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## Economic Commission for Europe

Meeting of the Parties to the Convention on  
Access to Information, Public Participation  
in Decision-making and Access to Justice  
in Environmental Matters

### Working Group of the Parties

#### Twenty-seventh meeting

Geneva, 26–28 June 2023

Item 4 (a) of the provisional agenda

**Substantive issues: thematic session on public participation in decision-making**

## Report of the tenth meeting of the Task Force on Public Participation in Decision-making\*

### *Summary*

At its second extraordinary session (Geneva, 19 and 22 April and 30 June 2010), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters established the Task Force on Public Participation in Decision-making through decision EMP.II/1 (ECE/MP.PP/2010/2/Add.1). The mandate of the Task Force was further extended in time by the Meeting of the Parties to the Convention through decision VII/2 (ECE/MP.PP/2021/2/Add.1) adopted at its seventh session (Geneva, 18–21 October 2021). Paragraph 13 of decision VII/2 sets out the issues to be addressed by the Task Force.

In accordance with the above-mentioned mandate, the report of the Task Force on its tenth meeting (Geneva (online), 10–11 October 2022) is being submitted to the Working Group of the Parties for its consideration.

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\* The present report was scheduled for publication after the standard publication date owing to circumstances beyond the submitter's control.



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## Introduction

1. The tenth meeting of the Task Force on Public Participation in Decision-making under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held in Geneva and in online format with remote participation<sup>1</sup> on 10–11 October 2022.
2. The meeting was attended by representatives of the following Parties to the Convention: Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Czechia, Estonia, Finland, France, Georgia, Germany, Ireland, Italy, Kazakhstan, Kyrgyzstan, Lithuania, Malta, Montenegro, Netherlands, North Macedonia, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and United Kingdom of Great Britain and Northern Ireland. A representative of the European Commission, representing the European Union, also participated in the meeting, as did representatives of the European Investment Bank.
3. A delegate from Guinea-Bissau also attended the meeting.
4. Representatives of the World Health Organization (WHO) and UN-Habitat were also present.
5. Representatives of Aarhus Centres, members of the judiciary, business and professional, research and academic organizations were also present, as were representatives of international, regional and local non-governmental organizations (NGOs), many of whom coordinated their input within the framework of the European ECO-Forum.

## I. Opening of the meeting and adoption of the agenda

6. The Chair of the Task Force, Ms. Loredana Dall’Ora (Italy), opened the meeting, stating that the meeting aimed to provide a platform for more in-depth discussions on ensuring effective public participation through addressing issues of a systemic nature, as well as challenges and opportunities related to public participation in the context of the coronavirus disease (COVID-19) pandemic. The thematic focus of the meeting would be on decision-making on health-related issues linked to air pollution and regarding urban development/cities.
7. The Chair also highlighted the following background documents: Selected considerations, findings, and reports of the Aarhus Convention Compliance Committee relating to effective public participation (AC/TF.PP-10/Inf.2); Overview of the implementation of articles 6, 7 and 8 of the Aarhus Convention (AC/TF.PP-10/Inf.3) based on 2021 national implementation reports; relevant information derived from the 2021 national implementation reports;<sup>2</sup> the Synthesis report on the status of implementation of the Convention (ECE/MP.PP/2021/6); *The Aarhus Convention: An Implementation Guide – Second edition*;<sup>3</sup> the *Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters* (Maastricht Recommendations)<sup>4</sup> and relevant Compliance Committee findings of a systemic nature.
8. The Chair underlined the importance of the issues considered by the Task Force also in the global context, as effective public participation in decision-making in environmental matters supported the achievement of Sustainable Development Goals and their targets, in particular target 16.7.
9. In her opening statement, a representative of Youth and Environment Europe/the European ECO-Forum remarked that a youth-led environmental organization was participating for the first time in the meeting of the Task Force on Public Participation in

<sup>1</sup> Documents for the tenth meeting, including a list of participants, statements and presentations, are available at <https://unece.org/info/Environmental-Policy/Public-Participation/events/369122>.

<sup>2</sup> Available at <https://unece.org/environment-policy/public-participation/aarhus-convention-reporting-mechanism/2021-reporting-cycle>.

<sup>3</sup> United Nations publication, Sales No. E.13.II.E.3.

<sup>4</sup> United Nations publication, Sales No. E.15.II.E.7.

Decision-making meeting, which could be seen as a way forward in creating stronger interdisciplinary participation in matters of decision-making on environmental issues at the national and international levels. She stated that modern-day disruptive events, such as wars, the energy crisis, the effects of the COVID-19 pandemic and climate change, created a “short-term emergency mindset” that tended to overlook procedural human rights issues, including public participation in decision-making. However, civil society must be strengthened in order to avoid social and environment disruption, and, in that regard, it was important to duly implement the outcomes of the ninth meeting of the Task Force<sup>5</sup> on participation of vulnerable and marginalized groups in decision-making and the expected outcomes of the current meeting of the Task Force.

10. The Task Force took note of the information provided by the Chair and adopted the agenda as set out in document AC/TF.PP-10/Inf.1. It also took note of the opening statement of the representative of Youth and Environment Europe/the European ECO-Forum.

