
Building Bridges between Region on implementation of Principle 10 Rio Declaration

REPORT November 4-6, 2014 in Santiago de Chile

Fourth Focal Point meeting in Santiago, on the LAC regional instrument

Side Event “CSO involvement in international negotiations and enforcement of international agreements”

The Regional Environmental Center (REC) organized a side event on November 4, 2014, in cooperation with Chilean CSO groups, the Casa de la Paz and FIMA, and the Government of Chile with the kind support of the Ministry of Infrastructure and the Environment, The Netherlands. The event aimed to facilitate the share of best practice examples and lesson learned on CSO involvement in international negotiations and enforcement of international agreements. The side event took place within the programme “Building Bridges between Regions” which includes two projects funded by AGEDI Abu Dhabi and by the Ministry of Infrastructure and the Environment, The Netherlands, within the framework of which the REC has offered support and assistance to the governmental and CSO representatives of the LAC region as well as to ECLAC for the development of the regional instrument.

The side event was opened by Constance Nalegach, Focal Point, Ministry of Environment, Chile, who underlined the importance of such an event as a good discussion platform during the Focal Points’ meeting with the presence of both governmental and civil society representatives. Ezio Costa, Executive Director of FIMA emphasized the CSOs’ interest in hearing the lessons learned in the development and implementation of the Aarhus Convention and to be able to use these in developing the details of the LAC regional instrument. He noted that they wish to learn more on how the Aarhus Compliance mechanism works, since the plan is to discuss the inclusion of a similar mechanism in the LAC instrument. Tsvetelina Filipova, Senior Expert, Head of Participatory Topic Area, REC, in her opening remarks talked about how the development and implementation of the Aarhus Convention has changed the approach and mentality of officials and the civil society in the UNECE region and how the REC has contributed to that process through participation in the negotiation, and through targeted capacity building strengthening the implementation capacities of authorities and civil society. The REC is still actively involved in supporting the implementation of the Convention in Europe and also is currently offering assistance to the LAC instrument process.

Among the speakers, Jonas Ebbesson, the Chair of the Compliance Committee of the Aarhus Convention highlighted the achievements and impacts of the Aarhus Convention’s Compliance Committee and the role of CSOs in the enforcement of this international agreement. There are many conventions where the CSOs are actively involved and their participation improves the quality of the implementation of these instruments and also often can bring in new perceptions and perspectives. Such involvement is also increasing the awareness about the issues covered by the instrument, controls more efficiently the public administration and also promotes human rights, legitimacy, fairness and justice. The public trust during the negotiation



and implementation of an agreement is very important, although sometimes it is forgotten. In case of the Aarhus Convention, the compliance mechanism was developed step by step, and the civil society was involved from the very beginning of the negotiations and actively participates also in the implementation. There was a rather quick ratification and the Convention entered into force already in 2002, within a few years. The compliance mechanism was developed in details only by the first meeting of the Parties.

He emphasized that the Compliance Committee is not a court or remedy but it facilitates compliance and assists the parties in implementing the agreement in practice. It is an important feature of the Aarhus Convention Compliance mechanism that the Committee members are independent, are elected by the Parties, but both governments and the civil society can nominate members. In the practice of the Aarhus Compliance Committee so far there was only one case when a party brought a non-compliance case against another party. There have not been referrals of cases by the Secretariat but more than 100 cases have been brought by the public, and this shows the active involvement of the civil society in the enforcement. The first cases came from the EECCA region but in the recent years there are many cases also from the EU countries as well as regarding the European Commission. The governments usually act professionally and cooperate with the Compliance Committee in finding the ways for improvements and for the implementation of the recommendations of the Committee.

It is important that the compliance mechanism should have acceptance both by governments and NGOs. The original provision in the Convention was not particularly strong regarding the compliance mechanism but gave opportunity to develop it further in the future. It has become a useful, well respected and trustful mechanism. This is also shown by the fact that the European Court of Justice has also referred to the Compliance Committee's findings, and the decisions of the European Court of Human Rights are also in line with the Aarhus Convention.

The second speaker, Magda Toth Nagy, Adviser of the REC, who formerly participated in the Aarhus Convention negotiations, shared the experiences of CSO involvement in the negotiation of that agreement and some best practice examples and lessons learned from the UNECE region. The civil society played a decisive role in initiating the Convention after the Sofia Guidelines were drafted and adopted in the Environment for Europe Conference of Environmental Ministers in Sofia, in 1995. Throughout the drafting and negotiations, the CSOs, - although they were observers in the inter-governmental negotiations - maintained this strong role, and through their involvement could influence the content and text. Some specific historic conditions fostered the Convention development in Europe, among them, the democratization process in the early 90s in Central and Eastern Europe which created a positive and open atmosphere towards transparency and democratic values. Furthermore, in the European Union there were experiences with the implementation of the freedom of access to information directive, the drafting or amendment of some other EU directives on environmental impact assessment, integrated pollution prevention control and strategic environmental assessment. Political will was another factor which meant openness from the side of most European governments to accept CSOs as voicing public interest and concerns. Informal and formal rules allowed the Chair of the negotiations to take into account the proposals and comments of the CSOs.

The CSOs were well organized and well prepared for the negotiations and put forward professional and well argued proposals. The European NGO Coalition, later called ECO Forum played the political leadership and was coordinated by the European Environmental Bureau (EEB) which operated a three-tier negotiating structure which proved to be efficient. It included a core negotiating group (4 persons representing different geographical regions), a resource group supporting the negotiators with advice and input regarding the commenting of drafts documents and a broader network of NGOs and individuals who assisted the process and also could act on national level.



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A loose coalition was built with the other NGOs participating in the negotiations (including the REC), who participated on their own but could support the CSO causes based on a strategic coordination and speaking with one voice. The CSOs had a clear vision regarding the content and set priorities on what they would like to achieve. Although there had to be made compromises in the negotiations, on some crucial issues it was only possible to “put the foot in the door” through a more general or flexible provision, but this gave opportunity to continue the negotiations and achieve later stronger results (e.g. on PRTR, GMOs, Compliance mechanism).

It was a constant hard work for the CSO experts over two years and 10 negotiating sessions to prepare positions, proposals as well as alternative backup suggestions, and also evaluate the work done in order to prepare for the next negotiating session. The specific REC role and contribution, in addition to participating in the negotiations and supporting the NGO Coalition, was aimed at assisting both government and CSO representatives to formulate their positions and to bring more transparency to the negotiations.

REC through a project, organized a series of one-day consultations in 21 Central and Eastern European countries with local partners to inform government and CSO stakeholders about the content of the draft Convention and to have a dialogue in light of the country’s legal and institutional framework, providing an opportunity where CSOs could convince their government on what position it should take. Also prepared assessments with the help of a network of governmental and CSO experts of the legal institutional framework and practices which were published together with EEB and Ecopravo-Lviv as partners covering European, sub/regional and country levels. These served as background materials during the debate in the Ministers-NGOs session in the Aarhus Ministerial Conference, preparing the adoption and the future implementation. Some of the main lessons include that CSOs should have high standards for the instrument’s content but should be prepared to be flexible to work out different options. During the negotiations there is an evolution of the instrument and new elements, new dimensions may come up, as well as more cooperative climate is developed between the governmental and CSO representatives. It is important to complement the international negotiations with country level activities and have dialogue between the government and CSO actors as well as raise their awareness and build their capacities. Human and financial resources should be mobilized to support the CSO involvement.

The side event was followed with great attention. Many governmental and NGO representatives were present and despite of the limited time, there were many questions posed to the speakers and the audience was engaged in a vivid discussion.



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