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Abstract for the Annual EELF Conference 2016

Title:

Access to Environmental Information and Climate Science: A Necessary but Underexplored Connection

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This proposal links to two thematic sessions:

3. Access to environmental information

6. Procedural environmental rights: cross-cutting issues

Abstract (493 words)

In the field of climate policies, much more activities are relevant than only governmental regulations and decisions. At the origin of the whole debate on climate policy and law lays the work of scientists, who are united through the Inter-Governmental Panel on Climate Change (IPCC). This organisation aims at providing insight into the state of affairs of knowledge regarding climate change with the intention that well-informed governmental decisions can be made. The work of the IPCC is of utmost importance to raise awareness on the climate change problem, not only with governments but also with civil society. Moreover, IPCC reports may also be used by courts, as has become clear with the Dutch lower civil court decision regarding "Urgenda" (24 June 2015).

However, legal literature has expressed some concern about the transparency of the IPCC. Also, several court procedures have emerged related to access to climatic science information and on the correctness of climate information. This raises the question to what extent access to environmental information is respected by the IPCC and its participating scientists and governmental representatives.

The paper starts from the perspective that the accountability and legitimacy of the IPCC will be increased if sufficient respect is taken of the principle that access to environmental information is well ensured. The principles governing the IPCC however do not contain a provision on access to environmental information. Also in legal literature, thus far, no specific discussion has taken place aiming to connect the principles as regulated by the Aarhus Convention - and by principle X of the 1992 Rio Declaration - to the work of the IPCC.

Indeed, the IPCC is not a pure scientific organisation, but, as its title implies, consists also of governmental representatives who adopt important IPCC reports. At best, the IPCC can be qualified as a hybrid internationally constructed organisation based on rather soft law arrangements. Its performance may be best

assessed through the lens of the emerging global administrative law, that aims to ensure that global decision-making will meet standards of accountability and legitimacy. In this respect, the procedural rights, and particularly access to information, may play a pivotal role. Interestingly, national representatives participate in the IPCC, next to nominated scientists. These scientists may have, in part, a position with the government. This raises questions regarding to how, through the Aarhus Convention as far as it concerns representatives from countries that are a party to the Aarhus Convention, access can be achieved to information that is produced in the course of work contributing to the IPCC.

The presentation / paper will take an explorative character, presenting first some real problems from practice regarding access to climate science or regarding the correctness of climate science, will then identify fundamental questions and will then move to some preliminary answers and point at research directions. All in all, the paper wants to raise awareness and more activity regarding how to ensure sufficient transparency and legitimacy regarding the science of climate change.

Short biography of max. 150 words

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Marjan Peeters holds the position of special Professor of Environmental Policy and Law since 1 April 2008. Between 1993 and 2002 she gained practical experience as an environmental lawyer at the Dutch Ministry of Water Management and Transportation. She conducted a PhD study at Tilburg University (The Netherlands, 1988-1992) which concerned the first law PhD study on emissions trading in Europe.

Marjan Peeters publishes on various topics of environmental law, with a special interest in legal aspects of climate change, regulatory instruments, and uncertain risks. Marjan leads the master courses "European Environmental Law" and "Sustainability, Law and the Environment". She has (co-)coordinated several environmental law books to which international networks of authors participate.

Marjan is connected for one day a week to the International Centre for Integrated Assessment and Sustainable Development (ICIS) at Maastricht University, where she focuses on sustainable development & law.