## **II. Ensuring effective public participation**

11. The Chair introduced the agenda item on ensuring effective public participation aimed at discussing the full chain of the decision-making procedure based on the Maastricht Recommendations (arts. 6–8 of the Convention), and introduced the first panel of speakers.

12. The representative of Armenia gave a presentation on how the country had advanced its legislation and practices during the past three years, for example, the drafting of the new Law on Environmental Impact Assessment and work to ensure that it was aligned with the provisions of the Aarhus Convention and largely reflected the Maastricht Recommendations. Some fundamental changes had also been introduced with the aim of reviewing public participation mechanisms and establishing appropriate procedures ensuring the meaningful participation of different stakeholders. Furthermore, the Ministry of Environment, in collaboration with the Aarhus Centres, and the Scientific-Educational Centre on Environmental Law, had introduced measures to inform the wider public and authorities on a regular basis about the Maastricht Recommendations, which had been translated into Armenian, distributed via email to the public, and posted on the Ministry of Environment website. In addition, several cases of good practice regarding the influence of public participation in decision-making favouring the public interest and the environment were presented, including the case of the restoration of the territory of the Jrvezh Forest Park, the overturning of the decision on the creation of the “Gilan” sanctuary in the Khosrov Forest State Reserve and, most recently, the negative decision on construction of a metal smelter in proximity to a residential area and Yerevan botanical garden.

13. The representative of Guinea-Bissau shared the country’s efforts in ensuring public participation in decision-making, namely in the legislative field through environmental laws, as well as by awareness-raising through the introduction of environmental education into the updated school curriculum. Furthermore, he stated that a national dialogue to be launched by the Ministry of Environment and Biodiversity was designed to identify public concerns and recommendations on issues of environmental protection and biodiversity conservation. In order to promote shared responsibility in decision-making and implementation, said national dialogue should foster inclusivity and engage multi-stakeholder participation through various means, such as virtual means, thematic radio programmes and telephone recordings, in addition to in-person meetings. The national dialogue was expected to yield consensual changes that would feed into an action plan aimed at improving the governance of the framework on protected areas and biodiversity. He then touched upon existing challenges, such as pressure to exploit the country’s natural resources, the difficulty in maintaining the protected areas where the majority of those natural resources were located, the lack of information on environmental issues, and cultural difficulties arising in Indigenous communities when decisions were taken by village elders without due consideration being given to the opinions of women and youth.

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<sup>5</sup> AC/TF.PP-9/Inf.2, available at [https://unece.org/sites/default/files/2021-03/9TFPPDM\\_Key\\_Outcomes\\_0.pdf](https://unece.org/sites/default/files/2021-03/9TFPPDM_Key_Outcomes_0.pdf).

14. The representatives of Vilnius planas and Create Lithuania delivered a joint presentation on efforts made to strengthen the culture of public engagement in Lithuania. Such efforts included the application of the Maastricht Recommendations in a methodology manual<sup>6</sup> developed together with the Ministry of Environment, which addressed in particular the following issues: designing a public participation procedure; carrying out a public participation procedure; evaluation, training and research on public participation practices; public participation on the zero option; defining and identifying the public that might participate; and practical arrangements to support public participation. The manual had been applied to five projects on public space in three municipalities. It had been developed in response to the issues identified in a survey that had demonstrated that training, methodology and sharing of good practices would help municipalities to organize public participation. The project had resulted in the growth of the culture of public participation in Lithuania.

15. Several representatives of the European ECO-Forum made interventions, including on the following issues:

(a) Young people, who constituted 13 per cent of the world's population, faced many challenges in exercising their right to public participation. It was thus proposed that granting a stakeholder role to youth and ensuring their substantial engagement in policy making would strengthen democratic societies and promote intergenerational justice, including on environmental matters;

(b) The Ukraine post-war recovery and reconstruction plan had stimulated a national movement, with the involvement of environmental NGOs and experts, who raised awareness among decision-makers on the importance of integrating principles of sustainable development and the green approach, for example, the European Green Deal, into the future development of Ukraine. It was highlighted that, under the current extreme circumstances, people had gained unique experience in self-organization and the use of alternative survival measures, sharing of which could be beneficial for the international community when addressing disaster situations;

(c) Decisions permitting industrial pollution within the territory of the European Union were frequently disclosed only after they had been taken, thus not allowing for public participation at all stages. It was suggested that the relevant information be made available at least two months in advance and through digital reader-friendly means. Moreover, in order to have clarity as to whether a particular Government was involved in a particular decision, it was proposed that the positions of the European Union member States be made publicly available in the preparatory bodies of the Council of the European Union;

(d) The European Climate Law,<sup>7</sup> which aimed at climate neutrality by 2050, was one of the main elements of the European Green Deal, and included measures to track progress and adjustments through the tool of integrated national energy and climate plans. The Energy Union governance rules underlined the importance of effective public participation and regional cooperation in the implementation of such plans.<sup>8</sup> A study of several European Union member States had concluded that both transparency regarding progress towards achieving climate targets and the establishment and operation of a

<sup>6</sup> Beatričė Umbrasitė, Giedrė Puzinauskienė and Brigita Mikolajūnaitė, *Miesto ir visuomenės dialogas: dalyvavimas viešųjų erdvių formavime: Praktinis gidas savivaldybėms* (n.p., 2022) (Lithuanian only), available at [http://kurkl.lt/wp-content/uploads/2022/08/220822\\_Visuomenes-dalyvavimas-Praktinis-gidas-v04.pdf](http://kurkl.lt/wp-content/uploads/2022/08/220822_Visuomenes-dalyvavimas-Praktinis-gidas-v04.pdf).

