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in Environmental Matters

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**Promotion of the principles of the Aarhus Convention in international forums**

**NOTE ON THE RULES OF PROCEDURE AND PRACTICES OF THE EUROPEAN  
ENVIRONMENT AND HEALTH PROCESS**

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<sup>1</sup> This document was not formally edited.

## I. Introduction

1. The current note aims to provide a non-exhaustive commentary on comparability of the rules of procedures and practices of the European Environment and Health Process under the auspices of the World Health Organization (WHO)<sup>2</sup> and the Almaty Guidelines on promoting the application of the principles of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) in international forums.<sup>3</sup>
2. The European Environment and Health Process was initiated by the European countries in the late 1980s. The purpose of the Process was to eliminate the most significant environmental threats to human health. Progress towards this goal is driven by Ministerial Conferences held approximately every five years. The Conferences bring together different sectors, mainly the environment and health sectors. The first Conference was held in Frankfurt in 1989. The following conferences took place in Helsinki in 1994; in London in 1999; in Budapest in 2004; and in Parma, Italy, in 2010. The sixth Conference is scheduled to take place in Ostrava, Czechia, on 13-15 June 2017.
3. The European Environment and Health Process is serviced by WHO/Europe and managed by the following two bodies between the Ministerial Conferences: The European Environment and Health Ministerial Board (EHMB)<sup>4</sup> and the European Environment and Health Task Force (EHTF)<sup>5</sup>. EHMB is the political face and driving force of international policies in environment and health for implementation of the commitments made in the Process. EHTF is the leading international body for implementation and monitoring of the Process. It serves as a forum to exchange knowledge, review scientific evidence and promote specific initiatives. The EHTF can further establish subsidiary ad-hoc Working Groups (AWG) and other bodies tasked with certain matters (rule 20.2 of the Rules of procedure of the EHTF). The current mandate of the AWG lasts until the upcoming sixth Ministerial Conference.
4. A Ministerial Conference has no specific rules of procedure but the rules of procedures of the EHTF and EHMB are used, where applicable, to provide necessary guidance, along with the administrative and policy guidance of the WHO Governing Bodies and the donor agreement negotiated with the Host Country.

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<sup>2</sup> For more information, see: <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp>.

<sup>3</sup> Available from: <https://www.unece.org/index.php?id=21464>.

<sup>4</sup> For more information, see: <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp/governance/european-environment-and-health-ministerial-board-ehmb>.

<sup>5</sup> For more information, see: <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp/governance/european-environment-and-health-task-force-ehf>.

## II. Access to information

### *Description*

5. In accordance with the Rules of the Procedure (RoP) of the EHTF<sup>6</sup> and of the EHMB<sup>7</sup>, reports of the meetings of the two bodies and all non-confidential meeting documents shall be made publicly available on the relevant web pages. This appears to comply with para. 20 of the Almaty Guidelines. However, no such arrangement appears to exist for the AWG. The only relevant provision in the AWG Terms of Reference (AWG ToR) requires the AWG to inform all members of the EHTF on a regular basis about its work (para. 7 of AWG ToR).<sup>8</sup> However, the reports of the EHTF do include information on the work of AWG.<sup>9</sup>

6. The website further includes 11 thematic categories pertaining to environment and health under which further information is made available. The website informs over relevant news, events, policies, activities, work in countries, data and statistics, relevant publications etc. Members of the public can further subscribe to a newsletter providing information on the European Environment and Health Process.<sup>10</sup> The foregoing can be seen as use of electronic information tools such as clearing houses, databases and registers (para. 21 of the Almaty Guidelines) and arrangements for making environmental information proactively available (para. 22 of the Almaty Guidelines).

