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## Public participation in decision-making on environmental issues in Albania

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### Abstract

*The right of public to participate in decision-making on environmental issues is sanctioned in Aarhus Convention, but also is a constitutional and legal right. Albania has paid special attention to environmental issues, adopting environmental legislation in accordance with European standards and conventions and international agreements, which it has ratified, but also taking concrete measures in the provision of solving problems, encountered in the field of environment. Public participation in environmental decision-making is an indicator of democracy and the state of law in the country, raising the level of accountability and transparency of public authorities, as well as serves as a connecting bridge for the exchange of ideas, arguments, counter-arguments, or opinions between public and public authorities in the process of drafting and design of programs and activities with impact on the environment. This paper aims to reflect what impact has public participation in making a concrete decision on environment in Albania, which is the importance of the cooperation of all stakeholders in making reality of these decisions and how applicable in practice is this right sanctioned in the Aarhus Convention. This paper aims to determine ways and means of encouraging a more active involvement of citizens in environmental decision making.*

Keywords: Aarhus Convention, environmental decision-making, public participation, transparency etc.

### 1. Introduction

The Aarhus Convention was adopted in June 1998, in the town of Aarhus, Denmark, under the authority of the European Economic Commission of the United Nations (UNECE). The Convention entered into force on October 30, 2001 and is rated as the Convention of democracy in the environmental field. It represents a major international document with political character, it demands to be realized in practice, freedom and basic human rights in the field of environment. (Strategy and National Action Plan for Implementation of the Aarhus Convention, 2005). Its main goal is to contribute in the protection of the right of anyone who belongs to the present generation, but also the future, to live in a healthy environment. The Aarhus Convention is based on its three pillars: public access to environmental information, to participate in decisions regarding environmental issues, and to address the court, in connection with environmental issues, in accordance with the provisions of this Convention. In the framework of the Aarhus Convention, public authorities need to contribute, that those rights do not remain only on the

theoretical level, but be effectively implemented in practice. (Handbook for Municipal Environmental Officials, 2006).

Besides the different countries, in the ranks of the Parties to this Convention is ranked the European Union, which has realized the change of its legislation in line with the Aarhus Convention through Directives 2003/4/EC, 2003/35/EC, 2001/42/EC and 2000/60/EC of the European Parliament. (Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003, Directive 2003/35 /EC of the European Parliament and of the Council of 26 May 2003, Directive 2000/60/EC of the European Parliament and the Council, <http://ec.europa.eu/environment/aarhus/legislation.htm>).

While, the Albanian Parliament ratified the Aarhus Convention in October 2000. According to the Albanian legislation, any international conventions to which our country is a party after the signing, is ratified by parliament and then begins the process of reflecting legal obligations in domestic law. As a result of this procedure, the integration of the requirements of the Aarhus Convention is made by the Ministry of Environment (now the Ministry of Environment, Forestry and Water Management) as the main direction of the work to complete the legal framework and aligning with EU legislation. (Guide to Local Government Structures, 2006).

## **2. National and international legal framework in relation to the right of the public to participate in decision making on environmental issues**

A large number of international acts that have interwoven environmental issues of democracy and human rights have addressed the issue of public participation in decision making processes. International Pact on Civil and Political Rights of the United Nations, in Article 19/2 guarantees everyone the right to seek, receive and dissemination of ideas and information of any kind. (Handbook for Municipal Environmental Officials, 2006). European Convention on Human Rights (1950) states that every person has the right of expression. “This right includes freedom of opinion and freedom to receive or impart information or ideas without interference by public authority and regardless of state borders”. In terms of international acts of environmental nature an important role has the Rio Declaration on Environment and Development (1992), which in Article 10 stipulates the need for citizen participation in addressing environmental issues. According to it, every citizen must have adequate access to environmental information held by public authorities and the opportunity to participate in decision-making processes. “States shall facilitate and encourage public awareness and public participation by making environmental information widely accessible” specifies Convention. (Handbook for Municipal Environmental Officials, 2006).