<sup>7</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999, *Official Journal of the European Union*, L 243 (2021), pp. 1–17.

<sup>8</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council, *Official Journal of the European Union*, L 328 (2018), pp 1–77.

multilevel climate and energy dialogue varied from country to country, with the average score being quite poor.

16. The Task Force:

(a) Thanked the representatives of Armenia, Guinea-Bissau, Vilnius planas and Create Lithuania for their panel presentations and took note of the experiences shared by them;

(b) Took note of the subsequent discussion in relation to the agenda item, i.e. the highlighted achievements, challenges and suggestions for improvements and for the way forward, and of the key messages derived from the presentations and discussion on the item, including the following:

(i) Presentations demonstrated that efforts had been made by authorities to improve legislation and practice in order to enhance public participation in decision-making, but many challenges remained. Also, capacity-building was required in order to improve knowledge and experience of public authorities in implementing effective public participation in practice;

(ii) The Maastricht Recommendations on promoting effective public participation in decision-making in environmental matters played an important role in assisting Governments in their efforts to promote effective public participation in decision-making;

(iii) More should be done to engage different target groups of society, in particular, those in vulnerable situations, such as women, the elderly and Indigenous communities. Education and raising awareness of cultural specificities were important in the current context;

(iv) On the other hand, young persons were very familiar with information and communication technologies, but faced logistical and administrative barriers (e.g., lack of time, transport and financial support) and lacked concrete tools to be able to respond promptly to the possibility of participation; to remedy that situation, it would be important to raise the awareness of youth (including through digital tools) and engage in formal and informal consultations (e.g., youth councils at the national, regional and other levels);

(v) Different modalities for public participation should be applied and tailored to the needs of specific target groups (face-to-face meetings, opportunities for online participation, thematic radio programmes with the possibility of remote intervention, telephone recordings and offline recording of meetings, among other things);

(vi) Another important issue that should be addressed by Parties was the availability of documents to enable maximum use of information for public participation purposes;

(vii) Wars and other military offensives inevitably had an impact on public participation in decision-making, a situation that had been recognized as a great challenge. Efforts should be made by Parties in such circumstances to safeguard that public participation in decision-making on matters related to the environment was: (i) adhered to and remained a core element of environmental impact assessment and strategic environmental assessment procedures; and (ii) also ensured for post-war recovery and reconstruction plans, likewise in the case of natural disasters;

(c) Encouraged Parties, other interested States and stakeholders to share information, experiences, challenges and good practices with regard to public participation in decision-making through the Aarhus Clearinghouse for Environmental Democracy and its good practice database;<sup>9</sup>

(d) Reiterated the call to translate into national languages and use widely the Maastricht Recommendations on promoting effective public participation in decision-making in environmental matters;

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<sup>9</sup> See <https://aarhusclearinghouse.unece.org/>.

(e) Also reiterated the call to carry out capacity-building activities, such as training sessions for public authorities, NGOs and other target groups, so as to promote and strengthen public participation in decision-making.

### III. Coronavirus disease pandemic and public participation: challenges and opportunities

17. The Chair introduced the next agenda item, on good practices, challenges and opportunities for public participation in the context of the pandemic, and invited the second panel of speakers to exchange their experiences, so as to identify good practices for the way forward. She highlighted the advice of the Aarhus Compliance Committee at the request of Kazakhstan (ECE/MP.PP/C.1/2021/6), noting that the Convention did not preclude the holding of public hearings on decision-making under the Convention during the pandemic through videoconferencing or other virtual means, provided that, in practice, all the requirements of the Convention were fully met.

18. The representative of Kazakhstan shared the efforts of its Government to ensure effective public participation, especially during the pandemic lockdown period. The Environmental Code, which had entered into force in 2022, had been prepared in close cooperation with environmental NGOs and the Aarhus Centres, and considered a number of international obligations requiring changes and additions to national environmental legislation, including the Aarhus Convention and the Protocol on Pollutant Release and Transfer Registers. It was then noted that, currently, public hearings were held in a hybrid format, thus covering a larger number of members of the public interested in the decision-making process on environmental issues, although lack, or poor quality, of Internet connection posed a serious obstacle to the involvement of the public. Moreover, several violations, mostly of a procedural nature (e.g., violation of terms for posting announcements and protocols, failure to indicate: dates for posting announcements and protocols; dates of public hearings; and, periods for conducting polls), were reported, as well as instances of falsification of the date of posting of announcements and protocols.

19. The representative of Slovenia explained the legislative regulations regarding NGOs, such as the preconditions for establishing an NGO and for its functioning. She also stated that the National Youth Council of Slovenia had not been recognized under the law governing youth councils. She then described the governmental measures undertaken to address the pandemic. A procedure for assessing the constitutionality of article 2 of the Act on Intervention Measures to Mitigate and Eliminate the Consequences of the COVID-19 Epidemic in the framework of the above-mentioned measures had been initiated, resulting in the cancellation of a law regarding the coronavirus disease epidemic. Article 2 had been suspended pending a final decision of the Constitutional Court.

