

## **CONCEPT NOTE ON PUBLIC PARTICIPATION UNDER THE UNECE/WHO-EURO PROTOCOL ON WATER AND HEALTH**

*This is a first draft of the concept note on public participation under the UNECE/WHO-EURO Protocol on Water and Health that is intended to be submitted to the second session of the Meeting of the Parties to the Protocol. It is expected that the Workshop on Information and Public Participation in Water and Health Related Issues under the Protocol on Water and Health will provide further inputs to this document, in particular by providing case studies and practical examples of public participation which could be adopted and duplicated under the Protocol and by recommending priority actions in this area to be taken up by NGOs active on water and health, Parties to the Protocol as well as activities to be included in the programme of work for 2011-2013 under the Protocol.*

### **BACKGROUND**

The Protocol on Water and Health (hereafter referred to as “Protocol”) puts great emphasis on access to information and public participation. It recognises public involvement as a vital prerequisite for successful implementation of its provisions. Both elements: “*Access to information and public participation in decision-making concerning water and health are needed, inter alia, in order to enhance the quality and the implementation of the decisions, to build public awareness of issues, to give the public the opportunity to express its concerns and to enable public authorities to take due account of such concerns*” (Article 5(i) of the Protocol). The Protocol also underlines that as a counterpart to their rights and entitlements natural and legal persons and institutions, whether of the public sector or the private sector - thus including NGOs and the public - should contribute to the protection of the water environment and the conservation of water resources.

### **Scope and Objectives**

- The aim of this concept note is to facilitate the process of public participation in the implementation of the Protocol. The document offers an overview of references on access to information and public participation stipulated under the Protocol and presents different entry points for public involvement when implementing the Protocol.
- In addition the document demonstrates the main challenges, discusses the future needs and provides some recommendations for public participation within the framework of the Protocol.
- Finally, the document offers some practical examples based on countries’ experiences, and illustrates a variety of possible existing tools to promote access to information and public participation, including those used in other areas that can be adapted to the Protocol.

## **1. INTRODUCTION**

### **1.1. The Added Value of Public Participation**

The Rio Declaration of 1992 stated in Principle 10 that “environmental issues are best handled with participation of all concerned citizens, at the relevant level.” Thus access

to information and public participation are conditional for the enjoyment of the right to a healthy environment. The principle of public participation holds that those who are or feel affected by a decision have a right to be involved in the decision-making process. Since then the principle has developed and found its base in the Aarhus Convention of 1999 which, inter alia, provided operational criteria for public participation.

Public participation helps creating a climate of trust and builds bridges between the state and its citizens, fosters lively democracy, decisions are citizen-oriented and need-based, the process itself is more transparent and results are backed by the population, thus implementation becomes easier and greater accountability can be achieved (see also Article 5(i) of the Protocol).

## **1.2. What Means Access to Information and Public Participation under the Protocol (Obligations and Opportunities)?**

### 1.2.1. General

Different obligations and opportunities derive from the Protocol for different levels and phases of involvement for the Parties and other stakeholders, such as the private and voluntary sector. The scope goes from creating a “*legal, administrative and economic framework... [for] contribution*” (Article 4(5) of the Protocol) via the making available of information to the public relevant to the implementation of this Protocol (see Article 10 of the Protocol) to making “*appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and ... [ensuring] that due account is taken of the outcome of the public participation*” (Article 6(2) of the Protocol).

### 1.2.2. For NGOs

NGOs have the right to participate in the target setting process and its revision (see Article 6 of the Protocol). Furthermore, the Protocol reminds NGOs of the corresponding obligations that go hand in hand with the right to water and “*their moral obligations to contribute to the protection of the water environment and the conservation of water resources*” (Article 9(1)(b)).

### 1.2.3. For Governments/Parties

Parties committed themselves under the Protocol to the setting of targets and its revision to “*make appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and ... [to] ensure that due account is taken of the outcome of the public participation*” (Article 6(2) of the Protocol). Parties also agreed on the publishing of progress they made (Article 7 of the Protocol) and to make other information needed for the implementation of the Protocol available to the public (Article 10 of the Protocol).

