



Meeting of the Parties to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Task Force on Public Participation in Decision-Making

Seventh meeting

Geneva, 15-16 December 2016

Key outcomes¹

As agreed by the Task Force on Public Participation in Decision-making at its seventh meeting, held on 15-16 December 2016

I. Opening and adoption of the agenda

1. The Task Force adopted the agenda as set out in the document AC/TF.PP-7/Inf.1.

II. Thematic focus: Decision-making for sustainable development

2. The Task Force took note of the experiences, good practices and challenges shared by the presenters from Belgium, Switzerland, the UNECE Sustainable Development Unit, Caucasus Environmental NGO Network (CENN), the Ararat Aarhus Centre, and by Mr. Jendroska (expert), and noted the subsequent discussions and comments from the floor, which inter alia addressed the following:

- (i) the importance of involving the public and other stakeholders in preparing strategies for sustainable development and in monitoring their implementation, in order to avoid possible conflicts in the future and facilitate implementation of relevant decisions.
- (ii) awareness-raising and education on matters of sustainable development, as prerequisites for effective public participation.
- (iii) the need for effective review mechanisms, including guidelines for common reporting, in order to ensure a transparent, inclusive and participatory processes in the monitoring of implementation of sustainable development strategies and Sustainable Development Goals.
- (iv) the added value of organising regional reviews and roundtables, learning from good practices using online platforms, websites and applications.
- (v) the possibility of using Aarhus Centres as a platform to promote multi-stakeholder dialogue on sustainable development.

¹ This document was not formally edited.

3. The Task Force further noted the following:

- (i) The presentations on experiences in Parties to the Aarhus Convention, demonstrated the relevance in applying the provisions of the Convention in sustainable development decision-making because in almost every case these decision-making processes affect in some significant way the environment. It is therefore important to apply the provisions of the Convention in this area.
- (ii) Decision-making on sustainable development matters, can concern inter alia policies, projects, strategies, plans and legal acts. The Aarhus Convention clearly stipulates specific public participation procedures for each of these forms.
- (iii) The concept of sustainable development goes hand in hand with stakeholder involvement. Nonetheless, there is a noticeable difference between the stakeholder involvement carried out under various processes and public participation as provided by the Convention. Parties should therefore ensure that public participation is implemented effectively in accordance with the Convention's requirements.
- (iv) Involvement of the public at an early stage in sustainable development decision-making will increase the probability of active engagement of the public in the implementation of relevant measures at international, national, and subnational levels.
- (v) Sustainable development decision-making addresses important issues with long term impact. It is therefore necessary to take into account the interest of future generations. This is an important challenge for countries, which should consider exploring ways to involve future generations in decision-making through e.g. Youth Parliaments, education for sustainable development and awareness-raising. Further work is deemed necessary in this field.
- (vi) Sustainable development requires close inter-ministerial cooperation at the national level. New challenges and opportunities have arisen in involving different governmental authorities and defining their leading role in sustainable development decision-making.
- (vii) Examples of bottom-up approaches and constant involvement of local communities and stakeholders, such as for the establishment of national parks, show that such public participation can ensure a higher degree of protection of natural resources thereby contributing to implementation of relevant Sustainable Development Goals.
- (viii) Sustainable development decision-making can take place in a transboundary context, and public participation is an important matter and should not be neglected in these circumstances.

III. Obstacles, challenges and good practices in relation to public participation in decision-making related to changes to or extension of existing activities; and in a transboundary context

(a) Changes to or extension of existing activities

4. The Task Force took note of the experiences, good practices and challenges shared by the expert and by the presenters from Armenia, Italy and Environment-People-Law and noted subsequent discussions and comments from the floor, which inter alia addressed the following:

- (i) Challenges arising from the interpretation of article 6 paragraph 10 on a case by case basis.

- (ii) Need for clearer understanding of the scope of article 6 paragraph 10. This could be achieved through:
 - a. The elaboration of case law and national legislation regarding public participation in relation to the change or extension of an existing activity;
 - b. The compliance mechanism, which plays a useful role in helping Parties in this regard through its recommendations.
- (iii) Need to include the views of the affected and interested public as this significantly helps to ensure the decision making process is equitable and fair and leads to more informed choice and better environmental outcomes.

