
The Role of the Public in Environmental Decision-Making

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Abstract: Many cases prove that involvement of the public in decision-making process on environmental issues has a real influence on proposed or planned activities and the final decisions are acceptable for all main stakeholders: government, the public, and developer of activity. Despite the facts demonstrating the role of the public in environmental decision-making, various experts approach to the public participation process with doubt and some criticism. From their point of view, many aspects of public participation are still questionable, such as who, why, how, at what stage should participate, etc. This article does not aim to answer each existing question. But along with the criticism of various experts, highlighting some important aspects of public participation, the article aims to: demonstrate a rationale of public participation in environmental decision-making; show the trend in this direction based on the analysis of violations of public participation procedures in some countries; demonstrate the real influence of the public on final decisions with regard to the environment, focused on the concrete examples. The arguments and conclusions made on this overview creates additional inspiration for further discussions and exploration of different aspects of public participation in environmental decision-making.

Keywords: Public, Government, Participation, Environment, Decision-Making

1. Introduction

Considering democratic principles of the countries around the world, all stakeholders should be involved in the decision-making process, where the public is one of the main players. Public participation is becoming extremely important when it comes to the matter of common interest. It is not arguable that the environment is the issue of common concern – from the individual citizens to the government officials. Despite the different approaches to the environment and natural resources we have, there is a common consent that all we need is a healthy environment. This is a reality which should consolidate us in acting in an environmentally friendly manner and being careful with our environment.

From the 90's of the last century, many theories have been developed concerning public participation in the environmental decision-making process. The more the work

in this direction exists, the more it raises discussion topics and questions. The issue is quite a complex and thus it is difficult to reach a consensus. However, there would be no doubt that the public should participate in the decision-making process when it comes to the environment, but how – it definitely needs discussion.

Besides the basic principles of human rights, granting people both to live in a healthy environment and to participate in decision-making, existed a prevalent agreement that all interested parties should participate in environmental matters generally caused by the complexity of environmental issues. Therefore everyone has its own duty towards the environment. For example, the government has an obligation to protect the environment and the public should have a responsibility to take care of it. It is well known that public involvement encourages and, at the same time, forces the governments to carry out a policy in compliance with the requirements of society considering their needs. Moreover, such approach often creates a basis for less conflict situations.

Providing some examples of public participation in the activities related to the environment, the presented article demonstrates at what extent the public can influence on final decision, and what the final decision results in.

¹ According to the definition of the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) „the Public’ means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups.” Done at Aarhus, Denmark on 25 June 1998.

This article is organized in six main parts. In the first one it provides the arguments on the importance and necessity of public participation in the environmental decision-making process. The second part, based on the opinions of some experts in the field, the criticism on the issue is presented. In the third section the article explores the facts about violations of public's right – to take part in the environmental decision-making processes in the countries of the UNECE region, who are the parties to the Aarhus Convention. In the fourth part some examples when the public had a real influence on the activities related to the environment are presented. In the fifth section the article provides results and discussion topics. In the final sixth part some conclusions are made and, based on the information provided in this paper, it opens the floor for further research.

2. General Arguments for Public Participation in Environmental Decision-Making

The United Nations Conference on Environment & Development (UNCED) in Rio de Janeiro, Brazil in 1992, with participation of 172 government representatives, including 116 heads of states, about 2400 representatives of non-governmental organizations (NGOs) and 17,000 other representatives recognized the public participation as one of the main principles (among other 27 ones) for sustainable development, stating that “environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have”...“the opportunity to participate in the decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available...” [1].

It is recognized as well that environmental problems cannot be solved by governments alone [2]. In order to make effective solutions to the environmental problems, participation of only experts and political elite is not enough. Environmental protection is a cooperative process that requires coordinated action of government, NGOs, scientists, the private sector and individual citizens. Therefore, public participation in environmental decision-making is extremely important. Such approach will contribute to each above listed group and the whole society in general [3].

