Decision making for the future

Applying the Aarhus Convention in Radioactive Waste Management

IPPA Deliverable 3.8
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December 2013

Final report of the project Implementing Public Participation Approaches in Radioactive Waste Disposal (IPPA)
Acknowledgements

Design and layout: Tricia Barna
Copyediting: Nathan Johnson
Proofreading: Rachel Hideg
Publisher: The Regional Environmental Center for Central and Eastern Europe

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The project Implementing Public Participation Approaches in Radioactive Waste Disposal (IPPA) was implemented between January 1, 2011 and September 27, 2013, under Grant Agreement No. 269849, coordinated by Karita Research AB. It was co-funded by the European Commission under the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities.

For further information about the project, see www.ippaproject.eu

According to the IPPA classification, the final report of Work Package 3.3 is intended for public dissemination.
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Preface

This publication is the final report of Work Package (WP) 3.3 of the project Implementing Public Participation Approaches in Radioactive Waste Disposal (IPPA).

The first section, “The Aarhus Convention and Radioactive Waste Management: An IPPA Roadmap”, shows why it was important for IPPA, as a participatory project centred on radioactive waste management (RWM), to include consideration of this international treaty on public participation in environmental decision making. It outlines those IPPA activities that were organised to that end.

The second section, “The Aarhus Convention and Radioactive Waste Management Issues”, contains a thorough analysis of obligations and opportunities stipulated in relevant articles of the Aarhus Convention from the point of view of RWM in Europe. Mutadis Consultants carried out background research for this section, with input from the Regional Environmental Center for Central and Eastern Europe (REC).

The third section, “Reports on Aarhus Convention Sessions”, outlines essential findings that emerged from dedicated case-centred sessions in the Czech Republic, Poland, Romania, Slovakia and Slovenia, as reported by national representatives and reviewed at the IPPA WP3.3 European workshop held on September 20–21, 2012, at the REC in Szentendre, Hungary.

The case studies examined during the IPPA Aarhus Convention sessions are presented in Annex 3. The findings are completed with an update on the situation in IPPA countries, completed one year after the Aarhus Convention sessions. Again, this part of the report transcribes comments and observations provided by the national contact persons.

The fourth section, “Strategy Building for Public Information and Participation in Nuclear Activities” briefly presents practical analytical tools developed at European level and discussed at one of the WP3.3 workshop sessions in Szentendre with a view towards strategy building and validation by IPPA participants.

The fifth section is a summary of work, conclusions and perspectives for the effective application of the Aarhus Convention in the area of RWM.

The report is based on three main activities, taken up according to the IPPA WP3.3 Description of Work:

- **Characterising issues related to the Aarhus Convention requirements in RWM** — Mutadis and the REC attended several WP2 meetings to identify important issues, gaps and barriers relating to RWM and the implementation of the Aarhus Convention in the five countries. In consultation with national organisers under WP2, Mutadis and the REC prepared elements for discussion on Aarhus Convention implementation requirements in order to enhance this identification in each country. A European workshop on the Aarhus Convention and RWM was organised in order to share experiences and good practices on practical implementation issues identified in the national meetings.

- **Background research into the application of the Aarhus Convention in RWM** — Mutadis and the REC carried out background research on key challenges for the implementation of Aarhus Convention requirements in the field of RWM in Europe. On the basis of recent
developments from the Aarhus Convention and Nuclear (ACN) European roundtable, Mutadis and the REC analysed the difficulties encountered in implementing participation approaches in RWM. On the basis of good practices and challenges observed, they also described key features of the implementation of the Aarhus Convention in order to support a better application of participation approaches.

- **Synthesis and reporting** — The results of the two above activities were reported and summarised in order to identify possible directions for improvement, both generally and in the specific context of WP2 countries.

### Endnotes

The Aarhus Convention and Radioactive Waste Management: An IPPA Roadmap
What is the Aarhus Convention about?


The Aarhus Convention was a pioneering environmental agreement. The convention:

- links environmental rights and human rights;
- acknowledges that we owe an obligation to future generations;
- asserts that sustainable development can be achieved only through the involvement of all stakeholders;
- links government accountability and environmental protection; and
- focuses on interactions between the public and public authorities in a democratic context.

The subject of the convention goes to the heart of the relationship between people and governments. The treaty is not only an environmental agreement; it is also a convention about government accountability, transparency and responsiveness. The Aarhus Convention grants rights to the public and imposes obligations on parties and public authorities regarding access to information, public participation and access to justice in environmental matters. The Aarhus Convention applies to nuclear activities, including radioactive waste management (RWM).

IPPA WP3.3 objectives: The application of the Aarhus Convention in RWM

IPPA WP3.3 investigated issues raised by the implementation of the Aarhus Convention in the field of RWM, with reference to cases investigated under IPPA WP2. The most recent objectives were to:

- identify, together with stakeholders, key issues related to the practical implementation of the Aarhus Convention in their country;
- analyse the issues identified — notably aspects related to difficulties in the practical fulfilment of convention requirements;
- identify follow-up activities that could substantively improve the application of the Aarhus Convention or otherwise improve stakeholder empowerment in the democratic governance of RWM in IPPA countries; and
- propose findings, observations and recommendations that can be transmitted to national authorities, the EU and the Aarhus Convention Secretariat.

Listing and characterising salient issues

In preparation for group discussion by the IPPA national reference groups, several sources were used to list and characterise salient issues related to the practical implementation of the Aarhus
Convention in RWM. An important source was the Aarhus Convention and Nuclear2 (ACN) European roundtable proceedings on RWM (April 2010, Luxembourg), which reported several experiences related to the three pillars of the convention, in addition to activities carried out in ACN national roundtables in Central Europe and other EU countries. Additionally, the good-practice guidelines prepared under the Aarhus Convention’s Task Force on Public Participation were discussed at a joint event under the auspices of the Aarhus Convention’s Task Force on Public Participation in Decision-making — namely, the Association Nationale des Comités et Commissions Locales d’Information (ANCCI) and the European Commission. Other sources included FP6 research projects (e.g. ARGONA, COWAM) and current national activities in IPPA. See the third section of this report for the results of the background research, and Annex 2 for the definitive “menu” of group discussion items developed on this basis.

A dedicated Aarhus and RWM session at national meetings

The following activities were developed to address WP3.3 objectives:

- dedicated discussion sessions during a meeting of the national reference groups established in IPPA WP2;
- a European workshop to provide perspective and consolidate findings;
- diverse follow-up activities, including the organisation of meetings with non-governmental and civil society organisations (NGOs, CSOs) that did not participate in the national reference groups; and
- preparation of a public report suitable for transmission to authorities and interested parties.

Session content

The dedicated national session resulted in proposals to:

- provide general information and raise awareness about the relevance and content of the Aarhus Convention;
- learn about specific problems and needs in respective countries regarding issues covered by the convention;
- provide information on key issues raised by country stakeholders, and suggest ways that the Aarhus Convention can facilitate participatory approaches in RWM; and
- discuss a country-based case study illustrating in practice one or several of these issues, and provide stakeholder feedback.

Preparation and conduct

The session was prepared in each case through cooperation between the WP3.3 team and national contact persons, with input from national reference group stakeholders. See Annex 1 for the letter of invitation from the WP3.3 team to IPPA national contact persons regarding session preparation.
WP3.3 team members Mutadis and the REC provided a “menu” of salient issues and questions related to practical implementation of the Aarhus Convention in RWM (Annex 2). National contact persons (IPPA reference group organisers) consulted with their stakeholders and selected pertinent cases (Annex 3) and speakers. The half-day session was scheduled during a regular meeting of each reference group and was attended and supported by a WP3.3 team member.