5. The Task Force further noted the following:

- (i) The application of Article 6 paragraph 10 and of annex 1 of the Convention is a complex but very actual issue.
- (ii) Public participation in decision-making on changes or extensions of activities seems to be carried out on a case-by-case basis.
- (iii) There is evidence from examples presented at the meeting that it is necessary to secure that the views of the public, particularly the local population, are duly taken into account through a participatory process.
- (iv) Further consideration of relevant provisions of different instruments that address the issue of changes and extensions of activities, namely the Aarhus Convention, the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the European Union's Environmental Impact Assessment Directive on the assessment of the effects of certain public and private projects on the environment (2011/92/EU), as amended in 2014 (EIA Directive 2014/52/EU) is particularly relevant. While Article 6 paragraph 10 of the Aarhus Convention is clearly addressed in the European Union's Directive on industrial emissions (integrated pollution prevention and control) (Industrial Emission Directive 2010/75/EU), in the EIA instruments (Espoo Convention and the EIA Directive) there is no clear equivalent provision, and the issue is addressed only in relation to physical changes to the activity. The EIA Directive in any case makes explicit reference to the Aarhus Convention, so it should be interpreted in that spirit.
- (v) Changes and extensions of activities should be broadly defined and should not be limited to "major changes". For instance, extension of lifetime of activities and changes of natural environment or in population patterns are relevant in this context.
- (vi) Screening procedures for changes and extensions of existing activities, which include public consultations, have great potential in helping to increase acceptability of the activity.
- (vii) The issue of public participation in decision-making related to changes to or extension of existing activities deserves to be further studied and discussed under the auspices of the Task Force, also, for example through the preparation of relevant guidelines.
- (viii) The draft good practice recommendations on the application of the Espoo Convention to nuclear energy-related activities is worthy of attention. In this regard, the secretariat is requested to explore whether it will be possible to address explicitly article 6 paragraph 10 of the Aarhus Convention in those recommendations. Such a consideration of the Convention's provisions would assist Parties to both Conventions to implement the relevant provisions in a more integrated way.

(b) decision-making in a transboundary context, including barriers to participation of non-governmental organizations, the general public and marginalized groups

6. The Task Force also took note of the experiences shared by the expert and the presenters from Lithuania, Serbia and from NGO Women in Europe for a Common Future, and noted the subsequent discussions, comments and suggestions from the floor regarding decision-making in a transboundary context, which inter alia addressed the following challenges for ensuring effective public participation for activities with a transboundary impact on the environment:

- (i) The need for cross-border notification and adequate translation of documents often leads to lengthy and costly decision-making procedures;
- (ii) Information and outreach campaigns, trainings, workshops, multi-stakeholder policy dialogues and establishment of advisory bodies with NGO participation, should be seen as complimentary activities to public participation procedures.

7. The Task Force further noted the following:

- (i) Public participation in a transboundary context is a requirement of the Convention stemming from the principle of non-discrimination also enshrined in the Convention.
- (ii) Given the complexity of public participation in a transboundary context it is important to ensure that public participation procedures are designed and implemented in accordance with the Convention from the outset as to avoid lengthy and costly remedy actions later.
- (iii) It should be made clear to investors and developers that the relevant legislation should be respected well in advance of the start of the investment project.
- (iv) Collection and dissemination of good practices is essential for improving public participation procedures throughout the region.
- (v) It is important that Parties involved in transboundary processes cooperate closely in order to ensure effective public participation in accordance with the Convention. Existing good practices, such as operational contacts between line ministries of all countries involved in a transboundary assessment should be further promoted as to facilitate public participation procedures.
- (vi) It is important to build capacities of civil society, when carrying out projects in a transboundary context.

IV. Maastricht Recommendations

8. The Task Force:

Took note of the analysis of the results of the surveys on the use of the Maastricht Recommendation on promoting effective public participation in decision making in environmental matters (Maastricht Recommendations), presented by the secretariat. It also took note of the experiences, good practices and challenges shared by the presenter from Romania, and noted the subsequent discussions and comments from the floor, which, inter alia, highlighted the following:

- (i) The value of the Maastricht Recommendations as a tool to help Parties organize effective public participation in decision making in environmental matters and the importance to widely promote them, arising thereof;
- (ii) The efforts to disseminate the Recommendations are mainly focused on the use of electronic information tools (websites, portals, social media);

- (iii) Challenges still exist with regards to the translation and dissemination of the Recommendations, the provision of relevant training on their use to public authorities (at national and subnational level), to NGOs, to marginalized and vulnerable groups and to private sector. The main obstacles include lack of human and financial resources and time constraints;
- (iv) In order for the Recommendations to reach all relevant target groups it is necessary to use all available means including, but not limited to, official websites of public authorities, NGOs and Aarhus centres.

9. The Task Force further noted the following:

- (i) Progress has already been observed in some countries with regards to the use of the Recommendations.
- (ii) However, further actions are needed to translate and disseminate the Recommendations to local authorities through also engaging NGOs and Aarhus Centers.

V. Closing

10. The Task Force thanked the speakers for their useful presentations and agreed on the outcomes presented by the Chair at the meeting, which will be incorporated in the meeting report.