Aarhus Convention (The Aarhus Convention was adopted in 1998 and entered into force in 2001), also the Espoo Convention (Espoo Convention was adopted in 1991 and entered into force in 1997) and the Protocol on Strategic Environmental Assessment (SEA) (The SEA Protocol was adopted in Kiev in 2003) establish the right of the public to participate in decision-making on environmental issues. From the perspective of European Law noteworthy Directive 2003/4/EC of the European Parliament and the European Council on public access to environmental information (which revoked Council Directive 90/313/EEC) which sets out a series legal guarantees for European Union Member States with respect to access and adequate exercise of the right to environmental information.

Albania signed the Stabilization and Association Agreement (February 18, 2006) in the framework of which has taken many administrative, legal reforms and important developments took place in the adoption of environmental legal package and decisions concerning the environment. (Guide for Civil Society Organizations, 2014). Public participation in environmental issues in Albania is determined by a legislative package, which is of particular importance in environmental democracy in the country. Mainly include:

- Law no. 8672, dated 26.10.2000 for ratification of “The Aarhus Convention on public access to information, to participate in decision making and access to justice in environmental matters”.
- Law Nr.10431, dated 09.6.2011 “On Environmental Protection”, which in its Article 13 establishes the principle of access to information and public participation, extending his point 2 procedures (drafting and adoption strategies, plans and programs for environmental protection, environmental permits, etc.) in which the parties concerned have a real opportunity to participate.
- The Council of Ministers No.994, dated 02.07.2008 “On attracting public opinion in environmental decision making”.
- Law on ratification of the Espoo Convention and Law no. 9700 (OJ 42/2007) “On protection of transboundary environmental impacts gives the public the opportunity in international decision making”.

### **3. The concept of public participation in environmental decision making**

Public participation can be seen as a process in which expectations, thoughts, opinions and concerns of the public are taken into account in decision making, so is a process of communication, that serves decision-making better. In this way, the public displayed an active role, which is regarded as part of the authority, which takes decisions. (Center for Change and Conflict Management, 2013). This right provided in the Aarhus Convention is quite complex and was identified as an important aspect of implementation activities. Public participation in decision-making is an indicator of democracy that exists in the country and serves as a tool to help the decision making process. Until now attention is focused on legal and institutional aspects, they have been made appropriate adjustments in environmental legislation and other organic laws differently, defining the responsible authorities, as well as activities in which public participation is required. While, its practical applications leave much to be desired. Even in cases that could have attended public or NGOs, noted that they have little practical validity. In these situations should be taken measures to find solutions to make adjustment. (Strategy and National Action Plan for Implementation of the Aarhus Convention, 2005).

### **4. The importance of public participation in environmental decision making**

-Public participation in making decisions is vital. It brings benefits in making an individual decision and also for democracy more generally. It uses the knowledge, skills and enthusiasm of the public to help make the decision and recognises that the public have a significant role to play. (Good Practice Handbook, 2000).

-Public participation increases the efficiency of resources used by local authorities. (CRCA, 2012). Participation allows a continuous process of communication between stakeholders and communities, allowing decision makers to be coherent and to recognize the needs and priorities of local communities.

- Public participation, serves as a tool to fight the corruption. (CRCA, 2012). Participation takes place through the streets to promote communication between the community and local authorities. An important element of this communication is the mutual information between the community (needs and expectations of it) and local authorities (on the resources that are available, opportunities to meet the needs of the community, as well as the activity that develops). Continuous information significantly reduces the chances of corruption, while the low level of corruption brings full use of local resources in favor of the community, meaning effectively in governance.

- It is also a moral duty. Public authorities work for the public. To do so in a way that the public want and to ensure that they know what the public needs, they must involve the public when they make decisions. (Good Practice Handbook, 2000).

-Public participation generates new ideas for development. (Good Practice Handbook, 2000). Communication arising between the community and stakeholders or authorities also enables the generation of new ideas that come from members of the community, which implemented properly improve the quality of community life.

- Public participation can lead to better decisions. That is, decisions that better meet the needs of more people, decisions that last longer and decisions that have more validity. Involving more people in the process uses a wider range of experiences. It brings in more points of view and uses knowledge about local conditions that might not be widely known. (Good Practice Handbook, 2000).

-Public participation does not guarantee that everyone will be happy with a decision since different groups of people will have different priorities and concerns. But involving the public at an early stage in the decision-making process, and finding ways for their views to be heard and taken into account, helps to build consensus. (Good Practice Handbook, 2000).

-In addition, by being involved in the process, the public is exposed to the whole range of factors which may influence a decision. Even if people do not agree with the final decision, they are more likely to understand why it was made.