The sessions were conducted in the first semester of 2012 in the Czech Republic, Poland, Romania and Slovenia. A broad panel of stakeholders was invited to each session, and a reasonable amount of invitees were in attendance (see section on strategy building and Annex 3). The corresponding session in Slovakia took place in April 2013. Another follow-up meeting was organised with Slovenian NGOs in Ljubljana on December 2, 2013. A meeting was also organised with Polish NGOs in Warsaw on December 7, 2013.

Follow-up and integration at European level

Findings from each national session were presented in a comparative format and discussed with a diverse group of stakeholders during the WP3 European workshop “Nuclear Waste Management: Aarhus and Cross-border Issues” (held in Szentendre, Hungary, on September 20–21, 2012). Alongside a comparison of national findings, presentations from Bulgaria and France provided perspective.

Parties to the Aarhus Convention are expected to bring their national legal framework into line with convention requirements. And while the Aarhus Convention is a so-called soft law, Directive 2011/70/Euratom of July 19, 2011, establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste, must be transposed into national “hard” law. Thus the convention requirements for transparency and public participation were presented in detail at the Szentendre workshop. In a special strategic session, RWM-specific materials from the PIPNA report were presented, discussed and validated. The workshop also included training on facilitating public participation in decision making, as well as a presentation on the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) (WP3.1).

The WP3.3 workshop in Szentendre attracted 52 participants from 12 European member states and other European organisations, including: NGOs, operators, public authorities, regulators, technical support organisations, research organisations, representatives of local partnerships and the REC. Also attending was a representative from the European Commission Directorate-General for Energy.

Endnotes

1 www.unece.org/env/pp/introduction.html
2 http://www.ancll.fr/Europe-International/ACN-Convention-d-Aarhus-et-nucleaire-Aarhus-Convention-Nuclear (in French and English)
The Aarhus Convention and Radioactive Waste Management Issues
Why is the Aarhus Convention needed in the RWM field?

Issues associated with RWM activities are emblematic of the complexity raised by technological development. For a long time, nuclear activities were viewed as requiring too high a level of expertise to be understood by ordinary citizens, and as managed at levels of responsibility too high to be questioned. Thus members of the public were expected to trust decision makers, experts and managers.

Indeed, high levels of technical elaboration do make access to information and participation difficult. The long tradition of secrecy associated with the military origin of nuclear activities is an additional hurdle. Nuclear governance has long been technocratic. The notion of transparency remains weak due to a strong past connection between industry and those bodies working for the public interest. It is, for instance, only recently that the division of responsibilities between operator and regulator became standard EU practice (Council Directive 2011/70/Euratom).

As the civil use of the atom has developed, the rationale for these barriers has weakened. It is increasingly acknowledged that nuclear activities may have a negative impact on the lives of citizens and therefore have both a social and political dimension. But there is a dimension of uncertainty as well — especially in the long term — regarding nuclear waste management. The Chernobyl and Fukushima disasters have accentuated the vulnerability of communities and local territories; whatever their levels of safety, local communities have to consider the possibility of an accident and the related consequences. As a result, safety issues, which used to be viewed as a matter exclusively for nuclear experts and engineers, have become an issue for public debate. Traditional top-down modes of governance are unable to cope within the context of increasing distrust.

In order to address concerns over uncertainty, vulnerability and trust, the Aarhus Convention, with its three pillars on access to information, public participation and access to justice, offers new governance approaches proposing a more mature relationship between the public and nuclear actors. Engagement of the public in nuclear decision-making processes is no longer seen as a problem, but rather as a contribution towards ensuring more transparency and accountability.

Decision making that better integrates human activities and the natural environment generally requires broader public participation. The preamble to the Aarhus Convention states: “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, aiming thereby to further the accountability of and transparency in decision making and to strengthen public support for decisions on the environment.”

It is acknowledged that transparency and participation contribute to increasing levels of nuclear safety and protection against radiation. Whereas significant resources are already allocated to improving general safety, in an RWM context even more resources are needed. Public vigilance and long-term scrutiny provide an extra layer of security over the long term.
Issues at stake in participation: Framing, alternatives and influence

The general aim of participation is to improve the quality and sustainability of decisions. Article 6.8 insists that “each Party shall ensure that in the decision due account is taken of the outcome of public participation.”

Two key elements are identified as necessary conditions for successful and meaningful participation: early-stage participation and full choice capacity. Specifically, Article 6.4 states: “Each Party shall provide for early public participation, when all options are open and effective public participation can take place.”

These conditions have two practical consequences. First, participation is requested not only for projects, but also for plans, programmes and policies that frame and steer the development of activities that have an environmental impact, and at a time when the public can provide input regarding all available options. Article 7 is fully dedicated to “public participation concerning plans, programmes and policies relating to the environment.”

Second, as the notion of due account assumes meaning only when early participation is possible and several options are available, the provision of real alternatives is at the Aarhus Convention’s conceptual core of public participation. As stated in Article 6.6: “A project application should contain an outline of the main alternatives studied by the applicant.”

Participation at the level of plans and programmes

The provisions of the Aarhus Convention are outlined in general terms so as to apply to a wide range of activities. Their implementation within a particular domain (such as RWM) will not likely derive from direct reference to the convention articles. Rather, tailored regulation is necessary if we are to apply Aarhus Convention requirements in the specific context of RWM activities and to assign responsibilities regarding access to information, participation and access to justice to existing actors of RWM governance — both at the level of the EU and individual member states. Practical implementation of the convention requires context-dependent support: regulations and guidelines need to be developed in more detail to address different activities and stages of decision making (safety, post-accident management, RWM etc.). Council Directive 2011/70/Euratom of July 19, 2011, which establishes a community framework for the responsible and safe management of spent fuel and radioactive waste, contains special articles on transparency and participation, and recommends that member states take similar measures to address transparency when establishing a national RWM programme. Texts from the relevant articles are as follows:

  “National programmes

  1. Each member state shall ensure the implementation of its national programme for the management of spent fuel and radioactive waste (national programme), covering all types of spent fuel and radioactive waste under its jurisdiction and all stages of spent fuel and radioactive waste management from generation to disposal.
2. Each member state shall regularly review and update its national programme, taking into account technical and scientific progress as appropriate, as well as recommendations, lessons learned and good practices from peer reviews.”

The national programmes will be subject to Article 7 of the Aarhus Convention. Interestingly, national programmes in the EU member states are required to include a transparency policy or process as referred to in Article 10 of the EU RWM Directive.

- **Article 10 (EU RWM Directive)**

  “Transparency

  1. Member states shall ensure that necessary information on the management of spent fuel and radioactive waste be made available to workers and the general public. This obligation includes ensuring that the competent regulatory authority informs the public in the fields of its competence. Information shall be made available to the public in accordance with national legislation and international obligations, provided that this does not jeopardise other interests such as, inter alia, security, recognised in national legislation or international obligations.

  2. Member states shall ensure that the public be given the necessary opportunities to participate effectively in the decision-making process regarding spent fuel and radioactive waste management in accordance with national legislation and international obligations.”

Since the provisions of Article 10 of Directive 2011/70/Euratom states that “the public be given the necessary opportunities to participate effectively” in RWM decision making “in accordance with national legislation and international obligations”, and because the EU is a party to the Aarhus Convention, the Aarhus Convention’s Article 7 should apply also to community legislation on RWM, as well as to public participation regarding the preparation of the RWM Directive, reviewing national programmes, and monitoring the implementation of the directive.