7. Under each topical heading, the website indicates a competent WHO officer as a contact person for the subject area (designation of information officers under para. 22 of the Almaty Guidelines), which can also be seen as an arrangement to obtain environmental information on request (paras. 19 and 23-27 of the Almaty Guidelines). The website does not further specify a set of policies and procedures on how to obtain access to environmental information (para. 19 of the Almaty Guidelines), nor indicates time limits (para. 24 of the Almaty Guidelines) or grounds for refusal (para. 25 of the Almaty Guidelines) but it is also not clear why relevant information would be refused.

### *Assessment*

8. The disclosure of reports of the EHTF and EHMB on the website gives an overview of the work undertaken by the two bodies. Generally, sufficient arrangements appear to be in place, making information proactively available and informing the public about the Process as well as the underlying data, publications and reports. Furthermore, arrangements are made to allow the public to request further information. The lack of formal arrangements as to time limits and grounds for refusal does not appear to be problematic considering the great amount of proactive disclosure and the fact that it is unlikely that there would be any sensitive information. There are therefore no significant concerns with regard to access to information with the exception of the lack of circulation of preparatory material, which will be further discussed below.

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<sup>6</sup> Rules 3.4 and 15.2 EHTF RoP.

<sup>7</sup> Rules 3.3 and 15.2 EHMB RoP.

<sup>8</sup> See <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp/governance/european-environment-and-health-task-force-ehf/> recache.

<sup>9</sup> For relevant reports see <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp/governance/european-environment-and-health-task-force-ehf/european-environment-and-health-task-force-meetings>.

<sup>10</sup> See <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp/european-environment-and-health-process-newsletter>.

### III. Public Participation

#### A. Broad public participation (paras. 14 & 30-31 of the Almaty Guidelines)

##### *Description*

##### *Rules of procedure of EHTF*

9. In accordance with rule 1.2 of the EHTF Rules of Procedure (EHTF RoP)<sup>11</sup>, several non-governmental organizations are full members of the Task Force (member NGOs).<sup>12</sup> The meetings of the Task Force are private, unless decided otherwise (rule 3.1 EHTF RoP) but the EHTF RoP allows to invite NGOs, other organizations and individuals to participate as observers without a vote, having in mind the substantive issues on its agenda (rules 3.2, 5.1). The second meeting of the Task Force (Skopje, 24-25 November 2015)<sup>13</sup> appears to have been attended by 2 NGOs as representatives of stakeholders and full members of the EHTF and one NGO as an observer<sup>14</sup>, and three temporary advisers from academia and research institutions.<sup>15</sup> The previous Task Force meeting, which coincided with the High-level Mid-Term Review of the Process (Haifa, 28-30 April 2015), was attended by 3 NGOs as representatives of stakeholders and full members of the EHTF, one NGO<sup>16</sup> and two governance/institutional bodies<sup>17</sup> as observers as well as two technical advisers.<sup>18</sup>

##### *Terms of Reference of the AWG of the EHTF*

10. The AWG has overall 16 members, one of which is a representative of an NGO elected by the NGO members of the EHTF (para. 5 AWG ToR). Furthermore, all members of the EHTF, including the NGOs, are informed of the AWG meetings and may participate if they wish (para 10 AWG ToR).

##### *Rules of procedure of EHMB*

11. As opposed to the participation in the EHTF, the rules of procedure of the EHMB (EHMB RoP) are much more restrictive. According to rule 1.3, no NGOs are members while the meetings are also held in private (rule 3.1). In accordance with rule 3.2, participation is open only to other states or IGOs, not the public. However, European Environment and Health Youth Coalition (EEHYC) became a permanent observer of the EHMB following a decision of the EHMB at its third meeting in 2012 (Baku, 16 November 2012).<sup>19</sup> The report of the last EHMB meeting (Zagreb, 19 November 2015) shows that observers have been given access, with one NGO member of the EHTF<sup>20</sup> and one additional NGO<sup>21</sup> having participated. Regarding the additional NGO, the matter was discussed at the sixth EHMB meeting (Madrid, 24 February 2015) and an agreement was reached thereafter, based on electronic consultation, that the EHMB meetings would be open for participation to one NGO, to be

<sup>11</sup> See: <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp/governance/european-environment-and-health-task-force-ehf/rules-of-procedure-of-the-european-environment-and-health-taskforce>.

