

Public participation under the Aarhus Convention:

A useful model for water and health?

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- Regarding the role of the public, the Water and Health Protocol seems inspired by Aarhus Convention's three pillars:
 - Access to information
 - Public participation
 - Access to justice



Article 5, Water and Health Protocol “Principles and approaches”

In taking measures to implement this Protocol, the Parties shall be guided in particular by the following principles and approaches:

...

(i) **Access to information** and **public participation in decision-making** concerning water and health are needed, inter alia, in order to enhance the quality and the implementation of the decisions, to build public awareness of the issues, to give the public the opportunity to express its concerns and to enable public authorities to take due account of such concerns. Such access and participation should be supplemented by appropriate **access to judicial and administrative review** of relevant decisions;



Article 16 (3), Water and Health Protocol “Meeting of the Parties”

At their meetings, the Parties shall keep under continuous review the implementation of this Protocol, and, with this purpose in mind, shall:

...

(g) Consider the need for further provisions on **access to information, public participation in decision-making and public access to judicial and administrative review** of decisions within the scope of this Protocol, in **the light of experience gained on these matters in other international forums**;



“...in light of experience gained on these matters in other international forums”

To date, Aarhus Convention is the only international legally binding instrument to specifically address these issues.

This meeting’s focus : Public participation



Article 7, Aarhus Convention

Each Party **shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework**, having provided the necessary information to the public.

Do these words sound familiar?

Targets and target dates – art 6(2) WH Protocol

....Parties shall each establish and publish national and/or local targets for the standards and levels of performance that need to be achieved or maintained for a high level of protection against water-related disease. These targets shall be periodically revised.

In doing all this, they **shall make appropriate practical and/or other provisions for public participation, with a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation. [...]**



Water-management plans – article 6(5), WH Protocol

Parties shall each:

“(b) Develop water-management plans in transboundary, national and/or local contexts, preferably on the basis of catchment areas or groundwater aquifers. In doing so, they **shall make appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation.**”



Public participation – the Aarhus step-by-step model

1. Adequate notice
- ↓
2. Reasonable time-frames
- ↓
3. All relevant information
- ↓
4. Public entitled to comment/be heard
- ↓
5. Due account taken of public participation
- ↓
6. Prompt notice of decision
- ↓
7. If updating, repeat as appropriate

In more detail:

- Early notice of the environmental decision-making procedure, in an adequate, timely and effective manner (article 6(2)) of, inter alia:
 - The proposed activity
 - Nature of possible decisions
 - Public authority responsible for making the decision
 - The public participation procedure envisaged (including timeframes and opportunities to participate)
- Reasonable time-frames, allowing sufficient time for informing the public and for the public to prepare and participate effectively in the decision-making (article 6(3) Aarhus)
- Early public participation, when all options are open and effective public participation can take place (article 6(4))





- Access to all information relevant to the decision-making, free of charge and as soon as it becomes available (article 6(6))
- Public entitled to submit any comments, information, analyses or opinions it considers relevant to the proposed activity, in writing or, as appropriate at a public hearing or enquiry (article 6(7))
- Parties shall ensure due account is taken of the outcome of the public participation (article 6(8))



- Public to be promptly informed of the decision. Text of the decision shall be made accessible, along with reasons and considerations on which it is based (article 6(9))
- If conditions of activity are updated, the above requirements shall be applied mutatis mutandis and where appropriate (article 6(10))



To close:

- More than a decade of experience now with implementation of the Aarhus step-by-step model of public participation
- Although challenges remain in its full implementation, when it is properly implemented, the model has proven to be a powerful tool to ensure effective public participation
- **Could this be a useful step-by-step model to apply in decisions on target-setting (article 6(2)) and water management plans (article 6(5)) under the Protocol?**

Thank you!

For further information:

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