-In the longer term, public participation can improve democracy. People can feel more part of a community and authorities can make better relationships with these communities which continue after the decision has been taken. (Good Practice Handbook, 2000).

## **5. Methods of public participation in decision making on environmental issues**

The public participation process uses a number of methods to involve the public in decision-making levels:

-Raising the awareness of the public, which is realized through information, press releases, use of media, information centers, awareness campaigns, work with the public directly etc. All these can be used to raise public interest in the issue for which seek their involvement. (Guide to Local Government Structures, 2006).

-Education of public, providing objective and balance information to the public and thus helping of the case under consideration and alternatives for addressing it. Public meetings may be one of the ways to achieve public education. Taking opinions from the public can be accomplished through research, focus groups and public meetings. (Guide to Local Government Structures, 2006).

-The public partnership is the most active degree of public participation. In this case the responsibility for decision-making is in the hands of the public. (Guide to Local Government Structures, 2006).

-Consultation on the process of making decisions that directly affect the community. (CRCA, 2012).

-The cooperation to be a public partner in every aspect of the decision including the development of alternatives and identification of preferred solutions. Cooperation is particularly effective in the process of implementing decisions that affect the community directly.

The above ways serve to enable public participation in environmental decision-making, among which we highlight the active and passive participation of the public. However, the decision makers tend to exclude public participation in decision making, in order to make their own decisions without public participation, to avoid dragging the processes and their complications. Implementation of this right is realized as provided by law. In terms of the lack of public participation in decision making, reasoning that often overlooked even as it is difficult, to not be influenced in the decision making process. (Kostic-Mandic, 2003).

## **6. Environmental issues related to the right of public participation in environmental decision-making in Albania**

Below are some practical cases treated in Albania, which show respect or not of the public's right to participate in decision making on environmental issues, of which touched directly. For example, the project of Street of Elbasan, is a case in 2012-2013, indicating a violation of Albanian environmental legislation and the Aarhus Convention, namely the violation of the right of the public to be informed and to participate in environmental decision-making. (<http://www.eden-al.org/index.php/al/public-participation-2/pjesemarrja-publike-ne-vendimarrjen-mjedisore>).

### **Big Ring of Tirana Case**

The first project of Big Ring of Tirana dates back to 2009. The project began breaking procedures of Albanian environmental legislation and the provisions of the Aarhus Convention. Immediately after this action civil society and environmental organizations reacted calling on relevant state institutions to implement the law. Ministry of Environment, Forestry and Water Management terminated the proceedings on July 2011 on the grounds that the project has not an environmental permit. It was noted in this case the fact that citizens, interest groups and environmental organizations were informed of their right to express their opinion and to participate in decision-making. Also, very important role played the cooperation of civil society on environmental protection and the pressure created in government institutions to assume their accountabilities and to enforce the law.

### **Porto Romano Case**

In this case, the civil society opposed completely the project, because of some reasons: the project would increased air pollution, land on which will rise plant was inadequate, were not respecting the rules of public participation in decision making through consultation, giving opinion etc. Also, it was observed deficiencies in the Environmental Impact Assessment of the project, and was not taken into account the fact that Porto Palermo is considered as an area with natural and cultural heritage. Given these arguments, civil society asked not to finance the project. Coal plant of Porto Romano was not built, and this is considered as a successful case where civil society exercised its right to be heard.

## 7. Conclusions

Albania has a generally good legislative framework, but should harmonize further legislation with requirements laid down in the Aarhus Convention, which meets all the requirements of its obligations. The right of the public to participate in decision making on environmental issues must be more applied in practice. It is important to improve procedures for public hearings, issuing reports in a timely and reasonable public participation, as well as the opinions, views of the public. Although there are some good practice cases for the implementation of the right of public participation in decision making on environmental issues, efforts must be made to further strengthen this right in practice.

State bodies should try harder to inform and to take measures to ensure the right of public participation in environmental decision-making, also need to establish a monitoring mechanism to carry out consultations with the public. It is important to create a computerized monitoring system of projects or activities that affect the environment, which will lead to a more comprehensive information and timely, about the current state of the environment. Also, is important to develop the capacity of regional environmental agencies, train their staff about the Aarhus Convention and to improve the infrastructure of the Aarhus centres.

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