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Access to Information, Public Participation  
in Decision-making and Access to Justice  
in Environmental Matters

### Working Group of the Parties

#### Twenty-first meeting

Geneva, 4-6 April 2017

Item 3 (b) of the provisional agenda

**Substantive issues: public participation in decision-making**

## Report of the Task Force on Public Participation in Decision-making on its seventh meeting\*

### *Summary*

At its second extraordinary session (Geneva, 19-22 April and 30 June 2010), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters established the Task Force on Public Participation in Decision-making (ECE/MP.PP/2010/2/Add.1).<sup>1</sup> At its fifth session (Maastricht, the Netherlands, 30 June–1 July 2014), the Meeting of the Parties further extended the Task Force's mandate and placed the Task Force under the authority of the Working Group of the Parties (ECE/MP.PP/2014/2/Add.1, decision V/2, para. 9).<sup>2</sup> Decision V/2, paragraph 11, sets out the issues to be addressed by the Task Force at its meetings.

In accordance with the above mandates, the report of the Task Force on its seventh meeting (Geneva, 15-16 December 2016) is being submitted to the Working Group of the Parties for its consideration.

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\* The present document was submitted late owing to the need for the secretariat to liaise with speakers regarding their presentations and interventions summarized herein.

<sup>1</sup> Available from [http://www.unece.org/env/pp/emop2010.html#/.](http://www.unece.org/env/pp/emop2010.html#/)

<sup>2</sup> Available from [http://www.unece.org/env/pp/aarhus/mop5\\_docs.html#/.](http://www.unece.org/env/pp/aarhus/mop5_docs.html#/)



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## Introduction

1. The seventh meeting of the Task Force on Public Participation in Decision-making under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held in Geneva, Switzerland, on 15 and 16 December 2016.<sup>3</sup>
2. The meeting was attended by experts designated by the Governments of Albania, Armenia, Belgium, Finland, Georgia, Italy, Lithuania, Malta, the Netherlands, Romania, Serbia, Slovakia, Switzerland and Ukraine. A representative of the European Commission, representing the European Union, also participated.
3. The following United Nations organizations, intergovernmental organizations, regional environmental centres and Aarhus Centres were represented at the meeting: the Ararat Aarhus Centre of Armenia; the Gyumri Aarhus Centre of Armenia; the Khorog Aarhus Centre of Tajikistan; the Regional Environmental Centre for Central and Eastern Europe; and the United Nations Environment Programme.
4. The following non-governmental organizations (NGOs), academic institutions and business organizations were represented at the meeting: Aleksandër Moisiu University of Durrës (Albania); Caucasus Environmental NGO Network (CENN) (Georgia); Earthjustice (Switzerland); Environment People Law (Ukraine); EuropaBio — the European Association for Bioindustries (Switzerland); Public Awareness and Monitoring Center (Armenia); public organization “Niso” (Tajikistan); public organization “RUHAFZO” (Tajikistan); Quaker United Nations Office; SEG Civil Society Support Center NGO (Armenia); and Women in Europe for a Common Future International (Germany).
5. One independent expert from Poland was also present.

## I. Opening of the meeting and adoption of the agenda

6. The Task Force Chair, Ms. Loredana Dall’Ora (Italy), opened the meeting.
7. The Task Force adopted its agenda as set out in document AC/TF.PP-7/Inf.1.
8. The secretariat introduced the three background documents: selected extracts from national implementation reports (AC/TF.PP-7/Inf.2); selected considerations, findings and reports of the Aarhus Convention Compliance Committee relating to public participation in decision-making related to sustainable development (AC/TF.PP-7/Inf.3); and selected considerations, findings and reports of the Committee relating to public participation in decision-making related to changes to or extensions of existing activities and in a transboundary context (AC/TF.PP-7/Inf.4).

## II. Thematic session on decision-making for sustainable development

9. Introducing the thematic session on decision-making for sustainable development, the Chair noted that the objective of the session was to discuss challenges and to share experiences with regard to public participation in decision-making for sustainable development.

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<sup>3</sup> Documents for the seventh meeting, including a list of participants, statements and presentations are available online from <https://www.unece.org/env/pp/aarhus/ppdm7.html#/>.