<sup>12</sup> As of 2017, three non-governmental organizations focusing on environment and/or health are members: Health and Environment Alliance (HEAL), the European ECO-Forum and the Environment and Health Youth Network.

<sup>13</sup> See [http://www.euro.who.int/\\_data/assets/pdf\\_file/0017/322163/EHTF5-Skopje-report-en.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0017/322163/EHTF5-Skopje-report-en.pdf?ua=1)

<sup>14</sup> The representative of the International Society for Environmental Epidemiology (ISEE) is mentioned only in para. 19 of the meeting report, not in the list of participants.

<sup>15</sup> One member of the Istituto Superiore di Sanità, one from the Institut Albert Bonniot Inserm associated with University J. Fourier of Grenoble, one member of the ISEE and a Professor of the University of Edinburgh.

<sup>16</sup> "No Excuse Slovenia" - <http://www.noexcuse.si/>.

<sup>17</sup> South-Eastern European Health Network (<http://seehn.org/about-the-see-health-network/>) and the Global Alliance on Health and Pollution (<http://www.gahp.net/new/what-is-gahp/>).

<sup>18</sup> One technical advisor was from Zadig Ltd and another was an independent expert from Poland. See [http://www.euro.who.int/\\_data/assets/pdf\\_file/0006/290184/EHTF-MTR-Haifa\\_Report.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0006/290184/EHTF-MTR-Haifa_Report.pdf?ua=1)

<sup>19</sup> See [http://www.euro.who.int/\\_data/assets/pdf\\_file/0007/188413/Report-of-the-third-meeting-of-the-European-Environment-and-Health-Ministerial-Board-EHMB.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0007/188413/Report-of-the-third-meeting-of-the-European-Environment-and-Health-Ministerial-Board-EHMB.pdf?ua=1)

<sup>20</sup> European Environment and Health Youth Coalition (EEHYC).

<sup>21</sup> Women in Europe for a Common Future (WECF).

decided by the NGOs themselves, as observer, in addition to the EEHYC, but this is not clear in publicly available documents.

### *Assessment*

12. In accordance with paras. 14 and 30-31 of the Almaty Guidelines, participation shall be as broad as possible. Existing arrangements demonstrate that participation of the public most directly affected (para. 31(a) of the Almaty Guidelines) appears to be partially lacking. According to para 29 of the Almaty Guidelines, public access may only be restricted if there is a reasonable basis to exclude participation according to transparent and clearly stated standards that are made available, if possible, in advance.

13. With regard to the EHMB, it appears that participation of NGOs as observers is already informally takes place, but this needs to be formalised in an appropriate form. The decision had already been taken and implemented between the sixth and seventh meetings of the EHMB, and one NGO representative to be selected by the NGOs themselves, is invited as an observer to all EHMB meetings, in addition to the EEHYC. This is however not reflected appropriately in the documents which are publicly available. In addition, the forthcoming Ministerial Conference will review the institutional settings for the European Environment and Health Process.

14. With regard to the EHTF and the AWG, it is not immediately clear why these meetings need to be held in private. Para. 31 of the Almaty Guidelines notes that the Process should principally be open to the public. Currently neither the EHTF RoP nor the official website of the Task Force offer a transparent procedure to become a member organization, an observer or an advisor to the EHTF. As required by para. 31 of the Almaty Guidelines, “accreditation or selection procedures should be based on clear and objective criteria, and the public should be informed accordingly.”

15. With regard to stakeholder participation in the EHTF, rule 1.2 simply enumerates participating NGOs without details on the selection procedure. A new institutional setting is expected to be negotiated at the upcoming Ministerial Conference, in which a new NGO may join<sup>22</sup> but the procedure for this remains unclear from the rules.