## **2. OVERVIEW OF EXISTING TOOLS AND MECHANISMS TO PROMOTE ACCESS TO INFORMATION AND PUBLIC PARTICIPATION**

### **2.1. Key Principles**

Article 6 of the Protocol requires a *transparent and fair framework* for public participation and Article 10 of the Protocol requires that access to information shall be provided *within a reasonable time, free of charge and within reasonable facilities to obtain copies of such information upon payment of reasonable charges*. This reflects a set of core principles relating to public participation and access to information.

Core principles:

- Equity;
- Accountability;
- Transparency;
- Flexibility;
- Effectiveness;
- Speed.

## 2.2. Tools

Decisions are taken at different levels (international, national, regional and local) and therefore require different tools. Even within one level different designs of the process are possible, as there is not one method that fits all processes.

Furthermore, there are different phases within each decision-making process: the information phase, the consultation phase and the co-operation phase. Some processes lack the co-operation phase and are thus less participatory in the real sense.

In order to find the best tools for each individual decision-making process it is important to be clear about different criteria of the issues that need to be decided upon. Not each method fits all purposes. Thus a proper analysis and a management plan (including a budget) as well as a time schedule have to be prepared in advance.

Some tools:

- Referenda;
- Public hearings/inquiries;
- Public opinion surveys;
- Citizens' jury;
- Focus groups;
- Expert panels;
- Interviews;
- Group model building;
- Workshops;
- Listserves and E-mails;
- Media

## 3. ADDRESSING THE CHALLENGES OF IMPROVING ACCESS TO INFORMATION AND INCREASING PUBLIC PARTICIPATION (CHALLENGES AND BEST PRACTICES)

### 3.1. Providing and Accessing Information

In some countries access to the internet is not yet widespread. Public environmental information centres or other methods of publishing information could be useful to overcome this digital divide. Another issue is the language: in order to reach all minorities, sometimes translation into different languages may be necessary. Furthermore, some documents use very specialised (legal/technical) language which needs changing.

### **3.2. Identification and Organisation of Stakeholders**

According to Article 2(11) of the Protocol the public means “*one or more natural or legal persons*”. However, when identifying stakeholders parties often look out for affected, interested or expert parties. In order to avoid underrepresentation, in particular, of vulnerable groups it is recommended to use the sample of “major groups” of the Agenda 21<sup>1</sup> accordingly.

The degree of organisation of civil society is also very relevant for the results of stakeholders’ involvement: questions of self-organisation as well as the motivation and the commitment of NGOs need to be addressed; advocacy NGOs and community-based organisations (CBOs) need to be distinguished and the positive effects of networks have to be taken into account. The structure of local and national authorities and existing hierarchies, unclear definitions of roles and responsibilities, as well as different understandings of democracy and traditional gender roles play an important role within the process and have to be taken into consideration.

### **3.3. Capacity-Building and Financing**

An infrastructure for capacity-building needs to be established and knowledge needs to be transferred to the media, the public, NGOs and governments (local and regional authorities) as well as to educational institutions. Capacity-building still lacks funding which needs to be taken into consideration when budgeting.

### **3.4. Design of the Process**

The process of public participation will only deliver desired results if modalities are tailored to fit the purpose, thus not one model fits all processes. Power structures within the government and local and regional authorities as well as public needs have to be identified. And questions as to whether the process should be expert-oriented or popular-oriented or whether the communication should be adversarial or deliberative have to be clarified in advance.

## **4. ACCESS TO INFORMATION AND PUBLIC PARTICIPATION UNDER THE PROTOCOL – IDEAL AND FUTURE**

Work is needed on the national level in relation to co-operation, access to information, public participation (Articles 5, 6, 7, 8 and 10 of the Protocol) and on awareness raising, education, training and research (Article 9 of the Protocol). The workshop’s participants are invited to look at structures that are already in place and how they can be used in other contexts. In addition, structures and approaches on information transfer and public participation from the bottom to the top and vice versa have to be

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<sup>1</sup> The nine major groups are: (i) business and industry, (ii) children and youth, (iii) farmers, (iv) indigenous people, (v) local authorities, (vi) NGOs, (vii) scientific and technological community, (viii) women, and (ix) workers and trade unions.

established. Questions related to how and who to define the priorities on target setting on national, regional and local level and on how to transfer the Protocol from the theoretical level into the implementing level shall be addressed. In particular, challenges and best practices shall be evaluated and ideals for the future implementation of the Protocol shall be shaped.