10. The representative of the Sustainable Development and Gender Unit at the United Nations Economic Commission for Europe (ECE) presented a summary analysis of the results of the regional survey on the planning, implementation, follow-up and review of efforts to achieve the Sustainable Development Goals in relation to public participation. According to the survey, countries were seeking to build on existing policy frameworks by reviewing policies and strategies in the light of the Goals. While countries could define national priorities, it was crucial that that did not result in “cherry picking” among the Sustainable Development Goals. In order to adapt the Goals to national and local realities, countries planned to involve stakeholders at all levels in the process, which required increased advocacy and awareness-raising. With regard to the monitoring and review of the implementation process, the survey showed that there was an immediate need for good quality data to ensure effective and transparent monitoring. It was not only important to collect aggregate statistical data, but coordination was needed as well in order to establish policy coherence and linkages between the targets. The mechanisms for review had not yet been fully defined, but it was clear that they needed to be transparent, inclusive and participatory. Broad multi-stakeholder involvement was also crucial in the monitoring process. Another important aspect that had been stressed in the responses was the need for guidelines on common reporting in order to ensure more effective reporting on Sustainable Development Goal implementation. In addition, responders wanted the reports to be widely disseminated beyond the government institutions, with a view to facilitating the exchange of experience across borders. To address some of the challenges and needs identified in the survey, a regional forum on sustainable development would be organized in 2017.

11. Independent expert Jerzy Jendroška, addressing the two notions of public participation and stakeholder involvement in decision-making related to sustainable development, underlined that public participation under the Aarhus Convention should not be understood as being synonymous with stakeholder involvement. According to Caterina de Albuquerque, the former Special Rapporteur on the human right to safe drinking water and sanitation, the notion of stakeholder participation was often limited to a few well-established NGOs, which raised doubts as to whether their involvement was genuinely inclusive. In that regard, Mr. Jendroška referred to a case under the Aarhus Convention where the Compliance Committee had found that participation in a closed advisory group could not substitute for fully fledged public participation with a possibility for every member of the public to participate. In order to enable meaningful participation, it was necessary to observe three requirements when identifying whom to involve: (a) the identification process had to be accurate, sensitive and transparent; (b) the collective entity had to indeed be representative of the interests of those it claimed to represent; and (c) stakeholder participation had to be supplemented by a deliberate effort to identify concerned people who might not be reached through the selection method. With regard to the third requirement, he also stressed that the needs of vulnerable groups were not identified in the Convention but were nevertheless relevant in the ECE region. In addition, as many countries were currently changing their legal framework regarding environmental impact assessments, awareness of the difference between public participation and stakeholder involvement was especially crucial.

12. The representative of Belgium spoke about how the local public had been involved in the development of a strategy for sustainable development for the Walloon Region. An electronic public consultation had been conducted in which, over a period of two months, citizens could comment on both the action plan and a long-term vision for the Walloon Region and make suggestions on how the public could be involved. As comments had been received from 250 individuals and associations, the level of participation was considered to be a success, bearing in mind that the strategy covered a broad range of issues and that the effects on the daily lives of citizens might not be obvious. All inputs had been analysed and, where appropriate, the strategy had been amended accordingly before its final

adoption. In order to build upon the public interest shown in the consultation procedure, plans were being considered to further involve the public during the implementation of the relevant action plan. The implementation of the strategy would be monitored and reviewed every two years and the public would be informed of the modalities and results of such monitoring.

13. In the following discussion, the representative of the ECE Sustainable Development and Gender Unit clarified that the member States had asked for reporting guidelines because they felt overwhelmed by the numerous requests for reports they received. The representative of Women in Europe for a Common Future pointed out that the organization was developing a regional civil society mechanism in Asia and the Pacific region to provide different means for public participation in the implementation of the Sustainable Development Goals. With regard to Mr. Jendroška's presentation on public participation and stakeholder engagement, several participants shared their observations. The representative of Romania explained that the recommendations of the Compliance Committee had helped improve the involvement of both NGOs and individuals in decision-making on environmental matters. The representative of the Regional Environmental Centre for Central and Eastern Europe noted that the Centre had put a lot of effort into explaining the difference between the notions of public participation and stakeholder engagement, which showed the persisting need to further raise awareness on that matter. In that regard, she suggested collecting good practices in public participation in decision-making on sustainable development-related issues and making them available to all Parties. The representative of the Khorog Aarhus Centre reported on promoting public participation with the assistance of child advocates and ongoing efforts to promote transboundary consultations between Tajikistan and Afghanistan. The representative of Belgium clarified that only digital means of notification had been used for public consultations in relation to the development of the sustainable development strategy for the Walloon Region. As part of the online consultation, participants had had the opportunity to suggest three voluntary commitments regarding the implementation of the action plan without any predefined list of choices being given. In addition, a call for projects had been launched in autumn 2016 and some had already been selected to receive funding. Not all the comments made during the consultation had been answered individually; some had been grouped and received a collective response.