16. With regard to other observers, the public may only be “invited” on the basis of rule 3.2 EHTF RoP. This does not appear to be in line with para. 31 of the Almaty Guidelines which only allows to restrict access of the public when this is “necessary and unavoidable for practical reasons.” It should also be noted in this regard that “webex connection” is apparently used to allow members of the EHTF to participate in the AWB meetings, but not to engage the wider public. In this respect, para. 33 of the Almaty Guidelines notes webcasting of events as a form to promote participation.

## **B. Modalities of public participation (paras. 29 and 32-39 of the Almaty Guidelines)**

### *Description*

#### *Rules of procedure of EHTF*

17. The notice of convocation of the meeting is sent to all Task Force members, including the member NGOs (rule 1.2 EHTF RoP, see above), and to invited observers (rule 3.2 and 5.1 EHTF RoP, see above) six weeks before the meeting including a draft agenda (rule 4.2 EHTF RoP). Member NGOs can make proposals to add items to the agenda until four weeks before, giving them two weeks for these proposals (rule 7.3 in conjunction with rule 7.1(c) EHTF RoP). These NGOs can furthermore make comments and proposals on (as it appears, existing) agenda items until one week before the meeting (rule 4.4 EHTF RoP).

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<sup>22</sup> The International Society for Environmental Epidemiology (ISEE), the key international NGO representing academics and scientists active in environment and health field, might become one of the European Environment and Health Process stakeholders.

18. Documents, such as Working Papers (three weeks before the meeting, rule 4.3 EHTF RoP), formal decisions, draft resolutions and major recommendations (rule 16.1 EHTF RoP) and an annual report on the EHTF's activities (rule 16.2 EHTF RoP), are predominantly circulated only to the member NGOs. Member organizations are also given the possibility to provide input on important documents, as demonstrated by an online survey for EHTF members on the Roadmap to the Ministerial Conference<sup>23</sup> and by the contribution of two member NGOs to the WHO/Europe publication "Improving environment and health in Europe: how far have we gotten?" (Mid-term report).<sup>24</sup>

19. Member NGOs are free to speak at the meeting (implied in rule 17 EHTF RoP), as it appears on equal footing with the Government representatives (para. 34 of the Almaty Guidelines). Whether observers are free to speak is not further indicated but may be implied from the fact that rule 3.2 states "participate without vote" without indicating that observers would be restricted from speaking.

20. The member organizations enjoy equal voting rights as the state members (rule 20.1 EHTF RoP) thereby ensuring that account is taken of their participation (para. 37 of the Almaty Guidelines). Member organizations can further participate in the election of the chair and co-chair but cannot be elected in either position (rule 9.1 and 9.5 EHTF RoP). Member organizations are furthermore not permitted to participate in a request for an extraordinary meeting of the EHTF in accordance with rule 5.2 EHTF RoP.

21. Representatives of member organizations are furthermore eligible for financial support (rule 2.3 EHTF RoP). No similar rules appear to be applicable for observer organizations. However, in practice, it appears that financial support is routinely provided for one representative of the EEHYC and one NGO representative, at the NGOs indication.

#### *Terms of Reference of AWG of the EHTF*

22. The AWG ToR do not include specific arrangements for public participation but it is indicated that the AWG will operate to the extent appropriate under the EHTF RoP analysed above (para 6. of AWG ToR).

#### *Rules of procedure of EHMB*

23. Due to the absence of public participation in the EHMB (noted above), there are also no formal arrangements for public participation. All relevant obligations, which are similar to those under the EHTF, only apply to the members of the EHMB.