Moreover, public involvement in the environmental discussions, promotes transparency of the process and raises accountability of the governing bodies, which ensures the democratic legitimacy of decision-making. The good environmental governance depends on the participatory approach. Besides that, neglecting information provided from the public leads to legitimacy questions and potential conflicts [4]. Possibly, public participation in environmental decision-making could increase the commitment among stakeholders, which strengthens enforcement of environmental laws. Through joint action and mutual efforts better environmental governance is expected to be achieved

by making the most appropriate decision possible [5],[6]. “...in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns” [7].

Many experts and public servants have analyzed the importance of public participation in the rational environmental decision-making. Up to now many treaties, theories and mechanisms have been developed about public participation. In this article there is a reference to the two documents, remaining the governments their duty – to serve the public and requiring from them to set up relevant procedures, and develop appropriate mechanisms to support the public to exercise its right of being included in the environmental decision-making process adequately.

One from the above mentioned documents is the European Union Directive on public participation in decision-making and access to justice in environmental matters. According to the directive “effective public participation in the taking of decisions enables the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken” [8]. To support the public participation in the decision-making process in the field of the environment, the presented directive requires from the EU member states implementation of the following activities:

1. adoption of national legislation and designation of competent authority/ies;
2. establishment of a mechanism for providing the public with information;
3. establishment of a mechanism for public consultation;
4. establishment of a mechanism for public comments and opinions to be taken into account in the decision-making process.

This directive, requiring from the member states facilitation of public participation procedures, underlines the importance of the public as one of the main stakeholders in environmental issues.

The second document mentioned in this article is the Aarhus Convention. This treaty recognizes the right of every person “to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations”[7]. The Convention requires from the contracting parties to guarantee the public's rights on access to environmental information, participation in the decision-making process and access to justice in environmental matters in order to contribute to the protection of human right – to live in a healthy environment. The Aarhus Convention considers public participation as the integral part of democratic governance. “The Aarhus Convention

remains the most ambitious venture in the field of environmental democracy under the auspices of the United Nations. The Convention is the only international legally binding instrument giving the public broad and concrete rights of participation in decision-making and access to information and justice regarding the environment. The Aarhus Convention twin protections for environment and human rights, and its focus on involving the public, provide a mechanism for holding governments to account in their efforts to address the multi-dimensional challenges facing our world today, including climate change, biodiversity loss, poverty reduction, increasing energy demands, rapid urbanization, and air and water pollution" [9].

The Aarhus Convention Implementation Guide states that responsible public authorities take advantage of the interest, knowledge and the energy of the public. The public often has the desire to participate in the process of collecting information and discussing options for decision-making, both out of self-interest and because of their wish to protect the environment. But for proper participation of the public in mentioned processes an open, regular and transparent procedures should be ensured by the government officials in which the public can have confidence [10].

In general, public involvement in the environmental decision-making process has two main reasons, among others. On the one hand, this is an obligation of public authorities as their function is to "serve" the public and to work for the whole society. On the other hand, public participation gives decision-makers a chance to receive a feedback from the public (information on the expectations of the public, compliance of activities or decisions of public authorities with these expectations) [11]. Furthermore, it should not be forgotten that the environment belongs to everyone and each of us must be involved in the activities related to it. Participatory approach gives the opportunity to gather more respective information and everyone's knowledge. All opinions to be expressed which will contribute to a thorough analysis of the subject and this, in its turn, lead to better decisions.

3. Criticism of Public Participation in Environmental Decision-Making

Public participation in decision-making is not an easy process. That is why the issue is the subject of constant criticism. According to the opinions of some experts many administrative problems arise from public interaction and also plenty of problems with participation programs from the public's perspective [12]. Indeed, it is very difficult to reach consensus, when there are stakeholders of different views and values seated at the discussion table. According to the opinions of some experts, participative democracy could not guarantee the substantive environmental benefits if there are competing views of what the environment should be like and what it is valuable for [13].

Many of aspects are questionable for the experts, such as:

what are the mechanisms for effective public participation; who has to take part in the decision-making process; when and how the public participation should be for the better final decision; what their purpose is; to what extent public participation improves final decision; whether public participation always contributes to the better decision or on the contrary – prevents it; what the "better decision" means and how to estimate it; etc. Consequently, the participatory approach to environmental decision-making is becoming a controversial topic.