Implementation of Article 7 of the Aarhus Convention in the RWM field is consistent with the document’s early participation principle: public influence is all the more relevant and effective at the level of decision making on programmes, plans and policies when options are open. When it comes to implementation of the RWM programme, Article 6 of the Aarhus Convention also becomes applicable.

However, in a context of increasing globalisation, local and national decisions are made within frameworks and according to standards often defined at upper levels. Public participation tends to be meaningless when it comes at the very end of the pipe. There is indeed a need for arenas of dialogue at international level so that citizens who are concerned about local activities can also make their views heard with regard to the national or international policies on which these activities depend.

Still, there are some pending questions regarding public participation at international level. Nuclear safety and radiation protection principles, objectives and orientations are set at international and European levels. Competence may be national in the first place, but national regulation mostly stems from standards as defined by international bodies (the International Atomic Energy Agency, the International Commission on Radiological Protection, the Nuclear Energy Agency etc.). It must then be asked: What is the capacity of civil society to advise such organisations and participate in decision making with them?
The Aarhus Convention includes an article on international regulation:

- **Article 3.7 on general provisions (Aarhus Convention)**

  “Each Party shall promote the application of the principles of this convention in international environmental decision-making processes and within the framework of international organisations in matters relating to the environment.”

In order to assist with implementation of this principle, the Aarhus parties adopted the Almaty Guidelines on Promoting the Application of the Principles of the Convention in International Forums at their second meeting of parties in June 2008 in Almaty, Kazakhstan.

**Alternatives**

It is important to consider alternatives to RWM, but choices about nuclear technology made two or three decades ago continue to have an influence on present possibilities and the costs of alternative paths. This is significant as far as the RWM domain is concerned because high costs of research, demonstration and construction are often cited to justify claims that possibilities for changing direction are limited. The sustainability of RWM options is all the more important, as these choices have been made with upstream participation at planning and programme levels. This implies that alternatives are actually considered, discussed and analysed in the public arena, and that choices are not predetermined.

There are several RWM alternatives that need to be considered. Is a present site physically inadequate? Is the issue more technical in nature (e.g. deep disposal versus sub-surface storage)? How are alternatives being considered, and when should different groups participate in the discussion? (CoRWM in the UK, for example, has considered a broad range of options deemed inappropriate by the expert community, such as waste burial in seismic vaults or sending waste to the moon etc.)

Radioactive waste management also provides an example of the need to consider environmental impacts from a wide perspective. RWM is connected to energy policy, and waste is the result of energy production intended to serve an entire population. Moreover, RWM is developed within a national policy framework that sets objectives, elaborates processes and allocates resources for all of the country’s various types of waste. Site considerations are increasingly linked to national policy orientations, and one could argue that siting cannot be discussed without considering national policy as a whole, and vice versa.

**Due account**

A general challenge regarding Article 6.8 of the Aarhus Convention (i.e. “each Party shall ensure that, in any decision, the outcome of public participation is taken into due account”) relates to the capacity to assess decision making in the context of compliance with the principle of due account. This requires that certain questions be asked: What are the driving motives behind the decisions taken? How and to what degree do these motives reflect actual contributions made during the
participatory process? Are there procedural mechanisms or persons designated to ensure quality and balance? In several member states, an ombudsman has the capacity to monitor adherence to the principle of due account. In France, a dedicated body (the High Committee on Transparency and Nuclear Safety, established by law in 2006) reviews the implementation of information and participation requirements related to nuclear activities, and especially to RWM. The committee recently completed the review of a failed siting process for a low-level, long-life waste facility.

Forthcoming recommendations of the Public Participation Task Force of the Aarhus Convention, which is being developed, will also address the scope of this obligation and consider which methods might be applied for “taking due account of the outcome of the public participation” while at the same time presenting good-practice examples from some EU member states — including concrete examples of public participation being taken into account. There are also several lessons of Aarhus Convention compliance that can be built upon.1

Who is the ‘public concerned’?

Decision makers in the industrial sector typically try to obtain local acceptance and support for their projects, especially from those people living near a prospective facility. This is a legitimate concern for an operator, but Aarhus Convention objectives should not be interpreted as being identical. The Aarhus Convention was developed to make sure that public interest is taken into account in any environmental decision-making process. Winning local acceptance and support is a favourable outcome indeed — and one that is a feature of sustainability — but it is not an end in itself. Matters of sustainability and the public interest often involve non-local stakeholders as well.

The Aarhus Convention gives rights to the public concerned, defined (see Article 2.5) as “the public affected or likely to be affected by, or having an interest in, the environmental decision-making process; for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting the requirements under national law shall be deemed to have an interest.”

In its general provisions (Article 3.9), the convention states: “The public shall have access to information, have the possibility to participate in decision making, and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile, and in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of activity.”

This broad conception of the public (not limited strictly to those first directly affected or those in the immediate vicinity, or to NGOs, but extended to people that may be affected in any sense or have some other interest or concern) is of particular relevance in the case of nuclear activities because of the important consequences for the wider community, or even the public at large. Nuclear activities are linked to many other issues, such as national energy policies, national RWM programmes, possible environmental impacts, nuclear safety, weapons proliferation and inter-generational impacts and implications.

The Aarhus Convention recognises the right of access to information without having to provide justification — “without an interest having to be stated” (Article 4.1) — as well as the right to public participation. A claim of possibly being affected is sufficient to demonstrate interest. The access to justice pillar, however, requires one to demonstrate sufficient interest or impairment of a right only if national legislation requires public participation in decisions on specific activities (articles 6 and 9.2).
The Aarhus Convention emphasises that environmental protection and sustainability are not the sole responsibility of governments and industry. Instead, the convention recognises “the importance of the respective roles that individual citizens, non-governmental organisations and the private sector can play in environmental protection.”

The convention thus looks beyond those affected and targets the public at large. Indeed, there is much more to RWM than siting ultimate waste storage or disposal facilities, as waste is often already managed in different places, each of which brings its own set of physical problems and local concerns. Another set of concerns, transboundary impacts, led to the establishment of the Espoo Convention (see IPPA deliverable WP3.1 on EU examples of the cross-border communication of nuclear risks²).

### Continuous participation

Participation may be understood as an institutional process of limited duration (a “window of opportunity”) that takes on the form of either a public enquiry or public hearing during a licensing or permitting procedure, or during a strategic environmental assessment (SEA) or environmental impact assessment (EIA) procedure.

The Aarhus Convention views public participation as something more than a one-shot decision-making opportunity. The convention insists not only on early public participation, but on public participation during all phases of decision making, creating public capacity to investigate issues at stake, and to allow for public input on a continuous or regular basis. Participation is closely associated with the public having the knowledge and permanent capacity to be aware of environmental issues and raise important questions. In a highly technical domain such as the nuclear sector, members of the public need to be willing to become competent in discussing the subject matter.

Aarhus Convention Article 6.3 reads: “Public participation procedures shall include reasonable time frames for the different phases, allowing sufficient time for informing the public [...] and for the public to prepare and participate effectively during the environmental decision-making process.”

Moreover, the requirements on information — the very backbone of participation — apply on a permanent basis and are not dependent on either licensing processes or consultation processes.

The Aarhus Convention underlines the need for capacity building. Article 3.4 reads: “Each Party shall provide for appropriate recognition of and support to associations, organisations or groups promoting environmental protection and ensure that its national legal system is consistent with this obligation.”

Civil society, and stakeholders in particular, are concerned about participating within institutional procedures on a continual and ongoing basis (e.g. in the framework of an EIA).