20. The representative of UN-Habitat reflected that, with 90 per cent of COVID-19 cases being registered in urban settings, local authorities needed to have effective emergency preparedness plans and health crisis policies in place. That could be achieved through multilevel and multi-stakeholder collaboration with the established mechanisms addressing emergency and recovery measures. To that end, the publication *A Guide: Leveraging Multilevel Governance Approaches to Promote Health Equity*,<sup>10</sup> developed by UN-Habitat, by placing peoples' needs at the centre, aimed to achieve a transformative impact, benefiting vulnerable groups in particular, through multilevel governance. The speaker highlighted the importance and value of citizen-led solutions in strengthening health response strategies. Two good practices were then described to illustrate how local communities influenced decision-making. The first case presented a community engagement "application", which served as a platform for direct interaction between the State and its constituents through the sharing of COVID-19 information. The second case showed how making information accessible in local languages and available for local populations was a step towards mitigating the effects of the pandemic. Furthermore, the publication *Cities and Pandemics:*

<sup>10</sup> Samuel Njuguna (Nairobi, UN-Habitat, 2021).

*Towards a More Just, Green and Healthy Future*<sup>11</sup> highlighted how digital technologies were key in transforming urban governance and essential in responding to the pandemic; for example, through tracking applications, remote meetings, online surveys and other electronic governmental practices. However, the use of such technologies needed to be well regulated in order to avoid increased surveillance, which could jeopardize democratic governance and human rights. In that regard, it was indispensable to provide the public with access to digital technologies, while at the same time implementing digital protection measures.

21. The representative of The Consultation Institute/the European ECO-Forum shared lessons learned on public participation and engagement during the pandemic. It was observed that there had been a rapid acceleration as people acquired new techniques and skills in using digital technologies, creating a feeling of democratization as all participants in an online setting could express themselves in the same way, unlike in a formal, hierarchy-bound setting. It was then noted that the need to ensure that proper resources were allocated for the public participation of minority groups was met mostly with the support of the non-profit sector. The possibility to participate in public meetings through online means engaged a new demographic of working age people and ensured much better geographical representation. Furthermore, research had also shed light on challenges, such as exclusionary forces resulting from the use of smart technologies when people were limited in their use due to, for example, a lack of, or limited, Internet connection. That issue affected, in particular, persons with disabilities and marginalized groups, including youth. There was also a need for capacity-building, as some people felt too embarrassed or too shy to go online and use digital tools.

22. Representatives of Germany, the United Kingdom, Women Engage for a Common Future/European ECO-Forum and Serbia made interventions including on the following issues:

(a) To ensure that planning and approval procedures with public participation could be carried out in a proper way, a Safeguards Act had been introduced in May 2020 in Germany. The Act constituted a law on using alternatives for procedural steps, especially the Internet, with the possibility of replacing public hearings with online consultations, or telephone or video conferences. In order to address the issue of the variable nature of Internet access nationwide, “analogue anchors” had been introduced under a law allowing for opportunities to examine documents online and offline, and for comments to be provided both in electronic and paper formats. Overall, that new legislation had proved to be efficient in ensuring effective public participation, and some parts thereof were being further developed, based on experiences shared by other representatives at the Task Force meeting.

(b) As a result of the pandemic, the United Kingdom had moved from in-person to online public participation regarding the development of a new environmental body. The new format had several advantages, including greater equality and empowerment of participants. Prior in-person engagement had helped lay the foundations for such success. However, the online approach had enabled the continuation of public participation on an important environmental matter in challenging circumstances.

(c) The gendered digital divide had widened during the pandemic, and the number of cases involving a lack of online safety for women had increased; for example, 52 per cent of young women worldwide had been victims of online gendered violence, with women members of ethnic minorities being affected in particular, especially regarding political discussions.

(d) Good practices had been implemented by the Government of Serbia in 2021 to adopt to the new context of the pandemic, namely through holding public consultations, in both in-person and online formats, on drafting several laws. However, one of the drawbacks was that the number of people participating in-person had been limited because of COVID-19 measures; thus civil society claimed that allowing a minimum number of people to participate in public discussions was seen as a violation of the concept of public participation.

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<sup>11</sup> Nairobi, UN-Habit, 2021.



23. The Task Force:

(a) Thanked the representatives of Kazakhstan, Slovenia, UN-Habitat and The Consultation Institute/the European ECO-Forum for their panel presentations and took note of the insights, good practices, experiences and challenges shared by them;

(b) Took note of the subsequent discussion in relation to the agenda item, i.e. the highlighted achievements, challenges and suggestions for improvements and for the way forward, and of the key messages derived from the presentations and discussion on the item, including the following:

(i) The pandemic had brought many challenges, but at the same time it had stimulated several new opportunities for public participation;

(ii) The lessons learned included the need to properly regulate the use of digital technologies, which could otherwise lead to increased surveillance and the consequent undermining of democratic governance and human rights; democratization of access was another phenomenon, as more people could connect remotely and all were equal online. However, at the same time, the public had to learn new technological skills that revealed the gender and age gap due to the pre-existing digital divide (including Internet access, technology and online skills);

(iii) Concrete steps had been taken to address those challenges through improving legislation and applying practical measures, such as amendments to specific legal acts, developing guidance material, strategies, community engagement “applications”, and the setting up of specific mechanisms and platforms. In that regard, the advice of the Aarhus Convention Compliance Committee regarding the possibility of conducting public hearings during the pandemic through videoconferencing or other virtual means was an important message that should be promoted, and Parties should ensure that effective public participation procedures were adhered to and enabled during such hearings;

(c) Encouraged Parties, other interested States and stakeholders to share information, experiences, challenges and good practices with regard to public participation in the context of the pandemic through the Aarhus Clearinghouse and its good practice database.