With regard to the public participation, permanent discussions will continue and different views will exist. However, with the analysis of the factual material, it is possible to answer some of the questions.

4. Violations of Public Participation Procedures in Environmental Decision-Making in the Contracting Parties² to the Aarhus Convention

The presented section provides an overview of all communications submitted to the Aarhus Convention secretariat, which covers the years from 2003 to 2014. According to the established procedure under the Convention, the secretariat informs the Compliance Committee³ of any submissions that it receives and circulates to it. Compliance Committee is one of the bodies of the Aarhus Convention that provides findings with recommendations on violations of implementation of the provisions of the Aarhus Convention on the basis of communications, submissions or referrals. Information on violations of the provisions of the Aarhus Convention can be submitted to the secretariat of the Convention from the different interested party through the different procedures, in particular:

1. any member of the public by submitting a communication;
2. any Party to the Aarhus Convention on the compliance of another Party or its own compliance by making a submission;
3. Aarhus Convention secretariat by making a referral.

Below there are data elaborated by the Aarhus Convention Compliance Committee, which could be interesting for further discussion.

4.1. Submitted Communications to the Aarhus Convention Compliance Committee in the Period 2003-2014⁴

In the above mentioned period (2003-2014) 95 communications to the Compliance Committee out of the 96 ones were submitted from the public.

2As of January 2015, there are 47 Parties to the Aarhus Convention, including European Union.

3 <http://www.unece.org/env/pp/cc.html>

4 <http://www.unece.org/index.php?id=35290>

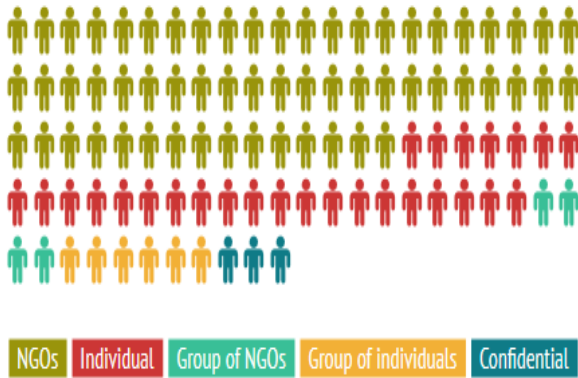


Figure 1. Communications to the Compliance Committee in the period 2003-2014.

The Figure 1 shows that the vast majority of communications to the Compliance Committee from the public were submitted by NGOs (59 from 96).

4.2. The Articles of the Aarhus Convention Found in Non-Compliance in the Period 2003-2014⁵

According to the data presented below, 47 findings were adopted by the Committee in the period 2003-2014, from which 3 out of 5 found in non-compliance with the requirements of the Aarhus Convention. Below there are the provisions of the Convention found in non-compliance:

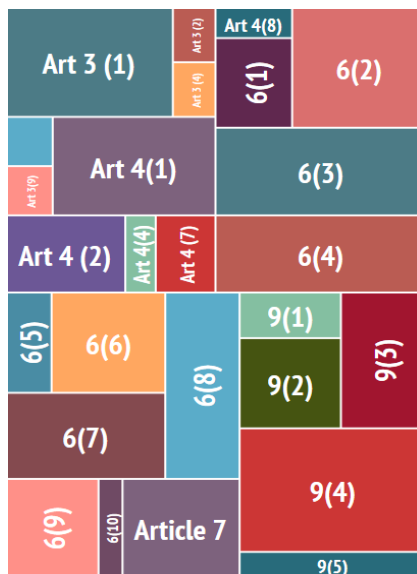


Figure 2. Aarhus Convention articles found in non-compliance (2003-2014).

Based on the information provided in the Figure 2, which shows which articles of the Aarhus Convention have been found out in non-compliance by the Compliance Committee, it is possible to make percentage calculation on violations of the three pillars of the Convention, such as:

- General provisions – 12%
- Access to environmental information – 15%
- Public participation in decisions on specific activities,

and concerning plans, programmes and policies related to the environment – 50%

- Access to justice – 23 %.