The long-term duration associated with RWM implies that consecutive decisions need to take place on a regular basis — on facility licensing, release authorisation, waste management policy and siting, safety standards, and so on. Moreover, such activities can produce lingering effects on the environment long after a facility closes. Regular reviews (e.g. 10-year safety review) need to be conducted to check conformity with safety standards, and conclusions reached as a result might lead to new decisions — authorisation, closure etc.
Several factors converge in the field of RWM: high levels of uncertainty, plus the need to update knowledge, to experiment, and to check that proposed solutions meet safety and radiation protection objectives. Decisions are made one step at a time, according to the available knowledge and contemporary assurances that the present generation is over-committing itself at the expense of future generations. Feedback loops are provided. Step-by-step decision-making processes include opportunities to take alternative paths, as well as possibilities to move backwards. This kind of flexibility and reversibility can have an impact on public participation, but how do things really unfold in this context? What are the contributions of institutional tools (permitting, licensing, EIA, SEA)? Are other tools needed? Are additional tools needed to bridge the gap between expected and consecutive processes? Do the tools work to support a democratic culture and civil engagement? What opportunities are there for re-thinking an approach or changing course?

In summary, public participation in RWM activities calls for continuity:

- Time is needed to build competence and establish proper conditions for dialogue prior to making any decision (see Article 6 of the Aarhus Convention).
- For a nuclear project that involves several decisions over many years, or even decades, no strict time limits should be set (e.g. regarding facility siting, plant operations and closure).
- Long-term post-closure monitoring is required for any waste facility.

In this respect, dialogue and participation resources should be established, operating on a continuous basis so that the public is able to learn more, to develop its capacity to investigate, and to gain influence and inform the decision-making process at local, national and European levels. Time and continuity are major enablers of participation in the nuclear field because of the heavy technical background and necessary long-term monitoring. Implementation of the Aarhus Convention in RWM cannot be limited to narrow windows of participation. Public awareness and vigilance must be maintained and grounded in a solid democratic culture. This is an important requirement to meet but it is also sometimes a heavy load for a community to bear; therefore, participating representatives must be supported in their knowledge building and deliberative activities.

At a local level, numerous examples were given in the Aarhus Convention and Nuclear (ACN) European roundtable of community structures to support public involvement in RWM. Local partnerships (UK, Slovenia, Belgium) and local commissions (France, Romania) have proved to be indispensable tools for enabling participation. As experience in Slovenia and Belgium has shown, interruption of these committees triggers public concern, as it deprives local citizens of essential means to exert their rights to information and participation.

The RWM process involves several decisions in which the public should be involved:

- any national RWM policy framework, and its revisions;
- nuclear power plant (NPP) licensing (there is an ongoing discussion about the fact that waste management plans are generally not extensively discussed under the EIA process for the licensing of a new NPP: on one hand, it is argued that the licensing process deals with the operation of the reactor and is a separate process from waste management; on the other hand, it is stressed that waste management options directly relate to the environmental impact of the plant. Furthermore, nuclear waste repositories tend to be situated close to already existing nuclear installations, as in Finland or Sweden);
siting and licensing for any RWM facility;

- in the case of geological disposal, the start of facility operations and date of closure (expected to take place over several years, even decades, after the start of operation); and

- long-term monitoring and maintenance.

Previous cooperative research projects (COWAM\textsuperscript{3}, RISCOM-ARGONA\textsuperscript{4}) have found that processes should guarantee stakeholder independence. The evidence shows that several factors facilitate principles of participation and encourage accountability, such as:

- local communities are given favourable conditions for participation (e.g. time, resources);

- the decision-making process has no fixed deadline and develops according to the local community’s pace;

- communities have the right of withdrawal;

- local actors have resources to build competence;

- participation relates not only to siting, but to national policy, waste inventory and project design; and

- engagement takes place at national and local levels: local government seeks the involvement of local citizens on community choices, as well as its engagement with local actors.

More specifically, COWAM has proposed that the conditions for meaningful participation in an RWM facility siting process should be assessed in the context of five main aspects:

1. Do local actors have the capacity to justify (ethically, socially and technically) the installation of an RWM facility on their territory?

2. Which structures are in place to ensure local, democratic participation on issues related to siting?

3. Do communities have the means and resources to develop their own competence and capacity for assessment and monitoring?

4. How can local actors have an influence on top-level decision makers?

5. Is siting linked to a broader vision for local development?

The aforementioned aspects should be considered when attempting to ensure proper conditions for participation; and, according to the Aarhus Convention, deliberation on such considerations may even be legally required during the public participation process.

Access to information and transparency

Who has an obligation to inform the public? The Aarhus Convention assigns responsibilities to public authorities. “Public authorities”, according to the convention, include “natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment”; and “any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environ-
ment, under the control of a body or person” falling within the category of “government at national, regional or local level”.

Although there is some discussion as to whether obligations regarding information and participation might also apply directly to private companies responsible for delivering a public service (e.g. energy), under the Aarhus Convention such companies qualify as public authorities if they are financed through public funding. Moreover, transparency consists not so much in information coming from public bodies but in information coming from a multiplicity of sources. Regarding RWM, is it possible to identify different sources (the operator, public experts other than those in charge of operations, foreign experts, NGOs)? Are there arenas in which to discuss and analyse points of view? How is the local community expected to cope with the length of the decision-making process? Are there means by which to follow the process on a continuous basis, to inform citizens, and to prepare local council decisions? Are there tools to support a long-term supply of local information (facility monitoring over decades, or even centuries)?

How should the public be informed? Which information should be provided? According to the Aarhus Convention, ensuring access to information is primarily the duty of public authorities. In some member states, this obligation is extended to the industrial sector (e.g. France’s Law on Nuclear Safety and Transparency). Other actors also play a role in this access, such as local partnerships and commissions.

Local organisations are often expected to relay information provided by the operator. Cases presented at the ACN roundtable show that their role is not to replace industry communication, but rather to support civil society in gathering the information necessary to answer locally raised questions and to carry out investigations if needed.

Another interpretation is that the Aarhus Convention calls for improved corporate communication from industry, and under Article 5.6 asks parties “to encourage operators whose activities have significant impact on the environment to inform the public regularly of the impact of their activities.” Article 6.5 calls for “prospective applicants to identify the public concerned [that will] enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.”

It is important to note that access to information pertains here to a specific request for information expressed by a member of the public. This should be by no means confused with the communications or public relations policies of nuclear institutions. The first purpose of the related convention articles is to respond to questions as formulated by the public itself and to provide information proactively (as opposed to providing access to institutional communications and PR brochures). The primary responsibility to ensure such access under the convention is with the public authorities and operators.

Article 4.1 reads: “Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:

- a without an interest having to be stated;
- b in the form requested unless:
(i) it is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or
(ii) the information is already publicly available in another form.”

The mention of registers and inventories is a key component of the Aarhus Convention. Article 5.9 reads: “Each Party shall take steps to establish progressively, taking into account international processes where appropriate, a coherent, nationwide system of pollution inventories or registers on a structured computerised and publicly accessible database compiled through standardised reporting. Such a system may include inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and off-site treatment and disposal sites.”

This text led to the development of the UNECE Protocol on Pollutant Release and Transfer Registers (PRTRs), which was adopted in 2003 in Kiev and has been, to date, ratified by 32 parties, including the EU. The protocol requires the establishment and maintenance of publicly accessible national PRTRs that also include data and information on waste and hazardous waste transfer and management. The inventory and register concept is a practical approach that was also included in the E-PRTR Regulation in order to enhance participation. Although, by EU law, radioactive waste and waste management are covered under the Euratom Treaty — under both the PRTR Protocol and the E-PRTR Regulation — both instruments include provisions on including links in the national PRTR to other relevant publicly accessible databases. It is only in the possession of accurate information that one can form reasoned opinions and participate effectively.

