

Economic Commission for Europe

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

Working Group of the Parties

Twentieth meeting

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Item 3 (b) of the provisional agenda

Note by the Chair of the Task Force on Public Participation in Decision-making on possible future directions for the work¹

This note was prepared by the Chair of the Task Force on Public Participation in Decision-making to facilitate preparation of the draft elements of the future work programme by the Bureau at its 37th meeting (Geneva, 25-26 February 2016). The note expects to assist the Bureau and the Working Group of the Parties in their deliberations on the future work in the area on public participation in decision-making.

1. The 2014 cycle of national implementation reports, the findings of the Compliance Committee and the work carried out under the auspices of the Task Force to date, have each shown that many challenges continues to remain to the full implementation of the second pillar of the Convention across the region. The Convention's Strategic Plan 2015-2020 adopted through decision V/5² by the Meeting of the Parties to the Convention at its fifth session (30 June - 1 July 2014) also outlines a number of actions dedicated to the promotion of public participation in decision-making, in particular the objectives I.11, III.4, III.5 and III.6³.
2. The Task Force plays a vital role in bringing together experts from governments, civil society and other stakeholders to exchange experiences regarding these challenges and to explore possible good practices to address them. Since the successful establishment of the Task Force at extraordinary session of the Meeting of the Parties in 2010, its meetings are now providing an important platform for dialogue between interested governments, civil society and other stakeholders from different parts of the UNECE region on how to most practically address the challenges faced with implementing the second pillar.
3. Relevant sections of the national implementation reports and of the findings of the Compliance Committee have been used as background materials for the work of the Task Force.

¹ This document was not formally edited.

² Available from http://www.unece.org/env/pp/aarhus/mop5_docs.html#/

³ Available from http://www.unece.org/env/pp/aarhus/mop5_docs.html#/

4. Pursuant to decision V/2 adopted by the Convention's Meeting of the Parties, the Task Force addressed in great details the following issues related to challenges in all types of decision-making (including at national, provincial and local level) within the scope of articles 6, 7 and 8 of the Convention:

- Identification and notification of the public concerned, including marginalized groups (at its fifth and sixth meetings).
- Early public participation, when all options are open, including with regard to private contracts and multiple decision-making processes/tiered decision-making (at its fifth and sixth meetings).
- Due account of comments and outcomes of public participation (at its fifth meeting).
- Innovative practices that facilitate more effective public participation without entailing additional significant financial or human resources on the part of public authorities (at its fifth meeting).
- Role of private actors and project developers in carrying out public participation procedures (at its fifth meeting).
- Public participation in decisions on proposed activities not listed in annex 1 of the Convention (article 6 paragraph 1 (b) of the Convention) (at its sixth meeting).

5. In addition, each meeting of the Task Force had a special thematic session focused on a particular type of decision-making or sector. Thus, the fifth meeting considered different aspects and stages of public participation in climate change-related decision-making, and the sixth meeting has debated public participation in energy-related planning.

6. It is planned that the seventh and last meeting of the Task Force in the current intersessional period will address challenges and good practices in public participation in decision-making related to changes to or extensions of existing activities and public participation in a transboundary context. The Task Force will also hold a thematic session on decision-making for sustainable development.

7. A simple survey was carried out under the auspices of the Task Force to assess the use by the Parties of the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters. The survey and of the subsequent discussion at the Task Force have showed that the full potential of the Recommendations is still to be explored.

8. In addition to the useful and very lively discussions, great deal of valuable material has been produced by the Task Force, including reports of its meetings and presentations by different participants, which highlight challenges, as well as showing best practices and offering solutions on how to address those challenges in order to advance effective public participation.

The way forward

9. Through its work to date, the Task Force identified that a number of issues of a systemic nature still remain a challenge to the implementation of the second pillar of the Convention. These include ensuring meaningful and early public participation when all options are still open; the availability of all relevant documents to the public; effective means of notification and sufficient time frames during the decision-making to enable the public to participate effectively; that marginalized groups are able to participate effectively; that greater account be taken of the comments from the public in the final decision; and that the final decision and the reasoning on which it is based is communicated to the public, including how the

public's comments have been taken into account in the decision. Thus, it is suggested that the Task Force should continue its deliberations on these subjects.

10. The Task Force indeed demonstrated its potential to provide a forum for Parties, non-governmental organizations and other stakeholders to share good practices and practical means of promoting more effective public participation in environmental decision-making. It is therefore suggested that the Task Force should continue to be a vehicle through which experts can come together to exchange good practices for addressing the main obstacles to effective public participation in decision-making within the scope of articles 6, 7 and 8 of the Convention. Thematic sessions on particular types of decision-making or sectors have also proved to be very beneficial for Parties and stakeholders. It is suggested to focus future work on those subjects that were not tackled by the Task Force in the current intersessional period: e.g. decision-making on the extractive sector; chemicals; emerging technologies (e.g., nanotechnology); and product-related decision-making, while continuing keeping an eye on public participation in climate change related decision-making, due to the growing public interest on this topic. The Task Force should also continue to monitor the use of the Maastricht Recommendations.

11. In addition to expert discussions of practical measures at meetings of the Task Force, it will be useful to bring to the attention of the Working Group those issues that deserve particular attention of national focal points.

12. International organizations, regional environmental centres, Aarhus Centers, NGOs and other partners should be called upon to continue supporting capacity-building activities to further the implementation of the second pillar of the Convention at national and sub-regional levels. Trainings for public officials involved in the day-to-day task of carrying out public participation procedures covered by articles 6, 7 and 8 of the Convention should receive priority. Bearing in mind the specificity of each country's national framework (e.g. legislation, institutional arrangements, civil society capacity, languages), national-level trainings are particularly encouraged.

13. Parties and stakeholders should be also encouraged to provide more inputs to the Aarhus Good Practice database.
