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FOR EUROPE

Meeting of the Parties to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Task Force on Public Participation in Decision-Making

Sixth meeting

Geneva, 10-11 February 2016

Key outcomes¹

As agreed by the Task Force on Public Participation in Decision-making at its sixth meeting, held on 10-11 February 2016

1. Opening and adoption of the agenda

1. The Task Force adopted the agenda as set out in the document AC/TF.PP-6/Inf.1.

2. Obstacles, challenges and good practices in relation to public participation in decision-making

2. The Task Force:

(a) Identification and notification of the public concerned

(i) Took note of the experiences, good practices and challenges shared by presenters from Croatia, Albania, the European Bank for Reconstruction and Development and NGO Instituto Internacional de Derecho y Medio Ambiente (Spain), and noted the subsequent discussions and comments from the floor;

(ii) Reiterated that identification and notification of the public concerned remains an important issue with a number of challenges;

(iii) Agreed to further consider how to determine and use the means of identification and notification of the public concerned, which would take into account social and

¹This document was not formally edited.

economic factors, such as access to internet, cultural aspects, living environment of marginalised and minority groups, as to ensure the broadest possible coverage of the public concerned;

(iv) Took note of a number of suggestions put forward by participants, including, explore the possibility of using NGOs networks for effective notification; learn from good practices of using social media platforms such as Facebook and Twitter for informing youth; consult potentially affected people about their preferred way of communication; develop “public’ engagement” plan; involve well-known local people for dissemination of information regarding the upcoming environmental decision-making procedures; ensure that the text of notification is easy understandable; and establish effective grievance procedure to resolve the public’s concerns at the early stage.

(b) Early public participation

(i) Took note of the experiences, good practices and challenges shared by presenters from the Slovakia, United Kingdom of Great Britain and Northern Ireland, France and Georgia, and noted the subsequent discussions and comments from the floor;

(ii) Admitted that early public participation were discussed at the previous meeting of the Task Force but remains still outstanding issues with a number of challenges, in particular to ensure that participation comes early enough when the “zero option” is still available;

(iii) Took note of a numbers of suggestions put forward by the participants, including ensure effective public participation already at screening and scoping stages of environmental impact assessment (EIA) and strategic environmental assessment (SEA), at the stage of the OVOS² procedure or in the form of pre-application stage; determine when early public participation should occur in tiered decision-making process; identify correctly the subject to early public participation; notify effectively about the early public participation; provide comprehensive information at earliest stage which is sufficient for the effective analysis; ensure that outcome of early public participation is taken into account; explore the possibility for public to provide not only comments but also concrete proposals;

(iv) Stressed the importance of further considering this issue, taking into account the challenges highlighted during the discussion and learning from the presented good practices.

(c) Decisions on proposed activities not listed in annex 1 of the Convention (article 6 paragraph 1 (b) of the Convention)

(i) Took note of the experiences, good practices and challenges shared by Mr. Jendroska (expert), and by a presenter from United Kingdom of Great Britain and Northern Ireland, and noted the subsequent discussion and comments from the floor;

(ii) Noted that article 6 paragraph 1 (b) does not provide fully defined list of activities and its application is therefore rather challenging;

² The OVOS/expertiza system is a development control mechanism followed in many countries of Eastern Europe, the Caucasus and Central Asia. The Aarhus Convention Compliance Committee has held that the OVOS and the expertiza should be considered jointly as the decision-making process constituting a form of environmental impact assessment procedure (see ECE/MP.PP/C.1/2013/9, para. 44).

(iii) Noted, in this regard, several issues such as criteria for identification of the proposed activities not listed in annex 1; determination of the significant effect on the environment of the proposed activity; criteria for assessment of the significance of the effect at national level; evaluation of the degree of certainty of the significant effect; identification of those responsible for conduction of determination; involvement of public in determination of the significance of effect; and consideration of possibility to develop the procedure/guidelines for assessment of significance of the effect on the environment at national level;

(iv) Stressed the importance of further considering this issue and promotion of the implementation of article 6 paragraph 1 (b);

(v) Encouraged Parties to report on application of article 6 paragraph 1 (b) in national implementation reports.