The question of inventory comes up regularly. For instance, among the many questions asked at the community level is the following: What are the types, volumes and quantities of waste to be disposed of?

A second key question relates to the definition of environmental information: What does “environmental information” include? For instance, are the costs of nuclear waste management considered environmental information?

Recent legal decisions in the UK and Belgium concluded that economic information is indeed environmental information in the meaning of the Aarhus Convention, as per Article 2.3: “Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making...”

The Aarhus Convention points also to environmental information that is necessary for public participation in the decision-making process. Articles 6.2 and 6.3 request that information be provided on public participation procedures, including notification of any upcoming decision-making procedure, while allowing sufficient time both for each phase of the procedure and for informing the public. These requests have particular importance in RWM, as several decisions are
to be made over the course of at least two or three decades, but the process is not set in stone. Even as acquired knowledge diminishes uncertainties, the future is hard to predict and the decision-making path is constantly in flux.

Article 6.6 provides a detailed description of information that competent public authorities should make available to the public in time for meaningful participation in the decision-making procedure. Provision of this information is crucial when deciding on permitting and licensing, or an EIA or transboundary EIA procedure.

Competence building and access to expertise

As the nuclear domain involves extremely high levels of technological elaboration, competence building and access to expertise are essential conditions for effective public participation, especially when reviewing an application file associated with a particular decision.

What constitutes “expertise” is actually the root cause of many controversies; thus calls are often made for “independent” or “objective” experts. The view taken here is that consensus should be built on pure, unbiased facts. While recognising the undeniable value of technical assessment, the Aarhus Convention opposes an exclusively science-based decision-making process, arguing instead that the decision-making process can be improved through the presentation of opposing viewpoints and assessments. The preamble to the convention refers explicitly to Principle 10 of the Rio Declaration: “Environmental issues are best handled with the participation of all concerned citizens at the relevant level” and by “recognising further the importance of the respective roles that individual citizens, non-governmental organisations and the private sector can play in environmental protection.”

Sustainable solutions can be found by making visible and taking into account the different dimensions of a problem (the principle sought by the RISCOM process). Problem dimensions can be informed by science, but need also to be informed by ethical, social, legal and political choices. Regarding social trust vis-a-vis expertise, individual expertise seldom wins trust because it does not take on board the values of the various stakeholders — or scientific considerations may fail to take political or ethical dimensions into account. This is why it is important for civil society to have access to expertise throughout the entire process, from the early framing of the question posed to experts to the final dissemination of results, and from the design of the process and contribution to modelling and data collection. This might encompass the development of autonomous societal expertise with appropriate resources, together with societal access to public sources of expertise.

Civil society faces many difficulties when it comes to analysing issues and challenges related to nuclear activities. In particular, it requires access to highly technical knowledge in order to understand the nature, challenges and risks, and to identify possible changes in social and economic policy. This hybrid dynamic raises other questions about how science, expertise and society should interrelate:

- Should some civil society members enter into technical discourse through a process of learning to build civil society expertise and take their place among experts in institutional management processes (e.g. risk management) of these activities?
- Should civil society actors be involved in technical processes based on the fact that they are
stakeholders, while still acknowledging them as “outsiders”? This would require them to iden-
tify complex elements and draw upon models from which to get their bearings — and, on this
basis, to renew both forms of action and common cognitive frameworks of interpretation and
rationalisation that underpin public and private decision making.

- What are the processes and devices that facilitate interactions between scientists, experts and
civil society? What are the background conditions that allow the existence of these interactions,
on the part of both civil society and experts and scientists? What contributions can be made
by public authorities, including public experts, to these interactions?

- How are these processes to be evaluated as an interface between science, expertise and society?
Based on what criteria? Is it necessary to evaluate the expertise within the process itself, for
example by measuring the impact of these processes on the quality of risk assessment? Or does
it address questions that go far beyond risk assessment: Does it question project aims or the
framework of expertise?

- Is it possible to apply new practices and promote transformations brought about by these
processes on the social and political contexts in which they take place?

From an Aarhus perspective on access to information, it is a key challenge for actors to:

- build their investigations based on information that is deemed reliable and relevant; and

- develop the ability to interact with institutional stakeholders — including researchers, indus-
trial operators, public authorities and experts — and to have them consider their views in pub-
lic and private decisions surrounding the development and management of nuclear activities.

The challenge is not to make the public another expert, but to give the public some capacity
for citizen inquiry on technical files with a view towards:

- grasping the issues at stake (technical and non-technical) and guiding questions raised by
ordinary citizens; and

- engaging decision makers in an effective manner and influencing the outcome.

As there is a need to link expertise and competence, the following definition has been pro-
posed: “[Competence building is a process by which] citizens, local stakeholders, lay people and
NGOs investigate technical issues, notably in the context of decisions on nuclear activities or on
a continuous basis, gathering or building relevant knowledge, interacting with experts and de-
veloping reliable expertise, identifying key issues from their point of view, contributing to framing
issues at stake, or proposing options or alternatives, in order to raise their decision-making influ-
ence and have their views duly taken into account.”

The Aarhus Convention includes several proposals on how to make these principles effective:

- Access to expertise is not intended to turn the public into experts, but rather to foster the ca-
pacity of relay actors (i.e. CSOs) among civil society. Nor is the aim to achieve a consensus, but
to participate most effectively in the decision-making process.

- The first goal of access to expertise and competence building in the nuclear domain is to reach
more effective decisions that will result in better safety and protection from radiation.

- The public should have access to all knowledge and assessments available on a particular issue that is open for consultation. This comprises technical aspects, but also economic data, information on policy orientations etc.

- The consultation process should allocate sufficient time and resources to the public for obtaining a second expert opinion on the technical application file prior to giving its recommendations. A plurality of sources strengthens the quality of expertise and its value for public involvement. Independent research should be more broadly supported and disseminated (to ensure the availability of competence).

- When preparing their recommendations, members of the public should have access to previous recommendations from public bodies. Information related to safety control should be available as well.

- A continuous technical dialogue with operators would be beneficial for the process as a whole. There is a need for regular cooperation on competence building between experts and civil society, both upstream and in parallel to the decision-making process. It is through continuous monitoring that the public can gain an understanding of the operation of a nuclear facility and draw its own conclusions concerning facility safety. This kind of monitoring enables the public to offer a sound point of view when consultation processes occur. Local commissions, partnerships and NGOs can act as mediators, helping the public to identify and grasp the issues at stake and to discuss options.

Confidentiality

Article 4, in points 3 and 4, acknowledges different grounds on which a request for access to environmental information may be refused, while insisting that “the aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.”

In the context of nuclear activities, reasons of national security, defence or commercial interests are frequently cited as grounds for refusal. It is in the common interest to consider nuclear activities as separate from their military origin, and general rules with respect to the environment should be obeyed. Defence and commercial interests do pose problems: How can the public be sure that representatives from these sectors are not withholding information, as they quite often do? In addition to existing legal requirements that should justify such exemptions, public authorities have the responsibility to reach decisions based on particular requests for information and to disclose the information if it is in the public interest — or to separate the confidential information and provide the remaining details. Practical solutions have been tested in some member states (such as giving access to confidential documents to assigned experts from NGOs, with a commitment not to divulge the content to third parties). Other member states are reluctant to do this, fearing that it will weaken the principle of transparency.