#### **IV. Public participation in decision-making on health-related issues linked to air pollution**

24. The Chair introduced the third panel of speakers, opening the session, and recalling the primary objective of the Aarhus Convention “to contribute to the protection of the right of every person ... to live in an environment adequate to his or her health and well-being”. The Chair underlined the broad understanding of the terms “environment” and “environmental matters” under the Convention, which could be drawn from the broad definition of “environmental information” under article 2 (3), thus extending to the state of the air and the atmosphere and, consequently, the state of human health and safety inasmuch as they were or might be affected by the state of those elements of the environment or, through those elements, by the relevant factors, activities and measures.

25. Furthermore, to illustrate the close links between air quality and its effects on human health, the Chair recalled the findings of the 2019 report of the Special Rapporteur on human rights and the environment (A/HRC/40/55), which focused on the right to breathe clean air as one of its components and described the negative impact of air pollution on the enjoyment of many human rights, in particular the right to life and the right to health, notably by vulnerable groups.

26. In addition, it was noted that public campaigns and citizen science initiatives aimed at monitoring air quality had increased, as had the demand to formalize data collected by citizens and NGOs, including through inputting their submissions to the decision-making procedures on such matters.

27. Special attention was paid to the Aarhus Convention jurisprudence database<sup>12</sup> containing summaries of cases on air-related matters submitted either by NGOs or individuals that were currently being processed by the courts of several Parties. Those cases underscored the need to improve public participation procedures and consideration of health-related issues linked to air pollution during decision-making on projects, plans, programmes, policies and even legislation.

28. The Chair recalled the outcomes of the thirteenth meeting of the Convention's Task Force on Access to Justice (Geneva (hybrid), 15–16 February 2021) calling on Parties to ensure the effective implementation of the Aarhus Convention regarding decision-making related to air quality matters, which, in turn, would reduce the demand for seeking access to justice.<sup>13</sup>

29. A representative of Bulgaria presented good practices in the efforts of its Government to ensure public participation in the National Air Pollution Control Programme (2020–2030), aimed at cutting annual anthropogenic emissions of a number of atmospheric air pollutants, and the National Programme for Improving Ambient Air Quality (2018–2024), aimed at achieving compliance with fine particulate matter standards. Public participation was ensured for both programmes through the provision of information on the designated government bodies' websites for a 30-day period, along with the opportunity for the public to submit written feedback. The final versions of the proposed programmes incorporated the public's feedback and suggestions. Furthermore, public participation was ensured in the development of Municipal Air Quality Programmes, the drafts of which were open for public discussion. The instructions on reducing emissions and achieving the set norms on harmful substances were applied in the regions in order to assess and manage air quality.

30. A representative of Italy presented a case study of "citizen science" related to air pollution, which had been rolled out in major Italian cities. She spoke about citizens' doubts regarding government institutions' efforts to provide reliable information regarding health risks. To that end, citizen science was seen as fundamental when the linkages between environment and health needed to be examined. She explained how the concept of citizen science contributed to the link between the science and the public, facilitating discussions and debates and demonstrating the mutual benefits of that relationship when facing social and environmental challenges.

31. A representative of Kyrgyzstan stressed the importance of public participation in decision-making regarding the example of an environmentally challenging situation in Bishkek involving air pollution. Government bodies were running public awareness-raising campaigns about the causes and effects of smog – produced by the use of low quality fuel (in industry and transport) and solid fuel (in private residential buildings, for heating purposes) – and proposing alternative solutions. Several activities involving public participation had been carried out in the framework of a legislative plan to introduce integrative measures to improve the environmental state in Bishkek.

32. A representative of the Norwegian Institute for Air Research elaborated on how citizen science served as a powerful research and policymaking approach by highlighting case studies from the ACTION participatory toolkit against air pollution and the NordicPATH project. Challenges existed, however, such as the need to increase trust in citizen-collected data and to remove barriers to participation for women and other underrepresented groups. Participatory budgeting was highlighted as a successful way of engaging the public in joint decision-making on allocating funds for the purposes of reducing air pollution. It was further noticed that citizen science deepened the role of citizens in governance, thus increasing opportunities for shared responsibilities in the protection of the environment.

33. A representative of Environmental Action Germany (Deutsche Umwelthilfe) spoke about the "Right to Clean Air" project implemented in 2016–2019 based on the principles of the Aarhus Convention. Best practice measures for reducing air pollution across Europe had

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<sup>12</sup> Available at <https://unece.org/env/pp/tfaj-case-law-related-convention>.