#### *Assessment*

24. Due to the fact that the EHTF is the main responsible body to prepare the Ministerial Conference<sup>25</sup> and stakeholders are consulted early on preparatory documents, public participation appears to take place at an early stage, when all options are still open (paras. 32 and 36 of the Almaty Guidelines). Similarly, "documents relevant to the decision-making" are made available to the member NGOs (para. 34 of the Almaty Guidelines) and possibilities to comment are arranged as shown above (para. 35 of the Almaty Guidelines). Timeframes for indicated participation modalities appear to be adequate (as required by para. 36 of the Almaty Guidelines), whether indicated in the EHTF RoP (two weeks to add items on agenda and two further weeks to comment, three weeks to consider draft Working Papers) or set by informal arrangements (five weeks for online consultation on Roadmap to Ministerial Conference). The equal voting rights and the duly reported input in the

<sup>23</sup> Progress Report on the Environmental and Health Process, paras. 39-42

[http://www.euro.who.int/\\_data/assets/pdf\\_file/0006/283839/65wd18e\\_EHP\\_150476.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0006/283839/65wd18e_EHP_150476.pdf?ua=1)

<sup>24</sup>For list of contributions see [http://www.euro.who.int/\\_data/assets/pdf\\_file/0018/276102/Improving-environment-health-europe-en.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0018/276102/Improving-environment-health-europe-en.pdf?ua=1), page viii.

<sup>25</sup> See for instance, Progress Report on the Environmental and Health Process, para. 45.

[http://www.euro.who.int/\\_data/assets/pdf\\_file/0006/283839/65wd18e\\_EHP\\_150476.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0006/283839/65wd18e_EHP_150476.pdf?ua=1)

reports, including actual contribution in writing reports, certify that due account is taken of the participation of member NGOs as well (para. 37 of the Almaty Guidelines).

25. However, all of the above does not apply to observers and the public, which are only informed of finalized documents or during the meeting, and are given no possibilities to provide input, besides speaking at the meeting itself. As noted above, observer status and utilization of other forms of public participation (para. 33 of the Almaty Guidelines) is limited and, while information is provided, preparatory documents and drafts, which fall under “documents relevant to the decision-making” (para. 34 of the Almaty Guidelines), are withheld.

26. The financial support for member NGOs is in accordance with para. 39 of the Almaty Guidelines. The Almaty Guidelines accord in that regard sufficient discretion to accommodate the fact that finances may be lacking to also support observer NGOs. Nonetheless, attempts should be made to also financially support other relevant non-governmental organizations.

27. As financial support for eligible member States and NGOs is entirely dependent on voluntary contributions made available to the secretariat, which are both unpredictable and ultimately unsustainable, it makes it difficult to ensure financial support for NGOs participation on a continuous basis. However, efforts are being made by the secretariat to support the participation of the NGOs attending the AWG and EHTF meetings.

#### **IV. Review Procedures (para. 40 of the Almaty Guidelines)**

28. No specific review procedure relating to any application of the rules of the European Environment and Health Process regarding access to information and public participation has been established.<sup>26</sup>

#### **V. Conclusions**

29. While access to information appears partially adequate, public participation is arranged only for a small group of organizations and accreditation processes are insufficiently transparent. To overcome these limitations, several measures, such as the following, could be considered:

- The process for the selection of member NGOs to the EHTF should be clarified and NGOs should be entrusted with this selection.
- Ministerial Conferences and EHTF meetings should be public and open to any interested observer, without requiring an invitation of the EHTF members. Utilization of webex connection to engage more observers should be also considered in that regard.
- Observers should be given access to preparatory documents and permitted to provide comments thereon, such as Working Papers, the Roadmap to the Ministerial Conference, the Progress Report etc.
- Although, it has been already implemented in practice, a formal possibility for the representative(s) of NGOs to attend the EHMB as observer(s) should be established.
- Provision of financial support by Member States to a larger number of NGOs to attend the meetings should be encouraged.

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<sup>26</sup> For relevant policy documents see <http://www.euro.who.int/en/health-topics/environment-and-health/pages/european-environment-and-health-process-ehp/policy-documents>.