14. The representative of Switzerland spoke about the relevance of public participation in the establishment of parks of national importance (including national, regional and peri-urban nature parks). The selection of parks of national importance was based exclusively on the initiative of the local population, building on the fundamental idea that parks should be developed at the regional level and be democratically legitimized. In Switzerland, local communities had the chance to vote on the draft charters, and only upon public approval of the charter would a park be established. Charters were usually valid for 10 years, following which local communities could vote on their further renewal. The advantages of that bottom-up process were, first, a higher acceptance of the parks' establishment among the population and, second, the avoidance of conflicts of interest.

15. The representative of the Caucasus Environmental NGO Network outlined systemic challenges and good practices in relation to public participation in decision-making on plans, strategies or policies related to sustainable development in Georgia. Public participation was currently not a part of the existing environmental impact assessment (EIA) procedures, but a new law was being drafted to rectify that. The new procedures were expected to enter into force in 2017. Besides improving its EIA law, Georgia was planning to improve its social impact assessment legislation and to implement the Protocol on Pollutant Release and Transfer Registers, and was already launching awareness-raising campaigns in order to facilitate the implementation of the Aarhus Convention. Such

campaigns included an “Environmental Knowledge Portal” and an online application allowing users to reveal threats to the environment, both developed by the Network.

16. The representative of Ararat Aarhus Centre in Armenia analysed the challenges faced by the Meliq community in stopping mining activities, which had depleted infrastructure and caused an economic crisis in the region. Furthermore, a lawsuit had been filed by local residents, together with the Ararat Aarhus Centre and NGOs, against the Ministry of Nature. The dispute had culminated in a public appeal to the President of Armenia to stop the activity and revoke the permits. While financial compensation was still to date owed to the local residents, in recent years land cultivation had been resumed.

17. In the ensuing discussion, the representative of Switzerland clarified that the nature of public involvement in the creation of a park, and especially the voting procedure used, depended on the canton’s legislation. The park charter had to be agreed by consensus and could not be changed during the first 10 years. Previous experience showed that communities benefited from the establishment of parks and neighbouring communities often wanted to join the project. Park authorities were usually composed of professional full-time staff but there was always representation of local communities. The representative of Georgia mentioned that the Sustainable Development Goals had been adapted to national circumstances and the next stage would be to include the public in monitoring their implementation. Regarding the development of national pollutant release and transfer registers, Georgia planned to set up an online reporting system on air from 2017, on waste from 2018 and later to set up a reporting system on water, which, together, would serve as the basis for a pollutant release and transfer register system. The representative of Armenia provided clarifications on the kinds of permits used in the Armenian mining sector: a mining exploration and a mining extraction permit. He also explained the grant procedure, which required a positive conclusion of the EIA procedure, followed by the issuance of the grant by the Ministry of Energy. That procedure always included public hearings and the public had time to submit comments and complaints, which had to be taken into account by the authorities in the final decision.

18. The Task Force took note of the experiences, good practices and challenges shared by the presenters from Belgium, Switzerland, the ECE Sustainable Development and Gender Unit, Caucasus Environmental NGO Network, the Ararat Aarhus Centre, and by Mr. Jendroška, and noted the subsequent discussions and comments from the floor regarding, inter alia:

(a) 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;

(b) Awareness-raising and education on matters of sustainable development, as prerequisites for effective public participation;

(c) 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 the Sustainable Development Goals;

(d) The added value of organizing regional reviews and round tables and learning from good practices using online platforms, websites and applications;

(e) The possibility of using Aarhus Centres as a platform to promote multi-stakeholder dialogue on sustainable development.