<sup>13</sup> Key outcomes (AC/TF.AJ-13/Inf.2), para. 3 (f), available at <https://unece.org/environmental-policy/events/thirteenth-meeting-task-force-access-justice-under-aarhus-convention>.

been presented to inform citizens of their rights with regard to local authorities. Awareness-raising campaigns on levels of air pollution and, more importantly, on non-compliance with limit values in certain cities, had led to increased public interest and demands for the authorities to draft updated air quality plans. Despite the challenges in the processing of lawsuits filed in 40 cities, the court rulings showed the importance of the Aarhus Convention both as a guarantee of access to information and to justice in environmental matters and a tool to legally enforce its principles, resulting in the strengthening of the right to clean air in Germany and Europe.

34. A representative of Dalma-Sona Foundation/the European ECO-Forum talked about the state of air quality in Armenia, and the efforts of the Government of Armenia to implement the principles of the Aarhus Convention and related setbacks, stressing that, while the principle of access to information was adhered to, that of public participation remained challenged; for example the 2006 recommendations of the Compliance Committee (ECE/MP.PP/C.1/2006/2/Add.1) had not been implemented. There was a need for support for national capacity-building through training sessions for environmental impact monitoring experts.

35. A representative of Austria delivered a statement about the country's experience of public participation in the fight against air pollution. Air quality plans, which were drawn up by the respective governor of each of the nine federal regions, were posted online for six weeks, and all were invited to submit feedback for consideration. However, the governor considered the public's feedback at his/her own discretion. The possibility of challenging final plans was open only to people who would be directly affected by the limit air quality values to be exceeded and to NGOs. The governor's decision could be appealed against in an administrative court, which, in principle, had the power to order the governor to take specific measures. Each plan was evaluated and could be revised with regard to its effectiveness every three years after publication.

36. The Task Force:

(a) Thanked the representatives of Bulgaria, Italy, Kyrgyzstan, the Norwegian Institute for Air Research, Environmental Action Germany and Dalma-Sona Foundation/the European ECO-Forum for their panel presentations and took note of the experiences shared by them;

(b) Took note of the subsequent discussion in relation to the agenda item, i.e. the highlighted achievements, challenges and suggestions for improvements and for the way forward, and of the key messages derived from the presentations and discussion on the item, including the following:

(i) Public participation in decision-making on health-related issues linked to air pollution appeared to be highly important. Several good practices had been demonstrated through developing national programmes, toolkits, dedicated projects and examples of "citizen science";

(ii) At the same time, a number of specific challenges and trends had been highlighted, such as lack of: meaningful public participation during emission permit decision-making; effective and visible public notification about the start of decision-making procedures; and, access to main documents submitted by polluters to receive emission permits, which rendered the procedure opaque and led to the worsening of the quality of emission permits;

(iii) Several suggestions to improve the situation had been put forward, including developing targeted recommendations and integrating citizen science into research and governance programmes, and developing the expert and technical capacity of public authorities and, as needed, other target groups;

(c) Encouraged Parties to use the outcomes of citizen science and crowdsourcing initiatives to promote public participation and inform decision-making on health-related issues linked to air pollution;

(d) Called on Parties to continue improving public participation in decision-making on health-related issues linked to air pollution by ensuring effective and inclusive

public involvement, including of vulnerable and marginalized groups exposed to air pollution;

(e) Encouraged Parties, stakeholders and partner organizations to strengthen the capacity of the public, in particular vulnerable and marginalized groups, to participate in decision-making procedures.

## V. Public participation in decision-making on urban development/cities

37. The Chair introduced the topic of public participation in decision-making on urban development/cities, including good practices and challenges in that regard, and introduced the fourth panel of speakers.

38. First, it was highlighted that effective and inclusive public participation procedures in decision-making on urban development/cities was crucial for the sustainable development of cities and local communities, and instrumental in attaining the respective targets of Sustainable Development Goal 11 (Make cities and human settlements inclusive, safe, resilient and sustainable).

39. On a different note, spatial planning of urban zones and cities required consideration of multiple public and private interests in the development of land and space, and was also crucial for the protection of the right of all to a healthy, safe and sustainable environment. Therefore, the decision-making procedure in that area was complex and multi-stage, involving strategic environmental assessment of city plans but also environmental impact assessment of individual projects and the adoption of various acts before the final decision was reached. Public participation could be organized at different stages of the procedure.

40. The representative of Bosnia and Herzegovina conveyed the country's experience regarding public participation in spatial planning. One of the challenges could be seen in the complex administrative and political structure of the country, where spatial planning was the responsibility of two entities,<sup>14</sup> Brčko District and 10 cantons, and therefore there was no consistency when it came to public participation and decision-making rights for all public stakeholders. That could be explained by the fact that, if, in a given entity, the rights of the public were included only in the adoption phase of the plan, in another entity, it was possible to involve the public in all phases of planning. Moreover, it was noted that violations occurred, for example regarding the way of announcing and conducting debates and public meetings, without giving an adequate explanation as to why certain remarks of the interested public had not been taken into account in the final decisions. It was proposed to strengthen trust between authorities, spatial planning experts and the public, and to raise public awareness and encourage public participation in the adoption of spatial planning documents.

