The role of public participation in the implementation and support of the Espoo and Helsinki Conventions and synergies with the Aarhus Convention

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The role of public participation in the implementation and support of the Espoo and Helsinki Conventions and synergies with the Aarhus Convention

Regional Roundtable on Strengthening Public Participation in Transboundary Water Management: Exploring the Synergies of the Espoo, Helsinki and Aarhus Conventions

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Outline

- Public Participation in the Espoo and Helsinki Conventions
  - Scope
  - Relationship with the Rio Declaration and human rights
  - Pulp Mills on the Uruguay River (Judgement of the International Court of Justice, 2010)

- Synergies with the Aarhus Convention
Public participation in the Espoo and Helsinki Conventions

Scope of public participation

- “Public” means individuals, communities or groups
- Public participation includes access to information, consultation with concerned communities, access to justice (see Article 1 of the Aarhus Convention)
The Espoo and Helsinki Conventions and the 1992 Rio Declaration

**Principle 10 of the Rio Declaration (1992)**

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. [...] States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided”

**Future We Want Outcome Document (2012)**

“Broad public participation and access to information and access to judicial and administrative proceedings are essential to the promotion of sustainable development” (par.43)
Public participation in the Espoo Convention

“The Party of origin shall provide [...] an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin” (art.2.6 of the Espoo Convention)
Public participation in the Espoo Convention

- The preparation of EIA must permit public participation (art.2.2; art.4.2)

- The public of the affected Party and the Party of origin must both have the right to participate (art. 2.6)

- Right to make comments and objections to the proposed activity (art.3.8)

- The final decision must take into account the comments of the public (art.6.1)
Public participation in the Espoo Convention

Elements of effective national EIA procedures in a transboundary context

- The public of both Parties is informed at an early stage
- There is a sufficient time-frame for different phases of the EIA process: sufficient time for informing the public and for the public to prepare and participate effectively in the decision-making
- Information about the EIA process is put into the website of the competent authorities

Pulp Mills on the Uruguay River (Argentina v. Uruguay) - Judgment of the International Court of Justice (2010)

• Uruguay authorizes the construction of two pulp mills on the left side of the Uruguay River
• Argentina affirms the violation of the 1975 Statute on the Uruguay River
• It is claimed the negative impact on the quality of the Uruguay River
• The Parties refer to the Espoo and Aarhus Convention as examples of best practices
Pulp Mills on the Uruguay River
Pulp Mills on the Uruguay River
Pulp Mills on the Uruguay River – Legal Principles Claimed

• Optimal and reasonable utilisation of the Uruguay River

• Prior notification

• Prevention and control of pollution Protection of biodiversity and fishing resources

• Environmental Impact Assessment

• Consultations of the the affected populations
Public participation in the Helsinki Convention

- Information on water quality (Helsinki Convention, art. 16)
- Information is made available without discrimination as to nationality or domicile
- The obligation to provide information includes the obligation to actively disseminate information as well as the obligation to provide free information on request
- Link with the human right to water
Public participation in the Protocol on Water and Health

“Access to information and public participation in decision-making concerning water and health are needed, inter alia, in order to enhance the quality and the implementation of the decisions, to build public awareness of issues, to give the public the opportunity to express its concerns and to enable public authorities to take due account of such concerns. Such access and participation should be supplemented by appropriate access to judicial and administrative review of relevant decisions” (art.5 (i))
Synergies with the Aarhus Convention


“ In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters” (art.1)
Synergies with the Aarhus Convention

“The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:

The fact that the activity is subject to a national or transboundary environmental impact assessment procedure” (Art.6.2 (e) of the Aarhus Convention)
Synergies with the Aarhus Convention

- EIA is a cross-cutting topic: strengthening cooperation with other UNECE Conventions (Meeting of the Parties, Espoo Convention, Decision III/3, 2004)
- Public participation forms an essential part of transboundary environmental impact assessment (Meeting of the Parties, Espoo Convention, Decision III/8, 2004)
- Protocol on Water and Health to the Helsinki Convention: first instrument to take into account the Aarhus Convention
Thank you
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