PROMOTING THE PRINCIPLES OF THE AARHUS CONVENTION IN THE LEAD UP TO, DURING AND AFTER THE UNITED NATIONS CLIMATE CHANGE CONFERENCE 2009, COPENHAGEN

Excerpt from the Chair's Summary of the Workshop on "Experiences of promoting the application of the principles of the Aarhus Convention in international forums"[1]

Tuesday, 29 June 2010, Geneva

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I. INTRODUCTION

1. All Parties to the Aarhus Convention are also Parties to the United Nations Framework Convention on Climate Change. At the eleventh meeting of the Working Group of the Parties (8-10 July 2009), European ECO-Forum, supported by Norway, requested the Working Group to call on Parties to seek to improve access to the UNFCCC negotiations for NGOs and civil society organizations and to promote the inclusion of Aarhus elements in the substance of the decisions UNFCCC was expected to take at the fifteenth session of the Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC CoP-15, Copenhagen, 7-18 December 2009). It suggested that the Aarhus Convention secretariat as well as the PPIF Task Force might offer their assistance and expertise to UNFCCC for this purpose.[2]

2. At the twenty-sixth meeting of the Compliance Committee (15-18 December 2009), the Compliance Committee took note of a statement received on 14 December 2009 from some fifty civil society organizations regarding restrictions on civil society participation at UNFCCC CoP-15 in Copenhagen, then ongoing.[3]

3. In light of the above, the Chair of the PPIF Task Force decided to dedicate one session of the workshop as a case study on the implementation of the principles of the Aarhus Convention in the lead up to, during and after UNFCCC CoP-15 in Copenhagen. During the session, workshop participants identified a number of needs and challenges regarding promoting the principles of the Aarhus Convention in the lead up to, during and after the UNFCCC CoP-15 in Copenhagen as well as of recommendations to assist Aarhus Convention national focal points with addressing these needs and challenges. Workshop participants also made a number of recommendations regarding how the involvement of civil society in the UNFCCC processes might be enhanced more generally.

II. NEEDS AND CHALLENGES

4. The following needs and challenges regarding access of accredited NGO observers during the Copenhagen conference were noted by workshop participants:

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[1] This excerpt will be formally edited as part of the full Chair's summary of the workshop, which will be available in due course online at http://unece.org/env/pp/ppif.htm#TFPPIF.

[2] Report of the eleventh meeting of the Working Group of the Parties (29 June-2 July 2009), ECE/MP.PP/WG.1/2009/2, para 87.

[3] Report of the twenty-sixth meeting of the Compliance Committee (15-18 December 2009), paras 7-8.

(i) The lack of capacity of the CoP-15 organizers to deal with the registration and access of the participants, resulting in accredited observers queuing in the cold for hours/days and being prevented from taking part in the conference.
(ii) Additional restrictions imposed on the access of civil society delegates. For example the introduction of a secondary badge system during the final days saw the vast majority of NGOs excluded from the meeting rooms.
(iii) The limited information flow to NGOs, e.g. they were not informed of the additional restrictions in advance, hampering the ability of participants to adapt and to make alternative arrangements, e.g. for side-events and meetings with government representatives.
(iv) The extended police powers meaning that police could arrest civil society on minor grounds.
(v) The cleaning of the venue during a critical evening of the final week which resulted in all NGO observers being required to leave, preventing them from continuing dialogue with government delegates.

5. The following challenges regarding the quality of public participation during the Copenhagen conference were noted by workshop participants:
   (i) The lack of transparency of the negotiating process, with the majority of negotiations taking place in meetings closed to observers. This was exacerbated by the rapid speed at which the climate change negotiations evolved.
   (ii) Rules on civil society participation being interpreted in a restrictive way, e.g. the rule against "threatening behaviour" being interpreted to include naming a particular international forum in a protest action, and a lack of clarity regarding the process and possible sanctions that may be imposed for breaching these rules.
   (iii) A lack of understanding of the value of effective public participation by many governments and other actors involved in the UNFCCC negotiations.
   (iv) A lack of a real opportunity for civil society to engage in a direct way in negotiations. Civil society sits at the back of the meeting room (when allowed in). They may only speak at the beginning and at the end of the conference, and their brief presentations have to be cleared in advance by the secretariat.
   (v) At present, all groups of stakeholders are considered on the same footing but in practice, strong inequalities exist in terms of capacity, economic resources and political influence among different groups of stakeholders, e.g. women, youth and developing country NGOs report challenges in this regard.

6. Workshop participants noted the following needs and challenges in the follow-up after the Copenhagen conference:
   (i) The Copenhagen conference has to some extent created an atmosphere of distrust between UNFCCC Parties and NGOs and it is thus necessary to rebuild the dialogue. In this regard, the June 2010 invitation for civil society focal points to meet the secretariat in Bonn to discuss future work around public participation was a positive step.

III. RECOMMENDATIONS REGARDING ENHANCING PUBLIC PARTICIPATION IN UNFCCC PROCESSES

7. Some of the recommendations made by workshop participants regarding how the quality of public participation in UNFCCC processes might be enhanced included:
   (i) The respective roles of secretariat, Parties and host country in determining public participation policies should be made explicit. Clear information on the respective responsibilities of the secretariat and the host of each CoP – e.g. the Government of Mexico for CoP-16 – should be made public well in advance of the CoP.

(ii) Venues should be chosen that allow for a strong representation of civil society constituencies. Should limitations be required due to space constraints or other issues there should be prior consultation with civil society sufficiently in advance in order to adapt effectively to any such limitations. In addition, civil society should have opportunities for input into the criteria and procedures for setting the limitations in order to ensure that the diverse needs and resources of observer organizations are taken into account.

(iii) If it becomes necessary to impose restrictions on access to the negotiating area for security reasons these should relate only to access to meeting rooms and not to access to the venue itself. If it becomes necessary to impose restrictions on access to the negotiating area for capacity reasons these should guarantee a minimum percentage of civil society participation.

(iv) Civil society should be entitled to have access to up-to-date draft negotiating texts.

(v) Civil society should have speaking slots just before or during negotiations sessions – not only at the beginning and at the end of CoP where they sometimes get skipped due to time constraints.

(vi) The default approach for all civil society engagement – from participation in closed sessions, to interventions and access to delegates' "pigeonholes" – should be full participation and access. Only in exceptional circumstances should Parties decide to limit access.

(vii) The UNFCCC Guidelines on Public Participation should be revised with the final guidelines published well before CoP-16. This process should include meaningful participation by civil society. The proposed revisions should be broadly disseminated and comments solicited sufficiently in advance of their implementation to allow the UNFCCC secretariat to revise the guidelines in light of comments received.

(viii) UNFCCC Parties should invite civil society to nominate representatives to participate as part of the official government delegation. Civil society serves as an extremely valuable technical and political resource for Parties, especially in developing countries.

(ix) The UNFCCC secretariat should be mandated to use more of its budget to facilitate public participation and Parties should provide increased financial resources to support these efforts.

(x) Further mechanisms, including for financial support, should be developed to address the inequalities in terms of capacity, economic resources and political influence among different groups of stakeholders.

(xi) Innovative ways of engaging civil society should be explored, including for instance facilitation of cross-constituency civil society meetings and workshops.

(xii) As processes become more formalized, NGOs themselves need to get better organised in order to overcome bureaucratic obstacles, e.g. early deadlines, short timelines and strict registration rules.

(xiii) The UNFCCC and Aarhus Convention secretariats might exchange more thoroughly regarding their processes and practices in order to better understand the context in which each operates.