41. A representative of UN-Habitat provided a detailed overview of various innovative governance strategies in spatial planning contributing to inclusive public participation. Based on research conducted by UN-Habitat, Governments that mobilized a wide variety of approaches, including hard- and soft-power instruments in the areas of analysis and monitoring, achieved better results in influencing sustainable urban projects. In that regard, the Geneva Declaration on Environmental Democracy for Sustainable, Inclusive and Resilient Development<sup>15</sup> emphasized the supporting role of such approaches. Having further highlighted the requirement for ensuring "active, free and meaningful" participation as per the United Nations Declaration on the Right to Development,<sup>16</sup> the speaker stated that the right to information was a prerequisite for meaningful public participation. The UN-Habitat International Guidelines on Urban and Territorial Planning<sup>17</sup> (adopted in 2015) had become

<sup>14</sup> Bosnia and Herzegovina is a decentralized state consisting of two entities: the Federation of Bosnia and Herzegovina (divided into 10 cantons); and the Republika Srpska (consisting of six regions). The region of Brčko has special "district" status.

<sup>15</sup> See [https://unece.org/sites/default/files/2021-10/ECE\\_MP.PP\\_2021\\_CRP.4-ECE\\_MP.PRTR\\_2021\\_CRP.1\\_1.pdf](https://unece.org/sites/default/files/2021-10/ECE_MP.PP_2021_CRP.4-ECE_MP.PRTR_2021_CRP.1_1.pdf).

<sup>16</sup> See [www.ohchr.org/sites/default/files/Documents/Issues/Development/RTD\\_booklet\\_en.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Development/RTD_booklet_en.pdf).

<sup>17</sup> See <https://unhabitat.org/international-guidelines-on-urban-and-territorial-planning>.

a global reference framework to promote more socially inclusive, better integrated and connected spaces, and offer linkages between urban and territorial planning and inclusive public participation in decision-making. More recently, the “Urban Maestro”<sup>18</sup> initiative had explored ways for soft, non-regulatory State powers to shape decisions that contributed to delivering better-designed spaces. The above-mentioned guidelines and research had become even more relevant during the pandemic and the climate change crisis, paving the way for innovative approaches and tools using new technologies. To that end, UN-Habitat had developed Our City Plans,<sup>19</sup> an action-oriented toolbox for integrated participatory urban planning, which contributed significantly to the achievement of Sustainable Development Goal 11. Another valuable instrument for the effective domestic implementation of the Paris Agreement by countries, including their nationally determined contributions, was the Urban Law Module of the Law and Climate Change Toolkit. The Toolkit advocated for robust public participation, especially for vulnerable groups.

42. The representative of URBiNAT talked about a 5-year nature-based solutions project that had been launched in 2018 and aimed at co-creating healthy corridors and community-driven design processes, as illustrated by the case of the city of Porto in Portugal. The approach was intended to encourage citizens’ empowerment and direct engagement, thus ensuring that they had greater influence in the decision-making process. Attention was paid to co-diagnostics, co-design, co-monitoring, co-implementation, cooperation and co-production between the citizens, public authorities and other stakeholders, as well as to the diversity of participants. A number of challenges in the participatory process were highlighted, including disciplinary barriers, bureaucratic and technical discourses and the lack of trust on the part of citizens in municipal decision-making. To that end, it was proposed that cities establish advisory boards or municipal committees as a regular and formal governance structure dedicated to joint decision-making, as applied in the city of Porto. The speaker concluded by demonstrating how the Aarhus Convention’s provisions on public participation had been successfully followed in the above-mentioned process.

43. The representative of Women Engage for a Common Future/the European ECO-Forum, gave a presentation on the Horizon 2020 project Reshaping European Advances towards green Leadership Through Deliberative Approaches and Learning.<sup>20</sup> Several challenges were pointed out: failure by European institutions to systematically apply citizen participation and collaboration; disenfranchised groups in the urban setting; and, thematic issues within the framework of the European Green Deal, such as gender blindness. In that regard, the above-mentioned Horizon 2020 3-year project (launched in February 2022) focused on how to include women and diverse groups, in particular disenfranchised groups, in the European Green Deal. With the aim of leaving no one behind, the participants’ capacity on gender equality issues was being built, and an intersectional and ecofeminist approach was being employed, along with deliberation on utilizing the most appropriate formats – both online and in-person – when it came to public participation.

44. Several representatives of the European ECO-Forum made interventions, including on the following:

(a) In order to address the issue of energy insufficiency in the European Union, the REPowerEU Plan had been announced in the summer of 2022, with a proposal to amend the Renewable Energy Directive<sup>21</sup> to speed up renewables permitting processes, as well as to revise the Energy Performance of Buildings Directive.<sup>22</sup> It was important to involve local communities in the energy transition process from the early stages, in both planning and ownership of renewable energy projects, and to ensure a holistic approach to spatial planning for renewable energy installations that could strengthen the European Green Deal. One

<sup>18</sup> See <https://urbanmaestro.org/>.

<sup>19</sup> See <https://ourcityplans.unhabitat.org/>.

<sup>20</sup> See <https://www.realdeal.eu/>.

<sup>21</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, *Official Journal of the European Union*, L 328 (2018), pp. 82–209.