19. The Task Force further noted that:

(a) The presentations on experiences in Parties to the Aarhus Convention, demonstrated the relevance of applying the provisions of the Convention in sustainable development decision-making, because in almost every case those decision-making processes affected the environment in some significant way. It was therefore important to apply the provisions of the Convention in that area;

(b) Decision-making on sustainable development matters could concern, *inter alia*, policies, projects, strategies, plans and legal acts. The Aarhus Convention clearly stipulated specific public participation procedures for each of those cases;

(c) The concept of sustainable development went hand in hand with stakeholder involvement. Nonetheless, there was 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 was implemented effectively in accordance with the Convention's requirements;

(d) Involvement of the public at an early stage in sustainable development decision-making would increase the probability of active engagement of the public in the implementation of relevant measures at the international, national and subnational levels;

(e) Sustainable development decision-making addressed important issues with long-term impacts. It was therefore necessary to take into account the interest of future generations. That was 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 was deemed necessary in that field;

(f) Sustainable development required close interministerial cooperation at the national level. New challenges and opportunities had arisen in involving different governmental authorities and defining their leading role in sustainable development decision-making;

(g) Examples of bottom-up approaches and the constant involvement of local communities and stakeholders, such as for the establishment of national parks, showed that such public participation could ensure a higher degree of protection of natural resources, thereby contributing to implementation of relevant Sustainable Development Goals;

(h) Sustainable development decision-making could take place in a transboundary context, and public participation was an important matter and should not be neglected in those circumstances.

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

20. The Chair introduced the discussion devoted to identifying the main obstacles and challenges to effective public participation in decision-making related to changes to or extensions of existing activities and in decision-making in a transboundary context, including barriers to participation of non-governmental organizations, the general public and marginalized groups. Participants were invited to consider a number of issues in that regard, namely: early public participation when all options were open; the availability of all relevant documents in the required languages to the public; effective notification and time frames for public participation; ensuring greater account was taken of the comments from the public in the final decisions; and the provision of feedback on how the public's

comments were taken into account in the final decisions. The session also aimed to provide a platform for an exchange good practices on the subjects and to identify further needs.

## **A. Changes to or extensions of existing activities**

21. Opening the discussion, the independent expert, Mr. Jendroška, gave a presentation on the Aarhus Convention's provisions on public participation in relation to changes to or extensions of existing activities. The issue was politically highly sensitive because most of the cases under the Aarhus Convention concerning the issue related to nuclear activities. Part of the problem was that in many countries public participation in decision-making related to specific activities was closely interlinked with the EIA procedure, and neither the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) nor the European Union EIA Directive (as amended in 2014)<sup>4</sup> clearly envisaged a legal scheme similar to the scheme provided for under article 6, paragraph 10, of the Aarhus Convention. Furthermore, both instruments were often interpreted as requiring an EIA procedure (including public participation procedure) to be triggered only when physical changes were planned. As a result, many countries currently extended the lifetime of power plants without conducting an EIA or a public participation procedure. There was thus a need to resolve the discrepancy between EIA legislation and the provisions of the Aarhus Convention.

22. The representative of Armenia gave an overview of the country's experience. The advantage of the current legislative framework was that extensions were broadly defined, which prevented narrow interpretations by State bodies or courts. However, a major problem was the absence of a mechanism to decide which changes had an impact on the environment and which did not. With regard to enforcement mechanisms, a positive conclusion of State expertise (i.e., authorizing an activity) could be repealed by the relevant authority if:

- (a) The activity was being carried out in non-compliance with the project documents;
- (b) Changes had been made to the project or other fundamental documents;
- (c) New ecological factors had emerged;
- (d) New legislation in the environmental sphere had been enacted.

23. The representative of Armenia further explained that non-compliance when carrying out an activity could lead to a financial penalty or a ban on the activity. In order to further improve national legislation, an amendment to the law was currently being drafted, taking into account the recommendations of the Aarhus Convention Compliance Committee and problems identified by civil society.

24. Following the presentations, the representative of Armenia added that public participation was also foreseen for water and emissions permits, but with slightly different procedures. The handling of hazardous waste was also subject to licensing, but it fell under the EIA procedures. The representative of Finland reported that the issue of lifetime extension had also been a problem and had generated discussion in Finland where, in most cases, the legislation did not foresee time-restricted permits. She suggested that it would be helpful to receive a more concise and detailed definition of the term "changes".

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<sup>4</sup> Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.



25. Addressing public consultation at the EIA screening stage in cases of changes to or extensions of existing activities, the representative of Italy reported on the country's experiences in this context. She stressed that public involvement was key at the early stage of the EIA process, particularly during the screening procedure. It helped to ensure that the decision-making process was equitable and fair. In addition, public involvement ensured that public risk perceptions and public concerns were properly addressed, and that the views of all those that could potentially be affected by a project were taken into account. Moreover, early public participation in the screening procedure potentially helped increase the acceptability of any changes to or extensions of existing activities. In Italy a screening procedure, including public consultation, was mandatory for changes to or extensions of existing activities. Nevertheless, there was still a need to further improve formal and informal arrangements for public consultation and participation in the context of EIA procedures, while ensuring that such arrangements were in accordance with the requirements of the Aarhus Convention.

