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Seventh session

Geneva, 18-20 October 2021

Item 6 (b) of the provisional agenda

Substantive issues: public participation in decision-making

Draft decision VII/2 on promoting effective public participation in decision-making

Prepared by the Bureau

Summary

The present document sets out a draft decision on promoting effective public participation in decision-making prepared by the Bureau of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

The Working Group of the Parties to the Convention at its twenty-fourth meeting (Geneva, 1–3 July and 28 and 29 October 2020) requested the Bureau to prepare a draft decision on public participation in decision-making for the seventh session of the Meeting of the Parties (ECE/MP.PP/WG.1/2020/2).

The Bureau prepared an initial draft on the basis of the relevant outcomes of the twenty-fourth meeting of the Working Group of the Parties; the Note by the Chair of the Task Force on Public Participation in Decision-making (AC/WGP-24/Inf.2); the outcomes of the thematic session held under the Working Group of the Parties; work undertaken by the Task Force on Public Participation in Decision-making in the current intersessional period; and decision VI/2 on promoting effective public participation in decision-making (ECE/MP.PP/2017/2/Add.1), adopted by the Meeting of the Parties at its sixth session (Budva, Montenegro, 11–14 September 2017).

There were opportunities for open-ended consultations among national focal points and stakeholders on the present draft document after the twenty-fourth meeting of the Working Group. The Bureau revised the draft document thereafter in the light of the comments received and submitted it to the Working Group for consideration and approval at its twenty-fifth meeting (Geneva, 3 May and 7 and 8 June 2021), with a view to its subsequent submission to the Meeting of the Parties for consideration at its seventh session.

At its twenty-fifth meeting the Working Group revised and approved, as amended at the meeting, the draft decision on promoting effective public participation in decision-



making (AC/WGP-25/CRP.4) and requested the secretariat to submit it to the Meeting of the Parties for consideration at its seventh session.

The Meeting of the Parties,

Recalling the provisions of articles 6, 7 and 8 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), and the provisions of article 6 bis of the amendment to the Convention on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms,¹

Also recalling its decisions EMP.II/1,² V/2³ and VI/2⁴ on public participation in decision-making, VII/11 on the strategic plan for 2022–2030⁵ and VII/5 on the work programme for 2022–2025⁶,

Recognizing the critical role of effective public participation for successful implementation of the Sustainable Development Goals, in particular Goal 16 and its targets 16.6, 16.7 and 16.10,

Mindful that the national implementation reports, the findings of the Compliance Committee, relevant case law of the Parties and the work carried out under the auspices of the Task Force on Public Participation in Decision-making to date have, collectively, shown that challenges remain to the full implementation of the second pillar of the Convention across the region,

Recognizing the vital role played by the Task Force on Public Participation in Decision-making in bringing together experts from Governments, civil society and other stakeholders to exchange experiences regarding those challenges and to explore possible good practices to address them,

Welcoming the important contribution to furthering implementation of the second pillar played by organizations engaged in capacity-building at the national and subregional levels,

Also welcoming the work of Aarhus Centres in several countries, as platforms to facilitate public participation by providing environmental information, raising public awareness, promoting participatory debate on environmental policies, programmes and projects and providing assistance to members of the public in exercising their rights,

Underlining the need to further the implementation of the second pillar of the Convention (articles 6, 7, 8 and, prospectively, 6 bis) so as to provide for more effective public participation in decision-making in environmental matters,

Having reviewed the reports of the Task Force on Public Participation in Decision-making and the outcomes of the thematic session of the Working Group of the Parties in the period since the sixth session of the Meeting of the Parties,⁷

1. *Notes* with appreciation the work undertaken by the Task Force on Public Participation in Decision-making and expresses its gratitude to Italy for its leadership of the Task Force;

2. *Recognizes* the valuable role played in a number of Parties by the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters (Maastricht Recommendations),⁸ developed under the auspices of the Task Force, and invites Parties, signatories, other interested States and stakeholders to use them as guidance to improve implementation of the second pillar of the Convention, including by translating them into national and, as appropriate, local languages, and distributing them among all relevant target groups dealing with public participation at the national and subnational levels, such as public authorities, non-governmental organizations,

¹ See ECE/MP.PP/2005/2/Add.2, decision II/1, annex.

² See ECE/MP.PP/2010/2/Add.1.

³ See ECE/MP.PP/2014/2/Add.1.

⁴ See ECE/MP.PP/2017/2/Add.1.

⁵ Forthcoming.

⁶ Forthcoming.

⁷ ECE/MP.PP/WG.1/2019/2, ECE/MP.PP/WG.1/2019/3 and ECE/MP.PP/WG.1/2021/4.

