



## **Propositions of recommendations from ANCCLI on Public Participation in Decision-making to improve the implementation of the Aarhus Convention**

These recommendations provide helpful guidance especially on article 6 of the Aarhus Convention

### **As a foreword**

Any consultation may only be carried out over the long term, time is not an enemy: used in an optimum way it improves the chances of success, because it teaches the various actors how to dialogue, obtain information, and for some, acquire skills.

### ***Recommendation N°1 : explain the issues and problems***

It is important to inform the population of the "position" of the project that is proposed to them by informing them of the issues and problems.

### ***Recommendation N°2 : set up permanent reference entities***

The public is faced with a multitude of actors and information, which may complicate clear understanding of the project. For this, it would be appropriate to appoint a neutral and objective national permanent reference entity, and local entities representing the relevant regions, as entry points for accessing any information that might prove useful for their task, and this in parallel with operators. These bodies should be provided with specific human and financial resources which, in particular, help them study the possibility of a candidature.

Furthermore, as the project progresses, the region concerned shall be increasingly specific and new actors shall emerge at local level. The various public actors should regularly report their action within the decision-making process to these reference entities. Discussions between these various levels should be continuous throughout the process, initially with a local information and consultation body, then a Local Information Committee.

### ***Recommendation N°3 : provide information on the project's progress***

It would be useful to define a provisional schedule specifying the stages and financial resources related to the project. This schedule should be accessible to the public, published and updated by the national reference entity.

Each stage should show the financial resources used for the information allocated to the various actors.

This schedule should be upgradeable in order to take the emergence of new data into account, such as, new technical knowledge, new legal, economic and social contexts, etc. It is important to justify any "dead time" in the schedule with the public and to inform it of work in progress: administrative, technical, etc., stages.

***Recommendation N°4 : state the reasons for the decisions at every stage of the process (this point is not sufficiently explained in the Convention)***

Stating the reasons for the decisions is not usually practiced, however, this would provide milestones for the decision-making process, for which each stage would constitute an official basis for the next stage.

- Make sure that at every stage the arguments that are the basis for the decision are communicated to the public.
- Publish the questions raised during public enquiries and the answers given.
- Make sure that account is taken of the outcome of the public participation.

***Recommendation N°5 : sign a long-term multi-party agreement***

Once the creation decision has been made, it's suggests adopting the long-term governance principle. In practice, it could lead to the signing of a multi-party agreement with all the stakeholders (State, operators, institutions, representatives of, qualified people, public expert). This approach would define :

- the fields of action of the agreement: which may permit various actions (assessments, meetings, etc.),
- schedule of regular meetings dedicated to long-term site monitoring,
- the financing modalities for the long-term monitoring of installations.

***Positioning the recommendations in the Aarhus Convention***

The recommendations proposed by ANCCLI appear highlighted **in yellow bold**.

***Article 6.2***

The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:

**The project's issues and problems (Recommendation N°1)**

- a) The proposed activity and the application on which a decision will be taken.
- b) The nature of possible decisions or the draft decision.
- c) The public authority responsible for making the decision.
- d) The envisaged procedure, including, as and when this information can be provided :
  - i. The commencement of the procedure.
  - ii. The opportunities for the public to participate.
  - iii. The time and venue of any envisaged public hearing.

**The appointed reference entity that shall answer all of the questions (Recommendation N°2).**

- iv. An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public.
  - v. An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions.
  - vi. An indication of what environmental information relevant to the proposed activity is available.
- e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.

### **Article 6.3**

The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decisionmaking.

A schedule is defined that can be revised according to technical, legal and economic developments. (Recommendation N°3).

### **Article 6.4**

Each Party shall provide for early public participation, when all options are open and effective public participation can take place.

The public is consulted at a stage when alternative options (in particular techniques) are still open. (Recommendation N°1).

### **Article 6.8**

Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.

The decision must be supported by sufficient reasoning. (Recommendation N°4).

An appeal procedure by members of the public with a neutral and objective, third-party institution, must be set up. (Recommendation N°2).

### **Article 6.9**

Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures under the supervision of the reference entity. (Recommendation N°2).

Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based, throughout the process and at every stage the decisions should be reasoned (Recommendation N°4).

### ***Article 6.10***

The long-term governance principle is the basis for the project's monitoring. It shall lead to the signing of a multi-party agreement between the various national, regional, departmental and local level actors. (Recommendation N°5).

Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied mutatis mutandis,\* and where appropriate.