Public participation under the Aarhus Convention in the Context of Transboundary Water Management

-18th meeting of Working Group on Integrated Water Resources management -

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Introduction

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)

• **Adoption:** 1998, Aarhus, Denmark

• **Entry into force:** 30 October 2001

• **Parties:** 46 Parties from across the UNECE region, including from Eastern, South Eastern Europe, Central Asia and Caucasus (45 States + EU) + Guinea Bissau = 38 Parties to the Water Convention are Parties to the Aarhus Convention

• **Accession:** Open globally

• **Three pillars:** access to information, public participation in decision-making, access to justice
I. Public participation in decision-making on activities, plans, programmes, policies & legislation relating to transboundary water management - articles 6, 7 and 8

II. Public participation in the work of international forums, such as Joint Bodies - article 3(7)

Prohibition of penalization, persecution, or harassment - article 3 (8)
Non-discrimination principle - article 3 (9)
I. Public Participation on Activities, Plans, Programmes, Policies & Legislation

- **Decisions to permit activities** that may have a significant effect on the environment, incl. those related to water management, (e.g. inland waterways and ports for inland-waterway traffic, works for transfer of water resources between river basins; dams; any activity where an EIA with public participation is required under national law) - *article 6 and Annex I*
  - Early, adequate, and effective notice; reasonable time-frames when all options are open; access to all relevant information; public entitled to comment; due account of public participation; prompt notice of decision.

Preparation of **plans and programmes** relating to the environment, incl. those related to water management (e.g. water management programme) - *article 7*
  - Reasonable time-frames, early, when all options are open; due account to be taken of public participation

- Preparation of **policies** relating to the environment, incl. those related to water management (e.g. policy on protection and management of water resources) - *article 7*
  - “endeavor to provide” opportunities for public participation

- Preparation of **legislation** that may have a significant effect on the environment, incl. those related to water management (e.g. water law) - *article 8*
  - “strive to promote” effective public participation, when options are open: sufficient time-frames, public’s right to comment; due account “shall” be taken of public participation, as far as possible.
I. Public Participation on Activities, Plans, Programmes, Policies & Legislation

**Maastricht Recommendations (2015)**

- Right of the public to participate in decision-making without discrimination as to citizenship, nationality, or domicile (article 3 (9))

- Arrangements with other countries (neighbouring or downstream countries or those with shared natural resources) including:
  - Time frames at least as long as those with no transboundary element
  - Public participation to begin when relevant documents are available to the public concerned in affected country
  - Notification about commencement of decision-making, possibilities to participate and, adopted decision, review procedures
  - Translation of documents and interpretation during meetings and hearings

- **Internal arrangements in the county of origin:**
  - Access to information on internet in main language(s) used in countries potentially affected
  - Waiving visa fees and expediting visa processes
  - Videoconferencing or teleconferencing

- **No diplomatic relations or refusal to cooperate** → country of origin to use means that will not interfere with domestic affairs of the affected country
II. Public Participation in International Forums

• **Article 3 (7):** Parties “shall promote” the principles of the Convention in international environmental decision-making (MEAs, including their implementation) and within the framework of international organizations in matters relating to the environment (in case of transboundary water management - Joint Bodies - River/Lake Basin Organizations)

• **Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (2005):**

  (a) The development, modification & application of relevant rules and practices applied within international forums, e.g. rules of procedure covering issues as transparency (access to documents)

  (b) The treatment of relevant substantive issues within those forums
II. Public Participation in International Forums

Almaty Guidelines (2005)

- **Access to information** - international forums to develop policies for access to information that they hold; information held to be published online or through other means, in a timely manner; information to be refused only on the basis of specific grounds for refusal.

- **Public participation** - participation in meetings as broad as possible; access to meetings to be restricted only if necessary and unavoidable for practical reasons; accreditation criteria should be clear and objective; access to all documents relevant for decision-making; reasonable time-frames; at a stage when all options are open.

- **Access to justice** - review procedures relating to the application of rules on access to information and public participation.
Useful References

• Aarhus Convention
Available in English, French and Russian at:

• Maastricht Recommendations:

• Almaty Guidelines:
Available in English, French and Russian at: https://www.unece.org/index.php?id=21464

• “Snapshot on the Almaty Guidelines to the Aarhus Convention”
Leaflet prepared by the secretariat, in English, French and Russian:
For further information please contact:

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Thank you for your attention!