3. Implementation of the Maastricht Recommendations

3. The Task Force:

(i) Thanked the secretariat for the organization of survey on the use of the Maastricht Recommendations on promoting effective public participation in decision-making in environmental matters (Maastricht Recommendations) and for presenting its results. Took note of the experiences shared by NGO Ecohome (Belarus), and noted the subsequent discussions, comments and suggestions from the floor regarding the promotion of Maastricht Recommendations;

(ii) Noted that the Maastricht Recommendations were developed as a tool to help the Parties in the organisation of effective public participation in decision-making in environmental matters and therefore it is important to promote them widely in countries;

(iii) Recognised that first steps for the use of the Maastricht Recommendations were already taken by many the Parties but more efforts should be made to reach out different target groups;

(iv) Encouraged Parties to raise awareness of the Maastricht Recommendations, translate them in national and local languages, and distribute them among all target groups dealing with public participation at national and subnational levels, including the public authorities, the NGOs, operators, the private sector, and general public by using the most efficient tools, not limited to the posting of information on the website of the ministries or Aarhus centres.

4. Thematic session on energy-related planning

4. The Task Force:

(i) Took note of the experiences, good practices and challenges shared by presenters from the European Commission, Italy, Belarus, Armenia, Consultation Institute (United Kingdom of Great Britain and Northern Ireland), European ECO Forum NGO network, NGO Nuclear Transparency Watch, the secretariat of the Convention on Environmental

Impact Assessment in a Transboundary Context (the Espoo Convention, UNECE) and noted the subsequent discussions and comments from the floor;

(ii) Recognized that energy-related planning is a complex, multi-tiered decision-making process which is often non-transparent, politicized and with a significant effect on the vast number of people within the same state or across the borders as well as for the current and future generations;

(iii) Noted that ensuring effective public participation in such decision-making is indisputably of utmost importance;

(iv) Examined specific examples of public participation in energy relating planning in relation to such projects as nuclear power stations (construction of new reactors), electric power plants, small electric power plants, hydro power plants, small scale hydro projects, biofuels and renewable energy facilities;

(v) Noted the concerns expressed by NGOs that often energy-related planning witnesses obstacles to effective public participation. In their view these include e.g. unbalanced presentation of social and economic benefits in contrast to possible negative environmental consequences from energy-related projects to local population; absence of early public participation during the elaboration of strategic documents and when zero option is still considered; absence of understanding by the public of all stages of decision-making procedure; lack of timely assessment of ecological safety requirements; lack of timely assessment of full chain of environmental impacts; lack of assessment of toxic wastes already at the stage of construction; lack of comprehensive assessment of consequences in case of severe accidents; complexity and length of technical documentation and not easily understandable non-technical summary; insufficient timing for examination of available documentation and submission of comments; lack of effort to duly consider comments; possible negative effect on the efficiency of public participation under accelerated permit granting and difficulties in challenging energy-related planning decisions in national courts;

(vi) Noted good practices presented by Parties and stakeholders and encouraged their further development and promotion, namely elaboration and publication of manuals for public participation procedures; “roadmapping” of the overall public participation process; establishment of effective cross border cooperation; involvement of public at screening and scoping stages of EIA; preparation of description of the reasonable alternatives for public scrutiny; provision of access to information via central portal or easily accessible points of access; early publication of the list of potential projects in energy sector and further development of Internet tools such as “Aarhus check”³;

(vii) Encouraged the Parties to eliminate obstacles for the effective public participation in energy-related planning, balance economic benefits and environmental consequences during the energy-related planning and implement good practices at national and local levels.

³ www.tcitoolbox.com

5. Closing

5. The Task Force:

(i) Thanked the speakers for their useful presentations;

(ii) Expressed appreciation to those who had provided written statements in advance of the meeting;

(iii) Agreed on the outcomes presented by the Chair at the meeting, which will be incorporated in the meeting report.