<sup>22</sup> Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings, *Official Journal of the European Union*, L 153 (2010), pp. 13–35.

drawback was that implementation of said approach could lead to the neglect of environmental impact assessments, including a component of public participation, and thus to public resistance and the slowing down of the development of renewables. Therefore, policymakers were encouraged to further strengthen the involvement of people and local communities in the energy transition;

(b) The established practice of participatory planning and budgeting for community projects in urban development in Budapest was explained from both beneficial and controversial perspectives. An initiative launched with the aim of delivering positive change in the urban setting had recently been increasingly used as a way to bypass public participation in decision-making for some other projects and thus to curtail public participation procedures;

(c) Legislative provisions on public involvement in the local spatial planning process were being violated, as could be seen in the choice of location of hazardous facilities such as the Svydovets mega ski resort in the Carpathian Mountains of Ukraine. However, cases such as the one concerning construction of Svydovets ski resort, could be challenged by citizens and NGOs in the courts, and that case had proved to be fairly considered and a decision had been issued in favour of the plaintiffs and the environment. Given that practice, public participation was seen as crucial for the post-war reconstruction of Ukrainian cities, towns and other residential settlements.

45. The Task Force:

(a) Thanked the representatives of Bosnia and Herzegovina, UN-Habitat, URBiNAT and Women Engage for a Common Future/European ECO-Forum for their panel presentations and took note of the experiences shared by them;

(b) Took note of the subsequent discussion in relation to the agenda item, i.e. the highlighted achievements, challenges and suggestions for improvements and for the way forward, and of the key messages derived from the presentations and discussion on the item, including the following:

(i) A number of factors had an impact on public participation in decision-making on urban development, such as the competing interests of different governmental, business and civil society actors and the existence of barriers regarding cooperation among them; and the diversity of public groups living in urban areas, including those in vulnerable situations. In addition, for countries with a federal structure, spatial planning was the responsibility of different territorial entities (e.g., provinces, regions) and the laws in force did not always bestow equal rights upon all citizens (in one entity, rights were retained only in the phase of adopting the plan, while in another entity, citizens could be involved in all phases of planning);

(ii) Other important issues to consider were the applicability of instruments providing for environmental impact assessment and strategic environmental assessment in decision-making on urban development (e.g., cases had emerged, many involving priority investments, where environmental impact assessment or strategic environmental assessment procedures had not been carried out), and ensuring that the requirements of the Aarhus Convention on public participation in decision-making were adhered to in their context;

(iii) Several actions, such as guaranteeing that environmental safeguards were not undermined in the processes, and the need to ensure a holistic approach to spatial planning, had been highlighted. The level of public influence in decision-making had not stabilized, in particular regarding negotiation, consensus building and deliberation;

(iv) At the same time, several good practices had demonstrated how such challenges could be addressed. They included adoption and implementation of dedicated mechanisms, guidance material, toolkits, projects, initiatives, laws and international commitments that enabled public participation in urban development. Also, participatory processes for spatial planning stimulated the use of new technologies and alternative tools, which helped to explore new avenues for

exercising public rights, thus helping to mitigate the impact of the reduced freedom of assembly and movement introduced in response to the pandemic;

(c) Called on Parties to continue improving public participation in decision-making on urban development/cities by ensuring effective and inclusive public involvement, including of local communities and vulnerable and marginalized groups;

(d) Encouraged Parties, other interested States and stakeholders to continue sharing information, experiences, challenges and good practices with regard to public participation in decision-making on urban development/cities through the Aarhus Clearinghouse and its good practice database.

## VI. Other relevant developments

46. The Chair opened the floor for discussions of other relevant developments not addressed under previous agenda items, also noting that the issue of participation of groups in vulnerable situations had been prominently addressed at the meeting and recalling that said issue was covered by decision VII/2, adopted by the Meeting of the Parties at its seventh session (Geneva, 18–21 October 2021), and would be considered in greater detail at the next meeting of the Task Force.

47. Several representatives of the European ECO-Forum made interventions, including on the following:

(a) Noting that the notion of “vulnerable and marginalized groups” should be defined in more clarity, including the analysis of the challenges that said category of people faced, as well as indicating how their efficient public participation in decision-making could be better ensured in line with the Convention;

(b) Recent Spanish Law No. 19/2022 was a milestone in Europe as the first legal text granting rights to an ecosystem through the recognition of the legal personhood of the Mar Menor Sea (a coastal lagoon located in the region of Murcia) and of its basin. That breakthrough development had resulted from a People’s Legislative Initiative, which had begun in 2020, and represented an important step forward in public participation in environmental matters. The Law had strong linkages to the Aarhus Convention, and enforced its articles 7, 8 and 9;

(c) The challenging practice of State courts using only one out of several official languages highlighted the problem of people affected by a certain issue being placed at a disadvantage.

48. The Task Force took note of the statements made and asked the secretariat to conduct a survey to identify good practices, possible challenges and lessons learned in relation to participation of groups in vulnerable situations in decision-making, and encouraged Parties, other interested States and stakeholders to participate in the survey and to submit the related good practices to the Aarhus Clearinghouse and its good practice database.

## VII. Closing of the meeting

49. The Task Force thanked the speakers for their useful presentations and interventions and the participants for their important contributions, as well as the secretariat for its support, and noted that the agreed outcomes summarized by the Chair at the meeting would be circulated via email after the meeting and incorporated into the meeting report, along with a more detailed account of presentations and of the discussion.