

15th meeting of the Working Group of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)
Geneva, 3-5 September 2012

Panel Discussion on Promotion of the Principles of the Convention in International Forums

Thank you Mr. Chairman. I would like to thank the Delegates and Aarhus Convention Secretariat for inviting the World Bank Inspection Panel to this important panel discussion.

I will start my presentation by briefly explaining the IP's role in public participation, access to information and access to justice in World Bank financed projects. I will then talk about relevant World Bank policies in ensuring the application of these principles, followed by lessons learned from IP cases.

IP is an independent accountability mechanism of the World Bank. It responds to complaints by affected people and their representative NGOs who believe that they are suffering or may suffer harm caused by a World Bank financed project. IP investigates whether the Bank has followed its own policies and procedures in the design, appraisal and implementation of a project. It's mandate covers mainly the public sector arm of the World Bank; namely International Bank for Reconstruction and Development and International Development Agency financed projects. For the private sector arm of the World Bank, there is Compliance Advisor, Ombudsman, CAO.

The Panel is composed of three Panel members appointed for 5 year non-renewable term. The Panel is supported by a small secretariat staff. The main characteristics of the Panel are that:

- (a) It is independent from Bank Management and reports directly to the WB Board of Executive Directors, which includes almost all of the Parties to the Aarhus Convention.
- (b) The Panel is an impartial fact finding body.
- (c) It promotes transparency by publishing all its reports and findings; and
- (d) Promotes public participation and access to justice by serving as an independent venue for affected people to raise their concerns to the highest levels of the World Bank.

Although IP's mandate covers all Bank policies and procedures, the complaints mainly focus on compliance with World Bank policies related to environmental and social issues, which are called the safeguard policies.

Consultation, participation and disclosure of information are directly addressed by 3 of these safeguard policies:

The first one is the Environmental Assessment policy, which is considered an umbrella policy in the World Bank safeguards framework. This policy requires consultations with project affected groups and local NGOs during the environmental assessment process and “take their views into account.” This policy also requires consultation throughout project implementation.

The second policy is the Indigenous Peoples policy. For all projects that are proposed for Bank financing and affect indigenous peoples, the Bank requires a process of free, prior and informed consultation. The Bank can provide financing only when free, prior and informed consultation results in broad community support to the project by the affected indigenous peoples.

The third policy is Involuntary Resettlement policy. This policy requires displaced persons to be informed about their options and rights related to resettlement and consulted on resettlement alternatives. This policy also requires establishment of effective grievance redress mechanisms at the project level.

The other Bank policies such as cultural resources, forests, natural habitats also underscore the need for consultation. In addition, Bank’s policy on Access to Information establishes the requirements for disclosure of information in Bank operations.

While the borrower has the main responsibility to carry out project consultations, the World Bank has to ensure that consultations are done in accordance with Bank policy requirements.

Many of the complaints sent to the Inspection Panel have an element of inadequate consultation and public disclosure in the design, appraisal and implementation of Bank projects. Non compliance in this area has proven to be one of the recurring problems identified in Panel reports. The Panel emphasized the “critical need to ensure that the necessary, meaningful consultations with, and information disclosure to the affected people take place, in a manner that is both timely (before final decisions are made) and understandable (using local languages, and turning complex project information into layman’s language).”

The World Bank is not a party to the Aarhus Convention. However, Albania Vlora Thermal Power Plant case is an interesting example to show the relation between the Aarhus Convention and the Inspection Panel. In this case, a complaint was submitted to the Aarhus Convention Compliance Committee regarding Albania’s non compliance with the Aarhus Convention. The Aarhus Committee found that Albania did not fully comply with the Convention requirements since the public participation efforts were made after decision on the location of the power plant. A complaint was also sent to the Inspection Panel regarding the World Bank’s non compliance with its own policies.

The World Bank's Environmental Assessment policy requires the Bank to take into account borrower country's obligations under relevant international environmental treaties and agreements and requires the Bank not to finance any activity that would contravene a country's obligations under such an agreement. The Inspection Panel found the Bank non-compliant with this policy requirement due to Aarhus Convention Compliance Committee's findings. In addition, the Panel found that the Bank's consultation requirements were not fully met as well. In its response, Management indicated that it would provide support to the Government of Albania in the implementation of the Aarhus Convention principles through a grant and also provide training to Bank staff in how to assist governments in meeting their Convention obligations.

Accountability mechanisms, such as the Inspection Panel, play an important role in promoting public participation, access to information and access to justice principles of the Aarhus Convention. As members of IFIs and representatives of the IFI's Boards, there are some concrete steps the Parties to the Aarhus Convention may consider:

- First is to protect the role of IFI's accountability mechanisms.
- Second is to ensure promotion and application of IFI policies related to public participation, access to information and access to justice.
- Lastly, the Parties may consider the preparation of specific guidance for IFIs to support member countries in meeting their obligations under the Aarhus Convention in addition to Almaty Guidelines.

Thank you,

Dilek Barlas
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The World Bank Inspection Panel