According to data provided above, it is obvious that the main part of the communications refer to the violations of public participation procedures regarding the environmental issues.

4.3. Number of Communications Submitted to the Compliance Committee in the Period 2003-2014⁶

Reviewing communications to the Compliance Committee in each intersessional period⁷, we can see a dynamic of submitted communications.

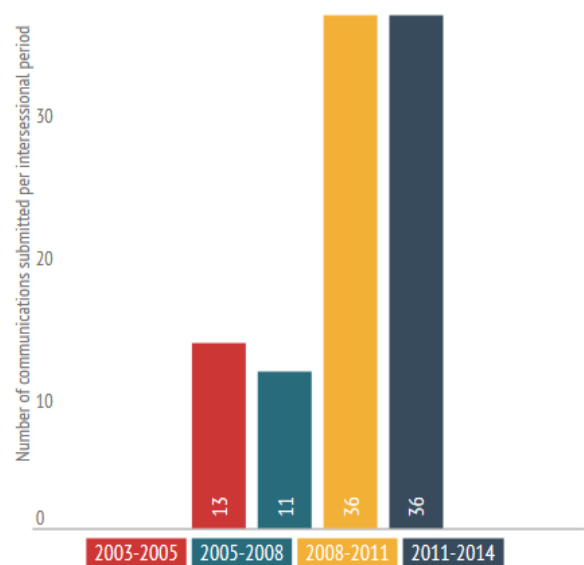


Figure 3. Communications to the Compliance Committee (2003-2014).

According to the information provided in the Figure 3, it is obvious that number of communications have been increased considerably since 2008:

- 2003-2005: 13 communications
- 2005-2008: 11 communications
- 2008-2011: 36 communications
- 2011-2014: 36 communications.

5. Public Influence on Environment Related Activities

Nowadays, when environmental issues are becoming increasingly challenging, the public participation, as one of the main parts of dealing with the environmental problems, has become more actual. „...there are countless cases where unexpected or hidden factors became apparent only through a public participation process, with the result that potentially

⁶ <http://www.unece.org/index.php?id=35290>.

⁷ Under “intersessional period” time between the Meetings of the Parties to the Aarhus Convention is considered.

⁵ <http://www.unece.org/index.php?id=35294>

costly mistakes were avoided. Furthermore, even where the original proposal is not substantially changed as a result of public participation, the successful implementation of the final decision can be promoted through the active and real participation of the public during the decision-making process. Conversely, public participation that is merely pro forma – i.e., that takes place when options are already closed – can injure the chances for successful implementation of a decision because of the questionable legitimacy of the process” [10].

To confirm the above mentioned proposal, it will be reasonable to present the real facts. Therefore, a brief description of some cases that took place in Georgia, when public participation had a real influence on the process is presented in the presented article. Advocacy campaigns for all the cases provided below were carried out by the NGO Green Alternative [14]:

1. A road rehabilitation project in one of the regions of the country was planned. Before starting of particular activities, it was found out that in case of the implementation of the proposed project, anticipated social and environmental impacts would be very high. Revealing an inconsistency in a timely manner, goal-oriented lobbying and activation of the public resulted in changing of already planned activities. Public's involvement finally brought tangible results in improving the environmental and social aspects of the project in terms of efficiency and effectiveness.
2. From one of the three routes offered for the construction and rehabilitation of the transmission line, the less costly route was selected by the government and investor. It was revealed that selected route could seriously affect the biodiversity. As a result of advocacy campaigns of the NGO Green Alternative, the route with the least impact on the biodiversity has been selected, for which additional funds have been allocated. As a result of the competent and targeted public participation, the most environmentally acceptable route was in place. Despite the fact that this route was more expensive than the one planned before, due to the proper advocacy and active public participation all stakeholders agreed on the proposed environmentally friendly version.
3. Regarding construction of a hydro power cascade in one of the regions of the country, it was found out that its construction and further exploitation would be problematic from the environmental, social and economic point of view. As a result of intensive debates and negotiations, where public participated actively, further development of the construction of this hydro power cascade has been stopped for that stage.