⁸ ECE/MP.PP/2014/2/Add.2.

operators, the private sector and the general public, and requests the Task Force to continue monitoring the use of the Maastricht Recommendations;

3. *Welcomes* initiatives taken by Parties, signatories, international organizations, non-governmental organizations, research institutes and other stakeholders to study good practices, examine practical means of promoting more effective public participation in environmental decision-making and share their findings and experience, and encourages further activities to this end;

4. *Also welcomes* initiatives of Parties, signatories, international organizations and other stakeholders to promote safe participation in decision-making and strengthen the protection of environmental defenders and other persons exercising their rights in conformity with the provisions of the Convention against penalization, persecution, harassment and other forms of retaliation for their involvement, and calls on Parties, signatories, international organizations and other stakeholders to continue supporting existing and to initiate new initiatives;

5. *Encourages* Parties, signatories, other interested States, partner organizations and stakeholders to continue providing case studies through the Aarhus Clearinghouse for Environmental Democracy and its Good Practice database;

6. *Invites* Parties, signatories, international organizations, non-governmental organizations and other stakeholders to strengthen implementation of the public participation pillar of the Convention at the national level, and, where possible, to make resources available for this purpose;

7. *Invites* Parties, signatories, other interested States, partner organizations and stakeholders engaged in capacity-building to further the implementation of the second pillar of the Convention and to focus on developing training programmes at the national level, as a priority, and also at the subregional level, 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.

8. *Also invites* Parties, signatories, other interested States, partner organizations and stakeholders engaged in capacity-building to support specific training sessions and awareness-raising events on the obligations under article 3 (8) targeting officials of public authorities, law enforcement agencies, prosecutors, members of judiciary, international financial institutions, providers of private security services and developers;

9. *Invites* researchers focusing on participatory processes and environmental decision-making to use the resources gathered under the auspices of the Task Force in their research, and also to share the results of their research with the Task Force;

10. *Encourages* Parties, signatories, other interested States, international organizations, non-governmental organizations, research institutes and other stakeholders to participate in the activities under the Convention on public participation in decision-making and to allocate sufficient resources for this matter;

11. *Decides* to extend in time the mandate of the Task Force on Public Participation in Decision-making, under the authority of the Working Group of the Parties to the Convention;

12. *Welcomes* the offer of [Party] to lead the Task Force on Public Participation in Decision-making;

13. *Requests* the Task Force, subject to the availability of resources and taking into account, among other things, the national implementation reports, the findings of the Compliance Committee of a systemic nature, other relevant assessments and the experiences of the public, to continue working to strengthen the implementation of the public participation provisions of the Convention, with special attention to:

(a) Gathering information on experiences from Parties and stakeholders regarding the application of the Maastricht Recommendations;

(b) Overseeing the collection and dissemination of good practices in public participation in decision-making through the Aarhus Clearinghouse and its Good Practice online database;

(c) Exchanging good practices on how challenges in the implementation of public participation in decision-making caused by the coronavirus disease (COVID-19) pandemic, for example with regard to the public availability of documents and access to virtual hearings, have been successfully overcome by Parties and stakeholders or on how such measures are planned to be put in place in the future, in order to ensure that public participation rights are respected, taking into account the guidance and recommendations provided by the Compliance Committee⁹;

(d) Identifying the main obstacles to effective public participation in all types of decision-making within the scope of the Convention at the national, subnational and local levels, in particular with regard to issues of a systemic nature such as:

- (i) Meaningful and early public participation;
- (ii) The availability of all relevant documents to the public;
- (iii) Effective notification and time frames for public participation;
- (iv) Paying particular attention to the participation of vulnerable and marginalized groups;
- (v) Safe public participation without persecution, harassment or penalization, and protection of environmental defenders and other persons exercising their rights in conformity with the provisions of the Convention;
- (vi) Ensuring that account is taken of comments from the public in the final decisions, as required by the Convention, and ensuring appropriate provision of feedback on how the public's comments have been taken into account in the decisions;

(e) Addressing, in collaboration with relevant partner organizations and as appropriate, public participation in decision-making in a transboundary context and with regard to the following subjects:

- (i) Agriculture (Sustainable Development Goal 2);
- (ii) Health-related issues linked to air pollution (Sustainable Development Goal 3);
- (iii) Large-scale infrastructure/transport (Sustainable Development Goal 9);
- (iv) Urban development/cities (Sustainable Development Goal 11);
- (v) Climate change (Sustainable Development Goal 13);
- (vi) Fishery/oceans, seas, marine resources (Sustainable Development Goal 14);
- (vii) Emerging technologies (several Goals).

(f) As resources allow, preparing training materials to support the work detailed in subparagraphs (c), (d) and (e) above;

14. *Requests* the Working Group of the Parties to hold a thematic session on promoting effective public participation in decision-making during one of its meetings in the coming intersessional period, with a view to providing opportunities for Parties, signatories and stakeholders to exchange experiences on those subject matters that deserve particular attention.

⁹ See ECE/MP.PP/C.1/2020/5/Add.1 and ECE/MP.PP/C.1/2021/6.