

Comments of European ECO Forum

Environment and Human Settlements Division
United Nations Economic Commission for Europe
Palais des Nations
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Switzerland

TO: Mr. Jeremy Wates
Secretary to the UNECE Convention on
Access to Information, Public Participation in
Decision-making and Access to Justice in
Environmental Matters

26 October 2007

Re: Comments on experiences with the application of the Almaty Guidelines

Dear Mr. Wates,

Thank you for inviting the European ECO-Forum – a Pan-European Coalition of Environmental Citizens Organisations (ECOs) – to participate in the consultations regarding the application of the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums. Taking into account the outcomes of the official consultation process undertaken by the Task Force on Public Participation in International Forums, and with a view to evaluate the reliability of the provided information, the European ECO-Forum circulated a short questionnaire replicating the questions distributed by the Task Force. The questions, therefore, were formulated as follows:

- (a) Does the international forum you are involved in have any formalized rules or procedures concerning access to information, public participation in decision-making and access to justice in environmental matters?
- (b) Does the international forum you are involved in have any non-formalized practices concerning access to information, public participation in decision-making and access to justice in environmental matters?
- (c) Are there any current or future workplans of the international forum you are involved in that may affect the extent of or modalities for access to information, public participation in decision-making and access to justice in environmental matters?
- (d) In particular, what kind of challenges, if any, has your organisation encountered with regard to access to information, public participation in decision-making and access to justice in environmental matters when working with international forums or trying to get involved in their work?
- (e) Is there a need to amend Almaty Guidelines on PPIF, and, if yes, what would be your concrete textual suggestions?

Answering the first question our respondents recollected formally adopted rules, primarily dealing with access to information, less with public participation and scarcely with access to justice in environmental matters. In a number of instances our respondents were actively involved in drafting

of some of those rules. Almost in each case, however, many of their progressive proposals and ideas were either not supported or disregarded by other stakeholders.

Some of our respondents indicated that the information on formalised rules and procedures concerning access to information and public participation is not always accessible. It is not widely publicised/advertised by relevant international forums. Sometimes the mentioned rules are complicated and unclear, containing the declaration of a principle with little opportunities to practically apply it. The other concern was that many of the relevant rules did not contain a definition of either “a public concerned”, or “an NGO”, which otherwise would have made those rules more clear, comprehensive and applicable.

As for the second question regarding the non-formalised practices, they were mentioned primarily by larger NGOs or NGO networks, having been involved in certain international forums for rather a long time already. It is extremely seldom that the information on such practices is publicised or widely disseminated. It is also true, however, that in some instances the view was expressed that the absence of formalised rules and procedures gave additional participation opportunities to our respondents.

On the contrary, the absence of formalised rules and procedures made it almost impossible to challenge the existing practice and some forums preferred to maintain the practice of “limited and selective” participation rather than formally adopting relevant rules.

The information on current or future workplans of the international forums that may affect the extent of or modalities for access to information, public participation in decision-making and access to justice in environmental matters basically seconded the responses obtained during the official consultation process by the Task Force. It is also true, however, that the scope and momentum of the relevant negotiations was rather diverse. Almost in all cases the respondents reported on comparatively slow developments, lengthy and complicated discussions/deliberations. It should be noticed, that the “younger” MEAs (those which have been established/entered into force either recently or not a long time ago) were generally more inclined to develop necessary modalities for access to information, public participation in decision-making (less access to justice) in environmental matters.

The respondents have identified the following challenges with regard to access to information, public participation in decision-making and access to justice in environmental matters when working with international forums or trying to get involved in their work:

- not all forums have developed clear and transparent policies and procedures on access to the environmental information and made the information on those procedures available to the public;
- though the environmental information contained in official documents developed and produced within the international forums is gradually made available to the public through the Internet and other electronic tools, due to translation procedures and other reasons they are not provided in a timely manner and sometimes in final texts;
- national focal points designated by a number of international forums often lack capacities, knowledge and necessary skills to provide effective flow of information between the national authorities, international forums and the public;
- there are examples when information is not provided upon request or the provided information does not fulfil the requirements of the Almaty Guidelines;
- involvement of the public in MEAs is minor; selection and accreditation procedures are not always clear, objective, transparent and not over-formalised;

- in a number of forums public is invited only to the final official events and is not expected to participate at the negotiations/preparations stage;
- members of the public are not always informed of the opportunities, procedures and criteria for public participation in the decision-making processes;
- notwithstanding the fact that members of the public are able to attend meetings of international forums, usually as observers, are entitled to have access to documents relevant to the decision-making process, have an opportunity to circulate written statements and to speak at meetings, as well as present general comments, - their role is rather limited. Many respondents stated that it was unclear how their comments would have been taken into account by the decision-making body. Very often they even were not explained why their position/proposals were disregarded;
- it is still scarce to see measures facilitating public access to review procedures relating to application of the rules and standards of international forums regarding access to information and public participation within the scope of Almaty Guidelines; implementation of access to justice pillar of the Almaty Guidelines is the most underdeveloped;
- extremely limited number of international forums are engaged in capacity building activities to facilitate international access for the public concerned. Usually international forums are reluctant to introduce/apply innovative, cost-efficient and practical approaches which are consistent with good accounting practices with a view to maximizing public participation. The lack of finances is often used as a major reason for not supporting public participation in MEAs. This remains one of the major challenges and barriers in the process of effective public participation in international forums.

Answering the last question our respondents limited themselves to more general statements and did not support any major textual changes of the Almaty Guidelines.

We would like to once again express our readiness to continue participating in the consultation process and further developments under the topic.

Yours sincerely,

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The European ECO-Forum