26. The representative of Environment People Law compared the legislative situation in various Parties regarding public participation in relation to changes to or extensions of existing activities, paying particular attention to the case of Ukraine. The 2014 national implementation reports indicated that legislation on such matters was already in place. In Ukraine, the new EIA law had been vetoed by the President, which had left the country with a legal gap. The concrete legal challenges Ukraine faced included:

- (a) The discretion granted to Parties in article 6, paragraph 10, of the Convention;
- (b) The absence of clear provisions in national legislation on EIA permitting, licensing and planning activities;
- (c) The absence of a detailed list of possible decisions that could be updated or reconsidered;
- (d) The lack of a clear understanding on how to involve the public concerned in cases of activities with transboundary effects.

27. Furthermore, regarding nuclear activities in particular, the representative of Environment People Law noted that the national nuclear lobby in Ukraine was very powerful. It had successfully lobbied for changes in the legislation, so that more control over the decision-making was given to the nuclear regulators. In order to overcome the challenges outlined, guidelines on the implementation of article 6, paragraph 10, were needed, with a particular focus on nuclear decision-making. In that vein, the possibility of synergies with the Espoo Convention and using the full potential of the recommendations of the Aarhus Convention Compliance Committee should be further explored.

28. In the ensuing discussion, Finland warned that the right to participate should not be limited to those who had access to electronic tools. Concerning the requirement of early public participation when all options were open in relation to lifetime extensions, Mr. Jendroška reminded participants that for lifetime extensions there was always an alternative available, which was not to allow the extension. Therefore, for lifetime extension decisions, "early" meant the point in time before the decision was taken. Furthermore, the wording "criteria/thresholds" in paragraph 22 of annex I meant that if there were no criteria, any change had to be subject to a public participation procedure.

29. Following the discussion, the Task Force took note of the experiences, good practices and challenges shared by Mr. Jendroška, by the presenters from Armenia, Italy and Environment People Law and noted the subsequent discussions and comments from the floor regarding, inter alia:

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

(b) The need for a clearer understanding of the scope of article 6, paragraph 10. That could be achieved through:

(i) The elaboration of case law and national legislation regarding public participation in relation to a change to or extension of an existing activity;

(ii) The compliance mechanism, which played a useful role by helping Parties to better understand how to implement the Convention's provisions through its recommendations;

(c) The need to include the views of the affected and interested public, as that significantly helped to ensure the decision-making process was equitable and fair and led to more informed choices and better environmental outcomes.

30. The Task Force further noted that:

(a) The application of article 6, paragraph 10, and of annex I to the Convention was a complex but very pertinent issue;

(b) Public participation in decision-making on changes to or extensions of activities seemed to be carried out on a case-by-case basis;

(c) The examples presented at the meeting demonstrated the necessity of ensuring that the views of the public, particularly the local population, were duly taken into account through a participatory process;

(d) Further consideration of the relevant provisions of the different instruments addressing changes to and extensions of activities, namely the Aarhus Convention, the Espoo Convention and the EIA Directive (as amended in 2014), was particularly important. While the subject of article 6, paragraph 10, of the Aarhus Convention (i.e. changes to or extensions of activities) was clearly addressed in the Industrial Emissions Directive,<sup>5</sup> in the Espoo Convention and the EIA Directive there was no clear equivalent provision and the issue was addressed only in relation to physical changes to an activity. The EIA Directive in any case made explicit reference to the Aarhus Convention, so it should be interpreted in that spirit;

(e) Changes to and extensions of activities should be broadly defined and should not be limited to "major changes". For instance, the extension of the lifetime of activities and changes in the natural environment or in population patterns were relevant in that context;

(f) Screening procedures for changes to and extensions of existing activities, which included public consultations, had a great potential to increase the acceptability of the activity;

(g) The issue of public participation in decision-making related to changes to or the extension of existing activities deserved to be further studied and discussed under the auspices of the Task Force, also, for example, through the preparation of relevant guidelines;

(h) The draft good practice recommendations on the application of the Espoo Convention to nuclear energy-related activities were worthy of attention. In that regard, the

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<sup>5</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).

