

Public participation under the Aarhus Convention and stakeholders' involvement in decision-making related to sustainable development

Task Force on Public Participation
In Decision-Making
Seventh meeting
Geneva, 14-16 December 2016

Introduction

- Public participation
 - Used mainly in binding instruments
 - Well defined under the Aarhus Convention
- Stakeholders' involvement
 - Used mainly in non-binding instruments
 - No clear generally applicable definition
- Issue not handled extensively under Aarhus Convention
 - by the Compliance Committee
 - no clear guidance in
 - Implementation Guide
 - Maastricht Recommendations
- Issue addressed sometimes by special UN rapporteurs
 - Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, The right to participation, A/69/213, 31 July 2014

Stakeholders as representation of various interests

- Public
- Business
- Trade-unions
- Various agencies
- Local authorities

Stakeholders as representation of the public

- NGOs
- Community-based groups
- Neighbourhood associations
- Special rapporteur Catarina de Albuquerque
 - Stakeholder participation limited to a few well-established NGOs, raises doubts about whether their involvement amounts to genuinely inclusive participation.

ACC-51 (Romania)

- inclusion of representatives of NGOs and “stakeholders” into a closed advisory group cannot be considered as public participation under the Convention. Furthermore, whatever the definition of the “public concerned” in the law of a Party to the Convention, it must meet the following criteria under the Convention:
 - 1)- include both NGOs and individual members of the public; and
 - 2) be based on objective criteria and not on discretionary power to pick individual representatives of certain groups. In this context, any participation in any closed advisory groups cannot be considered as public participation under the Convention.

Criteria established by special rapporteur Catarina de Albuquerque

- Stakeholder participation can enhance or detract from meaningful participation depending on a range of factors, including:
- **(a)** Accurate, sensitive and transparent identification, so that the invited groups are in fact representative of those most concerned. When selection is appropriate, stakeholder participation has an advantage over an “unaffiliated” approach.
- **(b)** The degree to which the collective entity is indeed representative of the interests of those it claims to represent;
- **(c)** Stakeholder participation must be supplemented by a deliberate effort to identify concerned people who may not be reached through this method and to devise a way to fill the gap.