Several cases have been reported in which access to information could only be achieved through legal means via the courts or an ombudsman’s intervention, whereas the information holder
claimed that the information was confidential. In member states, stakeholders should strive to achieve a better understanding of the right of access to information and its practical implementation, as well as how to interpret issues related to confidentiality.

An ACN roundtable discussion on a practical case of access to information on RWM in Belgium highlights the difference between the right to information and the right of dissemination or re-use. When a piece of information is released on request, is this information to be considered available to the public or only to the party who made the request? Commercial interests might be cited in efforts to establish boundaries on the dissemination of information, but there should be legal justification for doing so.

At European level, the Euratom Treaty limits the possibility for European institutions, particularly the EC, to respond to requests for information from the public. According to the Euratom Treaty, the EC must request approval from the member states concerned before communicating any information related to nuclear research or activities. Member states, on the grounds of the treaty, can legitimately refuse the public delivery of information. The Aarhus Convention argues an opposite point of view. While the convention contends that it might be difficult to overcome this legal gap through a revision of the Euratom Treaty, practical ways should be found to improve transparency and discourage refusals. This issue was also addressed at the last ACN European roundtable, held in March 2013. It is expected that Article 10 (on Transparency) of Council Directive 2011/70/Euratom of July 19, 2011 will provide opportunities for this.

**Access to justice**

Access to justice, the third pillar of the Aarhus Convention, ensures the proper implementation of the two first pillars: access to information, and public participation in the decision-making process.

Aarhus Convention Article 9 on access to justice gives important guarantees to the public concerning the rights of access to information and public participation in decisions taken on specific activities. Members of the public also have access to justice rights when national laws related to the environment are breached. In a general sense, there are many difficulties involved in securing environmental justice, but the scale and duration of nuclear-related activities makes it even more important to do so.

It has been reported in several cases that a request for environmental information has been only partially satisfied, with some of the information being withheld. There is general agreement that legal procedures take time and that judgment may come too late (e.g. when a decision has already been made in the meantime). The fact that a legal procedure often does not suspend the decision-making process or the operation of an activity has been questioned, as health and the environment might be significantly damaged as a result.

Review procedures (in front of a court or another independent and impartial body established by law) require resources and legal support, which are hard to come by. Thus it is important to establish a legal framework that provides CSOs with adequate resources to support their mission while preserving their autonomy.

The costs of justice are underlined: on the one hand, it is a lengthy process for NGOs, and it
is time-consuming and resource-consuming to go to court; on the other hand, a legal decision may be all the more costly to the industry, as it may come late, when large investments have already been made and the decision-making process has to be repeated.

The role of an ombudsman and the use of the Aarhus Convention’s Compliance Committee are very helpful from a legal point of view because of their capacity to enforce rights of access to information and public participation, as well as their capacity to enhance dialogue between civil society and project proponents or operators. It is generally agreed that while the access to justice pillar is a major guarantee of the Aarhus Convention, a soft approach must be taken to ensure actual progress in public participation and access to information. Otherwise, decisions may come too late to meet civil expectations, or project proponents might incur major additional costs. Ongoing dialogue on Aarhus Convention implementation can lead to practical developments and improvements.

Endnotes

1 “Recommendations on public participation in decision making in environmental matters, prepared under the auspices of the Task Force on Public Participation in Decision Making of the Aarhus Convention.” Third draft for consultation, pages 29–31.
2 See www.ippaproject.eu/content/project-deliverables.
3 See www.cowam.com.
4 See www.argonaproject.eu.
5 “Public authority” under the Aarhus Convention Article 2, means: (a) government at national, regional and other level; (b) natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment; (c) any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within (a) or (b); and (d) the institutions of any regional economic integration organisation referred to in Article 17 which is a party to the convention. This definition does not include bodies or institutions acting in a judicial or legislative capacity.
7 Under the UNECE PRTR Protocol, “hazardous waste” means waste that is defined as hazardous by the provisions of national law. According to the E-PRTR Regulation, hazardous waste means any substance or object as defined in Article 1(4) of Directive 91/689/EEC. Directive 2006/21/EC of the European Parliament and of the Council of March 15, 2006, on the management of waste from extractive industries covers the management of waste from extractive industries which may be radioactive, but excluding such aspects as are specific to radioactivity, which are matters dealt with under the Euratom Treaty. Directive 2008/98 of the European Parliament and of the Council of November 19, 2008, on waste and repealing certain directives defines hazardous waste as waste “which displays one or more of the hazardous properties listed in Annex III”. However, it excludes “radioactive waste” from its scope as being covered under other Euratom legislation. Council Directive 2011/70/Euratom of July 19, 2011, establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste regulates the establishment and implementation of national policies on spent fuel and radioactive waste management.
Reports on Aarhus Convention Sessions
Organisation of sessions: Case studies and stakeholder participants

The following information is taken from IPPA countries’ reports of Aarhus Convention sessions. The sessions were held in spring 2012 in the Czech Republic, Poland, Romania and Slovenia, and in spring 2013 in Slovakia.

To understand the preparations for the Aarhus Convention sessions, see the letter of invitation from the WP3 team to IPPA national contact persons (Annex 1) and the thematic “menu” of potential issues to be discussed in the seminars (Annex 2).

The case studies chosen for each country, listed in Annex 3, concerned the following:

- siting of low- and intermediate-level radioactive waste (LILW) repositories (local partnerships, decision-making process);
- nuclear power plant (NPP) construction;
- existing or future spent fuel storage or disposal; and
- general applications of the Aarhus Convention (in, for example, EIA experience).

Annex 3 also presents the overall profile of stakeholders actually assembled for the IPPA Aarhus Convention and RWM discussion sessions. Both local members and civil society were relatively under-represented, despite strong publicity efforts, raising the question of whether the session was effectively a “safe space” and whether the project provided sufficient resources for participation. This observation could also reflect the fact that local communities in some cases have become “exhausted” by participation, leading to little or no effective influence on decisions (e.g. Slovenia), or do not perceive an interest in RWM issues (e.g. Poland) due to protests against the planned nuclear power programme. Regulatory authorities also appeared to be under-represented, raising the question of whether certain regulators perceive that democratic decision making in RWM does not concern them in any way, or, alternatively, whether they interpret their particular role as requiring them to hold aloof from stakeholder conversations.

While a large selection of NGOs is mentioned as having been invited or effectively participated, the organisation types are quite mixed. Many of the NGOs represented were nuclear-related industry or professional organisations, while an apparently smaller subset were citizens’ organisations devoted to environmental defence. In order to correct possible imbalance and to address the fact that environmental groups might have reasons to decline invitations issued by nuclear institutions (judging that the meeting is not really a safe space), IPPA WP3.3 followed up in 2013 by helping to organise more neutral discussion forums. In this way, citizens’ groups could learn about the democratic instrument provided by the Aarhus Convention and discuss its applications not only to RWM, but also to other pressing environmental issues in their own context. These specific open meetings were organised in Slovenia and Poland.
AR HUS CONVENTION M ENU ITEM SELECTED A PRIORI EMERGED FROM DISCUSSIONS

a. Early participation to influence framing Poland, Romania, Slovakia Slovenia
b. Due account of stakeholder input Czech Republic Poland, Slovenia
c. Identification of key stakeholders Poland, Romania, Slovakia Slovakia, Slovenia
d. Continuous involvement processes Czech Republic, Romania, Slovakia Poland, Slovenia, Slovakia
e. Access to information/confidentiality Poland, Romania, Slovakia
f. Competence building/access to expertise Czech Republic, Poland Romania
g. Access to justice/Compliance Committee Slovakia All five countries

Menu themes addressed by each country

When IPPA national partners prepared their Aarhus Convention session, each menu item was selected as pertinent in at least one country. The pertinence of Aarhus Convention items varied from country to country, and the table above shows that each IPPA national contact team chose their own particular mix from the menu. The preparation agendas for Romania and Slovakia included four menu items, the largest number among the countries.

