



Recommendation of the Council on Equal Right of Access in Relation to Transfrontier Pollution

**OECD Legal
Instruments**

This document is published under the responsibility of the Secretary-General of the OECD. It reproduces an OECD Legal Instrument and may contain additional material. The opinions expressed and arguments employed in the additional material do not necessarily reflect the official views of OECD Member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at <http://legalinstruments.oecd.org>.

Please cite this document as:

OECD, *Recommendation of the Council on Equal Right of Access in Relation to Transfrontier Pollution*, OECD/LEGAL/0140

Series: OECD Legal Instruments

© OECD 2025

This document is provided free of charge. It may be reproduced and distributed free of charge without requiring any further permissions, as long as it is not altered in any way. It may not be sold.

This document is available in the two OECD official languages (English and French). It may be translated into other languages, as long as the translation is labelled "unofficial translation" and includes the following disclaimer: "This translation has been prepared by [NAME OF TRANSLATION AUTHOR] for informational purpose only and its accuracy cannot be guaranteed by the OECD. The only official versions are the English and French texts available on the OECD website <http://legalinstruments.oecd.org>"

Background Information

The Recommendation on Equal Right of Access in Relation to Transfrontier Pollution was adopted by the OECD Council on 11 May 1976 on proposal of the Environment Committee (now called Environment Policy Committee). The Recommendation aimed to establish an equal right of access, which would facilitate the prevention and the solution of many transfrontier pollution problems, without prejudice to other means available. This constituted one of the suitable channels for giving effect to the principle of non-discrimination. The Recommendation was abrogated on 12 July 2017, given that its provisions are covered more extensively in the OECD Recommendation on Principles concerning Transfrontier Pollution [[OECD/LEGAL/0133](#)] and the OECD Recommendation for the Implementation of a Regime of Equal Right of Access and Non-Discrimination in Relation to Transfrontier Pollution [[OECD/LEGAL/0152](#)], which both deal with the issue of granting equal right of access in relation to transfrontier pollution.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Recommendation of the Council of 14 November 1974 on Principles concerning Transfrontier Pollution and, in particular, the principles of non-discrimination and equal right of hearing appearing in its Annex [C(74)224];

HAVING REGARD to the Declaration on Environmental Policy according to which the Governments of Member countries "will co-operate towards solving transfrontier pollution problems in a spirit of solidarity and with the intention of further developing international law in this field" [C/M(74)26(Final), Annex];

CONSIDERING the desire of Member countries to strengthen their environmental policies relating to transfrontier pollution;

HAVING REGARD to the Report by the Environment Committee of 22 April 1976 on Equal Right of Access in Relation to Transfrontier Pollution [C(76)55];

CONSIDERING that equal right of access should facilitate the prevention and the solution of many transfrontier pollution problems, without prejudice to other means available, and that it constitutes one of the suitable channels for giving effect to the principle of non-discrimination;

On the proposal of the Environment Committee;

I. RECOMMENDS that Member countries should endeavour to remove, possibly under conditions of reciprocity, the obstacles which may exist in their legal systems to the implementation of a system of equal right of access, the constituent elements of which are set out in the attached Annex which constitutes an integral part of this Recommendation.

II. RECOMMENDS that Member countries, even when their legislation already implicitly provides for equal right of access, should introduce into their legislation and regulations relating to the environment any explicit provisions that may appear to them to be necessary to ensure a system of equal right of access.

III. RECOMMENDS that Member countries should consider in relation to discussions carried out further to paragraph IV of this Recommendation, the advisability of concluding, within suitable geographical areas and on the basis of the particular characteristics of their legal systems, agreements on environmental protection designed to ensure the application of the principle of equal right of access and as far as it is conducive to the implementation of this principle, of the principle of non-discrimination.

IV. INSTRUCTS the Environment Committee, to go deeper in its work on equal right of access, through a study of the principle of non-discrimination, as far as it is necessary for the implementation of the principle of equal right of access with a view to preparing common guidelines designed to assist the practical implementation of these principles, to report to the Council on its work by 31 December 1976, and to draw up as soon as possible draft Recommendations or Decisions.

ANNEX

EQUAL RIGHT OF ACCESS IN RELATION TO TRANSFRONTIER POLLUTION

Constituent Elements of a System of Equal Right of Access

1. A system of equal right of access is made up of a set of rights recognised by a country in favour of persons who are affected or likely to be affected in their personal and/or proprietary interests by transfrontier pollution originating in such country and whose personal and/or proprietary interests are situated outside such country (hereafter referred to as "persons affected by transfrontier pollution").

2. Without prejudice to corresponding interstate procedures, the rights accorded to "persons affected by transfrontier pollution" should be equivalent to those accorded to persons whose personal and/or proprietary interests within the territory of the country where the transfrontier pollution originates are or may be affected under similar conditions by a same pollution, as regards:

- a) Information concerning projects, new activities and courses of conduct which may give rise to a significant risk of pollution;
- b) Access to information which the competent authorities make available to persons concerned;
- c) The participation in hearings and preliminary enquiries and the making of objections in respect of proposed decisions by the public authorities which could directly or indirectly lead to pollution;
- d) Recourse to and standing in administrative and judicial procedures (including emergency procedures); in order to prevent pollution, or to have it abated and/or obtain compensation for the damage caused.

3. Concomitantly with the rights of "persons affected by transfrontier pollution", the countries concerned by such pollution should take certain measures to make possible the exercise of the rights so recognised, in particular as regards the information and participation of "persons affected by transfrontier pollution", in hearings and enquiries prior to the taking of decisions. Such measures, which might be taken by countries where the pollution originates, would however gain in effectiveness if they were put into effect in co-operation with countries which are or may be affected by transfrontier pollution.

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 460 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions** are adopted by Council and are legally binding on all Members except those which abstain at the time of adoption. They set out specific rights and obligations and may contain monitoring mechanisms.
- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.
- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.
- **International Agreements** are negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
- **Arrangement, Understanding and Others:** several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.