All the aforementioned cases clearly show that as a result of public participation decisions were made, which were acceptable for the local population, public authorities, project developers and, what is more important, for the environment.

6. Results and Discussions

According to data provided by the Aarhus Convention Compliance Committee in section 4 above, we have the following information: most part of violations refers to the public participation procedures (Fig.1); majority of communications are submitted by NGOs (Fig.2); and number of communications were increased in the last period (2008-2014). Based on the information interesting discussion might be held, assuming the following:

- a) the public interest towards the environmental issues has been raised and, consequently, the public demand be involved more actively in the decision-making process when activity is addressing the environment has been increased;
- b) the public has become more competent in environmental issues and its responsibility – to take care of the environment, and its right – to take part in environmental decision-making. As a result, the public started protesting its ignorance in the environmental decision-making process;
- c) NGOs are more active, organized or competent part of the public to trigger the issue;
- d) it became more frequent from public authorities to violate the public's right of taking part in the environmental decision-making process;
- e) since the communications to the Compliance Committee are submitted only after national legal procedures of particular countries, it gives the reason to think that number of countries do not have properly regulated procedures for public participation, and consequently, cannot resolve the issue within the frames of their national legislation. Such approach, in its turn, leaves the assumption that there is no capacity in respective countries to establish appropriate procedures and develop proper implementation mechanisms for the public involvement in environmental decision-making or there is no political will to regulate the process;
- f) the public have acquired more freedom in expressing its opinions, which in its turn indicates the high quality of democracy in the countries; etc.

To explore what is happening in this direction and which of the mentioned proposals would be relevant, a thorough study should be conducted addressing all aspects of public participation.

7. Conclusions

From the article, which mainly reviews the UNECE region and presents Georgia's examples in terms of public participation in the decision-making process related to the environmental issues, as a positive sign of the level of activism of the public in the countries could be seen.

Despite many questions and controversial issues, it is a reality that nowadays there are many examples when the public participation in environmental decision-making contributes to the sound decisions. The main reason not to use the general term “better decision” here is caused by the fact that, as it was mentioned above, it leads to questions and doubts among some experts. But the following explanation

would not be questionable or doubtful: in my understanding, “better decision” in this context means a decision that would be acceptable to the public and local communities in terms of improved social conditions, for the government – in terms of economic progress and security of the country, and for the environment – in terms of minimizing the impact on it and its maintenance. Hereby, the significant share of environmental factor in the concept of “better decision” should be highlighted, referring to the consideration that minimization of impact on the environment finally leads to the economic growth of the country and improvement of social conditions of the population.

Based on the content of the communications to the Aarhus Convention Compliance Committee and its findings, it could be assumed that countries are still not ready or don’t make sufficient efforts to ensure adequate public participation in the decision-making process of environmental issues. In this direction development of national legislation in compliance with generally recognized principles of respective international environmental law and treaties, and establishment of appropriate mechanisms for its implementation is crucial.

A proper public participation in the environmental decision-making process requires a lot of efforts. On the one hand, the existence of a political will is necessary, and on the other hand, the desire of the public and the sense of civil responsibility to be actively involved in the process is essential. Moreover, the public is obliged to take care of its natural surroundings for the wellbeing of itself and its generation. To that it is very important that the public has a confidence, that the government respects its opinions and takes them into account while making final decisions concerning environmental matters.

Involvement of the public at early stage, when the options are open, is especially important. Public participation at the early stage avoids additional time and finances in case of some changes in the project are requested from the public. Moreover, such approach prevents the conflict that may arise during the implementation of particular activities, when the public does not agree with them.

Hereby, two aspects that are very important for the successful participatory process should be mentioned. One of them is that the confidence should be existed between the actors. The second considerable aspect is that all the parties included in the process have to realize that they are not barriers of each other, they are only partners the efforts of which are strived to reach a consensus on the subject and achieve a better final decision.

