legacy systems
- Security
- Multilingualism
- Geospatial rights management
- Ex-post data harmonisation
- Confusion on Open Standards & Open Source Software.

The major results of this study do support this compilation in an exemplary manner. If the intention of the Århus convention and its casting into European law through the AEI directive shall not remain an empty vessel, we will need to work on breaking down these barriers piece by piece.

It is not that we have to start from point zero. Rather we may build on existing initiatives and tools. E.g. the barrier of multilingualism has been approached a long time ago by the European Environment Agency by contracting the development of a multilingual environmental thesaurus, GEMET (Pick et al. 2001).
GEMET, the GEneral Multilingual Environmental Thesaurus, has been developed by the European Topic Centre on Catalogue of Data Sources and is currently published and managed by the European Environment Information and Observation Network.

GEMET is a compilation of several multilingual vocabularies, and has been designed as a general thesaurus, aiming to define a core general terminology for the environment. The current version is available in 27 languages, and contains over 6,000 descriptors.

GEMET is available to the public in several formats. It can be browsed and searched on-line, accessed through Web services, or downloaded as HTML or SKOS files (EEA, 2009).

Germany is building its environmental information portal (Portal-U) which may be of interest for the other EU 27 countries as well.

On another level, access to georeferenced information is being facilitated in the context of the implementation of the INSPIRE directive. A considerable amount of environmental information has a georeference and may be addressed by these initiatives.

6. Conclusions

The European Directive on Public Access to Environmental Information (2003/4/EC) implements parts of the Århus Convention 1998 in European Communities Law. It has on one hand supplied EU citizens with the right of free access to most information on the environment. On the other hand it requires EU Member States to actively disseminate environmental information to the public. On the European Level there is no guidance or implementation regulation for a harmonized implementation available for this. The result is a considerable variation of the state of implementation within EU Member States and across Europe. As a consequence, there is a risk for Member States and Regional Authorities to become the subject of lawsuits based on their non-compliance with the directive.

The results of this survey demonstrates, that all member states have legislation in effect that supports the citizens right of free access to environmental information as laid down in the AEI directive. The vast majority of the member states rely on their internet presence as the main tool for giving access to environmental information. While this may lead them along some way on the national level, access is inhibited on the inter- and supra-national level through a suit of barriers, the lack of multi-linguality being only the most prominent one. However, in order to implement the AEI directive according to its true intention, namely to facilitate free access to all citizens in the EU and beyond, the EU will have to work on the harmonisation of the semantic, organisational and technical levels.

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Reference


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