The menu theme that appeared least pertinent was (b), which only the Czech Republic selected. However, in the “Emerged from discussions” column, stakeholder participants from Poland and Slovenia brought up the issue of due account.

Item (c) was a discussion issue in each country except the Czech Republic. This suggests that the Czech working group on transparency considered itself to be complete and fully representative — even if some actors, like the safety authority, chose not to participate in the deliberations. However, there are plans to update national legislation regarding the identification of the “concerned public”.

Lines (d) and (g) indicate the most discussed items. It was demonstrated that item (d) is important for each of the IPPA countries. Only in Slovakia did the session preparation touch specifically on item (g). In practice, however, stakeholder participants chose to discuss access to justice or wanted to learn more about the Aarhus Convention Compliance Committee in all five IPPA country sessions. This was not a development that the organisers expected, leading us to conclude that officials in countries bound by the Aarhus Convention should not underestimate the access to justice pillar.

Key messages country by country

According to the IPPA project methodology, the reports and key messages shown in Table 2 represent the direct opinions of the IPPA reference group contacts (themselves being RWM national stakeholders) expressed under their own responsibility. While the reports provide valuable insight into each national RWM situation, they should be viewed as neutral assessments.
**TABLE 2 KEY MESSAGES FROM AARHUS CONVENTION SESSIONS**

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>KEY MESSAGES</th>
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</table>
| **Czech Republic** | **Information**  
Two different procedures exist for providing information. Legislative changes will result in one general legislative regulation. Reasons for refusing a request for information are not clear to the applicant. Databases are poorly developed.  
**Participation**  
Administrative proceedings are inconsistent and too fragmented. The “affected public” is not clearly defined.  
**Justice**  
The rights of NGOs to judicial due process are restricted. The public lacks protection against the incompetence or neglect of relevant authorities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| **Further comments (one year later)** | Based on recent recommendations from the Aarhus Convention Compliance Committee, and even more importantly on formal notice from the EC concerning the transposition of Directive 2011/92/EU (the EIA Directive), the extensive amendment of EIA/SEA Act No. 100/2001 Coll. on Environmental Impact Assessment should be carried out in the Czech Republic in connection with improving Aarhus Convention transposition into the Czech legislative framework (e.g. definitions of the “affected public” and “access to justice” etc.). However, according to unofficial statements by responsible experts from the Ministry of the Environment, this will be at least a six-year process.  
An extensive amendment to the Building Act (Act No. 350/2012 Coll., amending Act No. 183/2006 Coll. and certain associated acts) came into effect on January 1, 2013. The aim of this amendment was twofold: to add detail to existing rules, and to simplify the language and procedures. This applies to all zoning proceedings and construction plans that do not require an EIA.  
The new Building Act, inter alia, allows for public participation during planning and building procedures, which is one of the most important components of transparency in decision making and anti-corruption efforts. Nevertheless, the Ministry for Regional Development (MRD) originally proposed drastic restrictions in public participation, as well as its complete elimination during the building phase. Following negotiations with environmental organisations, experts from the Government Legislative Council and some MRD legislators amended the proposal so that civil rights remained basically unchanged. |
| **Poland** | All seminar participants agreed that the implementation of Aarhus Convention objectives in the RWM field is important and helpful for making good-quality decisions.  
High-level expertise, public access to information and a discussion campaign for all stakeholders are needed to promote good understanding.  
Cooperation with local communities at the earliest stages of decision making is a prerequisite for the successful implementation of RW repository schemes. This is especially true in Poland, where confidence in government institutions and field experts is relatively low.  
Apart from its being a legal obligation, a successful stakeholder engagement process also requires careful design and planning, stakeholder identification, enough time, and sufficient human and financial resources. |
<table>
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<tr>
<th>COUNTRY</th>
<th>KEY MESSAGES</th>
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<tr>
<td><strong>Further comments (one year later)</strong></td>
<td>Generally, nothing was changed apart from the fact that more people are sceptical about the goal of the project. Given the unclear situation regarding the pursuit of nuclear energy in Poland, there is reduced enthusiasm from the nuclear stakeholders, who largely comprise the reference group. The commissioner for nuclear energy prepared a plan in 2009, and nothing has happened in the past three years. This does not send a good message to the nuclear community. Interest and funding for training in nuclear professions will likely drop as a result. Implementation of the RWM Directive is crucial. The ministry says the country “is ready” or “will be ready”, but this is not so evident. This could be an opportunity to develop public trust.</td>
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| Romania | The existing legislation created a framework to inform the general public in a correct and appropriate manner, but the law is quite complex and confusing. There is an implementation deficit due to:  
- historical and cultural contexts (e.g. lack of practice in public debate and participation);  
- low levels of public trust in participation and the dispensation of justice;  
- little public interest in nuclear issues;  
- discontinued communication programmes due to frequent changes in political vision, management, organisational structure etc.;  
- little use of effective tools such as leaflets, websites etc.; and  
- the complexity of the issue making it difficult to communicate meaningful information to the public.  
The usefulness of a platform bringing nuclear actors together for dialogue, supported by a neutral European-wide structure, was proven during the FP6 and FP7 projects. A local information and consultancy committee, recently created in Cernavoda, offers a good example of providing access to information. |
| Slovakia | While Slovakia’s nuclear industry is very confident, there is a lack of interest in participation among local stakeholders and state authorities. As the country has little experience with participative processes, both sides tend to take a passive attitude. Education is needed to boost understanding of efforts and willingness to achieve transparency and active participation. The usefulness of a platform bringing nuclear actors together for dialogue, supported by a neutral European-wide structure, was proven during the FP6 and FP7 projects. Adequate human and financial resources, sufficient time, and implementation of EC requirements can lead to improved levels of public participation. The continuity of participation in long-term processes must be guaranteed from the early stages. |
| Slovenia | Local partnership (LP) needs to be perceived as a legitimate component of public participation in decision making. The information provided is not sufficiently helpful. Authorities lack knowledge or sufficient understanding of the Aarhus Convention. Normative or some other type of LP regulation is necessary. People want to participate, but also require a fair and transparent procedure: feedback needs to be considered and addressed. Local and state authorities lack interest in participation. |
Remarks were updated in summer 2013. Any new insights or developments during the interim period have been added in the table as “further comments”.

**Synthesis of Aarhus Convention issues in IPPA countries**

The authors of this report have compiled a summary of the most common and most significant issues addressed in the IPPA Aarhus Convention sessions. In order to facilitate such comparisons, a standard reporting format was used by all national reference group organisers. For each of the three Aarhus Convention pillars, country contact persons reported:

- consensual views expressed during the session by stakeholder participants regarding difficulties or barriers to the implementation of the Aarhus Convention pillar in their country;
- views on difficulties and barriers held only by a particular stakeholder group — minority opinions (i.e. useful indications of stress points at which certain stakeholder groups do not obtain full rights under the Aarhus Convention);
- opportunities or support for actual Aarhus Convention implementation that the countries observed as of the session date; and
- opportunities or support for actual Aarhus Convention implementation that could be strengthened or emerge in the future.