During the analysis of the public participation topic importance of environmental education and awareness raising on environmental issues should be emphasized as well. When there is a lack of environmental knowledge among the population, it is possible that the public unintentionally becomes a partner to the player, who is not a great supporter of environmental principles and standards. There is a risk that such population will be “fascinated” by offering temporarily improvement of economic social

conditions, which will be implemented at the expense of inadequate approach to the environment, but in the long term perspective, will turn out into worse conditions. Besides, unaware public, that has a lack of knowledge about its environmental rights, will easily become the subject of ignorance or even fraud by dishonest player. Unfortunately, there are examples of it.

Based on the facts, arguments and brief analysis provided in this article and considering the existing reality, that active discussion on public participation in the environmental decision-making process continues around the world, it is obvious that the issue is of high importance. Therefore, public participation in environmental decision-making needs well-considered and wise approach in order not to make the process unintentionally wasted or, even more, harmful for final decision. It is very important to bear in mind that “without a coordinated vision, new and commendable initiatives in public participation may ultimately yield little more than wasted effort and frustration”[12].

Finally, analyzing the information of the Aarhus Convention Compliance Committee on the existing gaps in public participation procedures in the countries of the UNECE region, who are the parties to the Aarhus Convention, it is clear that public reaction on violations of its right – be included in the environmental decision-making process – has been increased nearly three times since 2008. This fact does not allow us to make a conclusion, whether the number of violations has been increased or the public have become more active, but it stimulates research to bring the issue up for further discussion.

References

- [1] Principle 10. Public participation. The Rio Declaration on Environment and Development, (1992), United Nations "Conference on Environment and Development" (UNCED).
- [2] Pring, G. and Noé, S.Y. (2002) “The Emerging International Law of Public Participation Affecting Global Mining, Energy, and Resource Development” in Zillman, D.M., Lucas, A. and Pring, G.(eds) *Human Rights in Natural Resource Development: Public Participation in the Sustainable Development of Mining and Energy Resources*, Oxford University Press, Oxford, p. 76.
- [3] Public Participation in Making Local Environmental Decisions. The Aarhus Convention Newcastle Workshop. Good Practice Handbook. United Kingdom. 2000.
- [4] Coenen, Frans H. J. M. (Ed.), *Public Participation and Better Environmental Decisions, The Promise and Limits of Participatory Processes for the Quality of Environmentally Related Decision-making*, (2009), VIII, p. 209.
- [5] Bulkeley, H. and Mol, A.P.J. (2003), “Participation and Environmental Governance: Consensus, Ambivalence and Debate”, *Environmental Values* 12 (2): pp.143–54.
- [6] Fischer, F. (2000) *Citizens, Experts and the Environment*, Durham, NC: Duke University Press, p. 222.

- [7] UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention. 1998). Preamble.
- [8] Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Directives 85/337/EEC and 96/61/EC. Preamble (3).
- [9] Ban ki-Moon, Secretary-General of the United Nations. United Nations Economic Commission for Europe. The Aarhus Convention. An Implementation Guide. Second edition, (2014). United Nations. p.3.
- [10] United Nations Economic Commission for Europe. The Aarhus Convention: Implementation Guide. Second edition, (2014). Pillar II, Public Participation in Decision-making. Purpose of the Public Participation. p. 119.
- [11] European Commission. Implementation of the Aarhus Convention. Guidelines for Public Servants for Georgia. Kiev, Ukraine (2004).p.51.
- [12] Nancy Perkins Spyke Public Participation in Environmental Decision-making at the New Millennium: Structuring New Spheres of Public Influence. Boston College Environmental Affairs Law Review. Volume 26 | Issue 2 Article 2. 12-1-1999.
- [13] Davies, A. (2001). "What silence knows – planning, public participation and environmental values", *Environmental Values*, 10: pp. 77–102.
- [14] Green Alternative. Advocating for Environmental and Social Justice. 10 Advocacy Campaigns. (2011). pp.3-5; 11-13; 18-20.