

SUMMARY OF WORKSHOP 11: CITIZEN PARTICIPATION IN ENVIRONMENTAL ENFORCEMENT

- Facilitators: Georges Kremlis, European Commission
 Katia Opalka, Commission for Environmental Cooperation
 Romina Picolotti, Center for Human Rights and Environment, Argentina
 Barry Hill, Environmental Protection Agency, United States
- Rapporteur: Dorine Hornung, Ministry of Housing, Spatial Planning and the Environment (VROM), The Netherlands

GOALS

- To explore citizens' access to environmental data – both public and private – from the 1966 U.S. Freedom of Information Act to the 1998 UN/ECE Aarhus Convention
- To explore the role that citizens play in the enforcement process once access to environmental data is granted

1 INTRODUCTION

The first part of the workshop is devoted to information disclosure to the public. The second part of the workshop examines how this theme is reflected in actions by citizens groups and in laws that seek to more directly involve citizens in the enforcement of environmental laws through citizen suits, reporting of alleged violations to the government, etc.

The basic questions presented by the facilitators were:

- What are the successes and the problems involving citizens' participation?
- What does “meaningful” mean when we speak about meaningful citizen involvement?
- What are the rights that the citizens and the nongovernmental organizations (NGOs) have?

2 DISCUSSION SUMMARY

Prior to the discussion, the key elements of citizen and nongovernmental organization participation were set. These are:

- Access to information
- Right to participation
- Access to justice

Katia Opalka opened the workshop discussion with an interesting presentation about citizens' involvement in Canada. She explained what routes citizens and NGOs in her country can take and what the Canadian system is for access to information for citizens and NGOs. For example, citizens can launch private prosecutions. Citizens and NGOs can ask the minister for an investigation, and if the government does not meet the request to their satisfaction, they can go to court. This allows citizens to monitor environmental issues. In addition to this, Canada has an online network – the Canadian Environmental Network – which invites people and NGOs to participate. The politicians rely on the NGOs as speakers for the citizens. There is also a system for investigation of complaints made by citizens.

Following this example of a government that really involves citizens and NGOs, the situation in Latin America was shared with the participants by Romina Picolotti. Usually, the possibility for citizens

to participate is based upon the right of information. In Latin America, this cannot be explained without mentioning the historic civil rights situation. Democracy is also the right to know what is happening. But only since a couple of years ago has there been an environmental movement that supplies information. Today, in some Latin American countries, there is a 'right to information act' but this does not apply to all. Even when an act is available, government officials are still not sharing information easily. When information is requested, it is shared as a favor rather than as a response to a right. And even when the government is willing to share, the data may not be accessible; for example, files may be on the floor, or data systems may be absent. If the government does not share the information, the NGOs would rather accuse them of violating the human rights act rather than the right to get information based on the right of access to environmental information. This is because the government is probably more willing to share information if accused of violating human rights. One problem in using this approach is that in Argentina, NGOs have no human rights.

After these two presentations, an interesting discussion was held, sharing experiences. The different remarks made or key points stated are listed below. For a good understanding of the discussion, it is noted that most of the participants were representing NGOs.

- It should be kept in mind that providing information costs the government a lot of time and effort (for example, they may not be able to afford the costs of making photocopies), and there should be a feeling that the government benefits from it, because otherwise authorities see only the risk that they will be sued constantly.
 - Public participation should enable citizens to make their views known, to ensure compliance with environmental laws and the precautionary principle.
 - Citizens and NGOs should have access to justice to support access to information, to participation, and to courts.
 - Meaningful public participation would require all relevant environmental information to be made available and the views of the public to be taken into consideration to the extent possible.
- In addition to these key points the following remarks were also made. These remarks are listed in no particular order:
- 'Meaningful information' means getting general information as well as specific information. And it should not only mean sharing information, but also giving rights to control discussions and then the right to appeal. In Austria, in the case of public participation in certain dossiers, they are handled differently, with more care, by the government.
 - A participant stated that access to information is linked to access to justice. This means the government actively supplying information, not only on request, such as access via databases. When the information is shared, such as via the Internet, it will actually pay itself back.
 - A participant from an NGO said that sometimes information is held back, or the opposite may occur: they give too much so it is difficult to understand. It was also stated that governments are in some cases only sharing technical information, which the public does not understand.
 - Website access is not in all cases and/or for all countries enough for sharing information. This is because not all people have access.
 - If the government uses the possibilities mentioned in the Aarhus Convention, it will be easier for them to reach the people. Citizens are sometimes surprised of the possibilities they have. The government's role should be more than just supplying technical data.
 - Without providing information to the people, it is impossible to give people awareness. In the Ukraine, they are

encouraging people to get access to information. NGOs can go to court now, but citizens cannot do this yet. In front of the court, the government once stated that it did not want to share all the documentation because it was secret. But the court said that they had to share because otherwise they would violate the convention.

- It is very different in Africa: 'you are just lucky getting information'. A participant from an NGO said that it was sensed that the government sees NGOs only as troublemakers. It has to be said that there is not much money available to share information.
- A problem is that not all state bodies are trained properly about the possibilities of the Aarhus Convention and its implementation. It was also stated that environmental democracy cannot be built from one day to another and sometimes the NGOs want more than what the governments are ready for. It is not always a matter of willingness; it takes time, and the governments need to build this capacity.
- Governments should keep in mind that citizens' complaints are the eyes and ears that enable the effectiveness of the environmental laws.
- Governments often see industries as partners, but they should see NGOs as beneficial partners as well.

3 RECOMMENDATIONS FOR INECE

- Strengthening governmental commitments and public support for regional agreements, making them spread worldwide.
- Presenting training workshops on innovative tools for meaningful public participation, which should be for NGOs together with regulators.
- Developing a strategy for establishing guidelines for meaningful participation.
- Making an effort to develop databases and other ways of providing information to the public, e.g., by sharing best practices.
- Sharing success stories and the way that they were used.
- Promoting that human rights (e.g., to life or health) relate to environmental rights.
- Mentioning to governments that information given by NGOs and the public should be used, to get the advantage of the participation.