

Proposed topic: 3. Access to environmental information

Thematic cluster: a) Relation between legislations on access to environmental information and general legislations on access to public information

Access to information on environmental law in Europe and in Brazil: the realization of the fundamental right to participate

The thesis aims to analyze the nature of the right to information as intrinsic and structuring part of the right to participate, from the consideration of this principle as a fundamental element in the promotion of sustainable development. It sought to determine the contents of the Aarhus Convention from an international legal framework, which intends to effect the participation in environmental issues to any person or entity, public or private, in addition to presenting an innovative character to guarantees access to information and participation in environmental matters. A case study of the process C-204/09 (Flachglas Torgau GmbH v. Federal Republic of Germany), brought before the European Court of Justice as reference for a preliminary ruling relating to the Directive 2003/4/EC, shows the utilization of firstly the subjective right to access to information, and secondly the access to justice.

Besides, the thesis examines the impact of international law in national systems, as the importance of the Aarhus Convention for the development of Brazil's regulation about the access to information in environmental topics is discussed. The Aarhus Convention is still much unknown in the Brazilian Law system, but the Brazilian Access to Information Law has many common points with the Aarhus Convention. Likewise, its peculiarities were analyzed, such as the creation of an Environmental National System, which congregates every national, regional or local authority responsible for the protection, improvement and recovery of environmental quality in Brazil, or the periodic provision of any information by private entities that don't have direct relation to the Administration. However, some important articles of the Aarhus Convention were not adopted by the Brazilian legislation, for example, the entitled right to access to information to juristic persons or the definition of interested public and consequently the right of non-government organizations to require information. Concluded was that the inspiration of the Brazilian legislator in the Aarhus Convention is explicit, but the absence of the above mentioned points could lead to an encompassing exercise of the intended rights given through the legislation.

A jurisprudence research shows a lack of judgments in regard to the right of access to information, situation which can have two justifiable reasons: the population hasn't demonstrated interest in obtaining information in environmental themes or the government has successfully achieved its duty to easy and fully access to the information. There isn't yet a solid conclusion about whether one of the hypotheses is prevalent, since an extensive research about the efficiency of the government mechanisms in national, regional and local levels responsible for the response to the information requests was necessary.

Short biography:

Ana Clara Discacciati attends since 2016 the Master course “Environmental and Energy Law” at the Universität Kassel / Germany. She obtained the title of Bachelor in Law in 2015 at the Universidade Federal de Minas Gerais – Brazil, where she worked as student assistant at the Chair of Civil Procedure Law. For a short period between 2014/2015 she worked as student researcher at the Max Planck Institut for Comparative Public Law and International Law in Heidelberg/ Germany. She was an international exchange student in the Faculty of Law at the Universität Augsburg / Germany from 2012 to 2013 and has worked as trainee in the Anwaltsbüro Gaßner, Groth, Siederer und Coll. – Berlin / Germany, a lawyer’s office specialized in Environmental and Energy Law.