secretariat was requested to explore whether it would 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**

31. Introducing the discussion on public participation in decision-making in a transboundary context, Mr. Jendroška noted the existence of two international legal regimes applicable when an activity in one country had an impact on the environment in another country — the Aarhus and the Espoo Conventions. While there was no doubt about the existence of a general obligation of countries under international law to assume responsibility for the transboundary damages caused, there were differences in the procedures for public participation stipulated by each Convention. On the one hand, the procedure under the Espoo Convention was one between two Governments, in which the key obligation was to notify Governments of potentially affected countries of the plans. The affected Government could either accept the assessment of the activity having an effect or reject it. If accepted, both Governments had the obligation to provide for a public participation procedure. In contrast, the Aarhus Convention conferred obligations on Governments towards the public at large. First, the public concerned needed to be identified by establishing who the affected public or the public likely to be affected were and whether that group had an interest in participating in the related decision-making. Second, the public concerned had to be provided with equal opportunities to participate. The existence of those two parallel regimes did not mean that fulfilling the obligations under one Convention substituted for fulfilling obligations under the other. Therefore, in order to observe the obligations of both Conventions, the precautionary principle should be followed.

32. The representative of Lithuania gave a presentation on the challenges the country was facing regarding public participation in decision-making in a transboundary context, focusing on the example of the construction and operation of the Ostrovets nuclear power plant. The main concrete problems that Lithuania had encountered were:

- (a) Inadequate timing, as early public participation was not guaranteed and time frames for the different stages of the public participation procedure were too short;
- (b) Translation and interpretation problems;
- (c) Different interpretations of the concept of public hearings;
- (d) The information requested had not been provided to the public.

33. The representative of Lithuania concluded by stressing the need for a uniform interpretation of the Convention's provisions. The sharing of experiences could help to overcome the obstacles currently faced by many countries in that regard.

34. In the following discussion, the representative of the Gyumri Aarhus Centre noted that more support should be provided by developed countries to promote and improve public participation in developing countries and countries with economies in transition. The representative of the Khorog Aarhus Centre reported that local communities in Tajikistan and Afghanistan were cooperating on a number of cross-border issues related to the environment, despite the fact that Afghanistan was not a party to the Aarhus Convention. He also noted that cross-border cooperation generally was an important issue in Central Asia.

35. The representative of Serbia informed participants about a project to construct a new block for the Kostolac thermal power plant in Serbia. In that case, an NGO had filed a complaint in the administrative court because of the alleged failure of the authorities to

comply with the provisions of the Espoo Convention. The administrative court had ruled that, while the obligations of the Aarhus Convention had been fulfilled, the competent authority had indeed failed to inform the neighbouring country Romania of the project. As a result, a new public participation procedure was currently taking place. Owing to the inefficiency of the legal system, the court decision had been rendered two years after the administrative dispute had been initiated. That pointed to a general problem in Serbia, i.e., time frames for public participation procedures in a transboundary context could be unpredictable because, among other things, the Ministry of Foreign Affairs needed to be involved in the procedure.

36. The representative of Women in Europe for a Common Future presented two cross-border projects that the organization had carried out. The first project had aimed at democratizing the governance of the Dniester River Basin and the second had the objective of raising awareness of the European Union *acquis* on product and chemical safety in the Balkans. In both projects, the focus had been on awareness-raising campaigns in order to involve all stakeholders in decision-making. Both projects demonstrated that outreach to potentially marginalized stakeholders was very important and that information campaigns had to be designed according to needs, including through the use of social media. It was furthermore an advantage to speak the language(s) of the target group(s) and to place emphasis on stakeholder cooperation.

37. In the following discussion, Mr. Jendroška referred to the challenge mentioned by some participants that public authorities were not interested in a fully participatory decision-making procedure in accordance with the provisions of the Convention, as that could be time-consuming. However, he reminded participants that that was a misconception because public participation as stipulated by the Convention could effectively save time and increase the acceptability of the investment. In addition, in response to the Serbian presentation, he commented that the involvement of the Ministry of Foreign Affairs in public participation in a transboundary context was not compulsory under the Convention. Parties might thus want to reconsider their own practices to make them less bureaucratic and lengthy. Finally, the representative of the Gyumri Aarhus Centre emphasized the crucial role played by women in raising youth awareness in Armenia.

