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International Legal Order and Human Rights
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EXPLORING THE LEGAL NATURE OF THE STATES' OBLIGATION TO PROVIDE INFORMATION TO THE PUBLIC IN THE CASE OF AN IMMINENT THREAT TO THE ENVIRONMENT: MORE THAN THE B-SIDE OF THE INDIVIDUAL RIGHT TO ACCESS?

The legal relationship between environmental protection and human rights has come along with the development of international environmental law since the Stockholm Conference of 1972, even though, at first, the international debate has focused basically on the inclusion of the environmental dimension within the scope of some civil and social fundamental rights. After that, such a relationship has been broadened and strengthened by the recognition of the procedural rights to access to information, public participation in decision-making and access to justice in the field of the environment (declared in Principle 10 of 1992 Rio Declaration and then regulated by the Aarhus Convention in 1998), which can be properly considered the very first "environmental rights". In particular, the right to environmental information is recognized by the Aarhus Convention, both as an individual right to get information by public authorities in response to a specific request (Article 4) and as a State obligation to disseminate it without delay in case of any imminent threat to health or environment to the public who might be affected (Article 5, par. 1(c)). Despite the apparent common origin, it must be noted that the two normative provisions have a different legal nature. Actually, while the right to access – and the corresponding State obligation – gives implementation to one of the key principles of environmental governance, the content of the Article 5.1(c) of the Aarhus Convention can be rather regarded as an upgrade of the obligation of "early notification" for nuclear accidents, established by the 1986 Vienna Convention, given that they share the same goal: to prevent the harmful effects of an environmental disaster and lessen State responsibility in case of transboundary damages. The paper aims to investigate the legal nature, content and scope of both the mentioned obligations through the examination of the relevant international practice, in order to highlight their different features and to assess their actual correspondence to customary international law.