38. Following the discussion, the Task Force took note of the experiences shared by Mr. Jendroška, the presenters from Lithuania, Serbia and Women in Europe for a Common Future, and noted the subsequent discussions, comments and suggestions from the floor regarding, inter alia:

(a) The need for cross-border notification and adequate translation of documents often led to lengthy and costly decision-making procedures;

(b) Information and outreach campaigns, trainings, workshops, multi-stakeholder policy dialogues and the establishment of advisory bodies with NGO participation should be seen as complementary activities to public participation procedures.

39. The Task Force further highlighted the following:

(a) Public participation in a transboundary context was a requirement of the Convention stemming from the principle of non-discrimination also enshrined in the Convention;

(b) Given the complexity of public participation in a transboundary context, it was important to ensure that public participation procedures were designed and implemented in accordance with the Convention from the outset so as to avoid lengthy and costly remedial actions later;

(c) 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;

(d) Collection and dissemination of good practices was essential for improving public participation procedures throughout the region;

(e) It was important that Parties involved in transboundary processes cooperated 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 in order to facilitate public participation procedures;

(f) It was important to build capacities of civil society when carrying out projects in a transboundary context.

#### **IV. Maastricht Recommendations on Promoting Effective Public Participation in Decision-Making in Environmental Matters**

40. The Chair introduced a discussion on the use of the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters (Maastricht Recommendations), inviting participants to share good practices and experiences and discuss existing challenges. A survey had been undertaken prior to the meeting in order to facilitate the discussion.

41. A member of the Aarhus Convention secretariat, presenting the survey results, noted that little progress had been made since the beginning of the year with regard to translating the Maastricht Recommendations into national languages and distributing them to public officials, NGOs and the private sector at the national and subnational levels, and also with regard to organizing trainings on their use. Among the reasons given by survey respondents for not translating or distributing the Recommendations or organizing relevant trainings for public officials, NGOs and the private sector were a lack of capacity, time and financial resources. Some respondents did not see the immediate need for such activities. Public awareness continued to be raised mainly through publishing information on the relevant ministry's official website. There was an absence of mechanisms for raising awareness about the Maastricht Recommendations among segments of the public that were difficult to reach, such as vulnerable and/or marginalized groups. The speaker also presented good practices on the promotion of the Maastricht Recommendations shared by Parties in their survey responses.

42. The representative of Romania reported on the use of the Maastricht Recommendations' in her country. A Romanian version of the Maastricht Recommendations was expected to be published on the websites of local and regional public authorities in 2017. In addition, the organization of a training on the Recommendations in the form of a round table was planned, with the aim of involving a wide range of public representatives.

43. In the ensuing discussion, the representative of the Regional Environmental Centre for Central and Eastern Europe underlined the usefulness of the Maastricht Recommendations in helping Parties implement the provisions of the Convention. In that regard, the posting of information about the Recommendations on official websites was not enough to raise awareness; the Recommendations should be actively promoted in order to reach out to all stakeholders. Furthermore, the translation of the Recommendations into national language(s) was crucial. The representative of Albania noted that the Maastricht Recommendations had already been translated into the national language and that it was proposed to organize relevant trainings with local authorities and NGOs in the future.

44. The Task Force took note of the analysis of the results of the survey on the use of the 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, including that:

(a) The Maastricht Recommendations were a valuable tool to help Parties organize effective public participation in decision-making in environmental matters and that it was important to widely promote them;

(b) Efforts to disseminate the Recommendations were mainly focused on the use of electronic information tools (websites, portals, social media);

(c) Challenges still existed with regard to the translation and dissemination of the Recommendations and the provision of relevant training on their use to public authorities (at the national and subnational levels), NGOs, marginalized and vulnerable groups and the private sector. The main obstacles included a lack of human and financial resources and time constraints;

(d) In order for the Recommendations to reach all relevant target groups it was necessary to use all available means including, but not limited to, official websites of public authorities, NGOs and Aarhus Centres.

45. The Task Force further noted that:

(a) Progress had already been observed in some countries with regard to the use of the Maastricht Recommendations;

(b) Further actions were needed to translate and disseminate the Maastricht Recommendations to local authorities, including by engaging NGOs and Aarhus Centres.

## **V. Closing of the meeting**

46. The Task Force thanked the speakers for their useful presentations and agreed on the key outcomes of the meeting, as presented by the Chair at the meeting (AC/TF.PP-7/Inf.5), which would be incorporated in the meeting report. The Chair thanked the participants, the secretariat and the interpreters and closed the meeting.

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