### TABLE 3 SYNTHESIS OF KEY MESSAGES REGARDING INFORMATION

<table>
<thead>
<tr>
<th>DIFFICULTIES AND BARRIERS/CONSENSUAL VIEWS</th>
<th>DIFFICULTIES AND BARRIERS/ SPECIFIC STAKEHOLDER GROUP VIEWS</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Lack of a coordinated system for information flow&lt;br&gt; - Inadequate planning for education and insufficient financing for provision of information&lt;br&gt; - Low levels of public knowledge due to limited access to information (issues of copyright, protection of business secrets, fees for information requests etc.)&lt;br&gt; - Lack of access to independent expertise and lack of debate amongst experts representing different viewpoints</td>
<td>- Unilateral information flow&lt;br&gt; - Lack of national strategy for information and education on nuclear issues&lt;br&gt; - Low interest of the general public</td>
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</table>

<table>
<thead>
<tr>
<th>OPPORTUNITIES AND SUPPORT/ACTUAL SUPPORT SEEN</th>
<th>OPPORTUNITIES AND SUPPORT/ LIKELY POTENTIAL FOR THE FUTURE</th>
</tr>
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<tbody>
<tr>
<td>- Government support and the preparation of legislative changes (to date not observed in Slovakia)&lt;br&gt; - Development of new communication systems and information channels (to date not observed in Slovakia)&lt;br&gt; - Increased participation in various information-sharing programmes</td>
<td>- More specialists able to provide information: launching new courses of study at universities, training of specialists at foreign centres&lt;br&gt; - Creation of information and consultancy committees</td>
</tr>
</tbody>
</table>
DIFFICULTIES AND BARRIERS/CONSENSUAL VIEWS

- Ineffective information dissemination for public participation
- Definition of the “affected public” is unclear
- Lack of legal and administrative framework to guide proceedings

DIFFICULTIES AND BARRIERS/SPECIFIC STAKEHOLDER GROUP VIEWS

- Lack of conviction about importance of the Aarhus Convention and low public interest
- Low level of trust in authorities and lack of responsiveness to their initiatives

OCCASIONS AND SUPPORT/ACTUAL SUPPORT SEEN

- Increased stakeholder engagement in decision making by state administration and experts
- Greater public representation on boards and in programmes and strategies for development

OCCASIONS AND SUPPORT/LIKELY POTENTIAL FOR THE FUTURE

- Continuous development of democracy at local level
- Early-stage public involvement in decisions to be launched in the coming years

This structure is reflected in Tables 3 to 5. In the sections following the tables, further details are provided as reported by the reference group organisers in each country, according to the same structure.

It is the opinion of the authors of this report that the institutional stakeholders preparing the session perhaps underestimated the level of broad stakeholder interest in access to justice.
Country session findings on the three pillars of the convention

For each of the three pillars of the Aarhus Convention, two tables are presented. In each case, the first of the tables summarises difficulties and barriers. The left-hand column shows views shared by all types of stakeholders present and the right-hand column reports specific stakeholder group views (i.e. minority opinions), which highlight stress points or areas in which certain stakeholder groups fail to obtain full access to their rights under the Aarhus Convention. The second of the two tables details the variety of opportunities and support for the implementation of the Aarhus Convention in RWM. The left-hand column expresses actual elements that appeared to be in hand as of the day of each country session. The right-hand column covers anticipated future potential.

### THE INFORMATION PILLAR (TABLES 6A AND 6B)

#### TABLE 6A COUNTRY SESSION FINDINGS

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>DIFFICULTIES AND BARRIERS/CONSENSUAL VIEWS</th>
<th>DIFFICULTIES AND BARRIERS/SPECIFIC STAKEHOLDER GROUP VIEWS</th>
</tr>
</thead>
</table>
| **Czech Republic** | The provision of information is regulated by two different laws and two different systems, which makes orientation very difficult. Passive provision of information (i.e. upon request):  
  • Payment of a fee is required for requesting information.  
  • Business secrets and copyrights are protected.  
  • Grounds of refusal to provide information are often without legal justification.  
  Active provision of information is affected by government cuts and cost-saving measures (e.g. considerable reduction of the integrated pollution register and waste database). | (No report) |
| **Poland**     | Coordinated and well-elaborated information programmes are lacking. There is little debate among expert groups representing different views. Channels by which to reach target groups have not been sufficiently identified. Financing for educational programmes and the provision of information and educational programmes is insufficient. | Information for the early stages of decision making is lacking.  
  Transparency in the decision-making process is lacking.  
  The provision of information tends to be unilateral.  
  There is no national strategy for providing information and education on nuclear-related issues. |

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**Further comments (one year later)**

It is very important for Poland that information about the Aarhus Convention is provided. This issue should be addressed during every discussion and at every conference. There are many conferences organised in the scope of the country’s nuclear energy problem, but they fail to address the issue. More information is needed. The information campaign has slowed down because the decision on nuclear blocks was not rendered
### Table 6A Country Session Findings (Continued)

<table>
<thead>
<tr>
<th>Country</th>
<th>Difficulties and Barriers/Consensual Views</th>
<th>Difficulties and Barriers/Specific Stakeholder Group Views</th>
</tr>
</thead>
<tbody>
<tr>
<td>Romania</td>
<td>There are concerns regarding access to information and confidentiality. National authority-level communication programmes have been discontinued, due mainly to the reorganisation of national institutions. There are low levels of public knowledge related to access to information (rights, approaches, what is important); school-level knowledge of science and energy issues is also lacking. The general public shows no apparent interest in an improved flow of information. The existing communication programme is limited to low-impact tools such as leaflets, presentations and websites. Competence building and access to expertise could be improved. Public competences seem to be very poor, and access to independent expertise is very limited due to lack of funds.</td>
<td>The major role of local communities (LCs) is to attain continuous information, but funds are lacking to this end. People are worn out by the length of the process. Mass media are split into sharply pro and anti factions and fail to present issues in ways that have a beneficial, long-term perspective. The public lacks the interest and vocabulary to engage in technical discussions, such as: What are the key differences between Curie and Becquerel? Romanian law fails to make key distinctions (e.g. between an LC and an operator) and is therefore open ended.</td>
</tr>
</tbody>
</table>

**Further comments (one year later)**

No important changes have taken place, and the process is ploddingly slow. At institutional and organisational levels, people are more aware of the Aarhus Convention and the importance of transparency, but senior managers are slow to change their approach. The fact that most NGOs are involved only in niche issues, rather than acting on principles, has also slowed the process. NGOs tend to be active with regard to the Aarhus Convention only when financial incentives or prestige are involved. Public attitudes are slow to come round as well: the IPPA focus group consultation in Saligny (the designated siting community for the LILW facility) was terminated, and people are still waiting for clear, relevant information. The general public desires a forum in which it can ask the right questions, but they need information that corresponds to their level of education and awareness. Nonetheless, no public action is being taken to press authorities and institutions to provide this information. IPPA had a good national reference group and transferred the concept to all stakeholders, who understand the formal importance of the Aarhus Convention but have not assigned it as a priority. There is sincere interest in respecting the law, but management shows little such interest. IPPA has succeeded in raising awareness, which is an important gain. The second achievement of IPPA investigation has been direct: people understand the importance and benefits of working together in their communities to improve their relationship with regulatory bodies and national nuclear authorities.
<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>DIFFICULTIES AND BARRIERS/CONSENSUAL VIEWS</th>
<th>DIFFICULTIES AND BARRIERS/SPECIFIC STAKEHOLDER GROUP VIEWS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slovakia</td>
<td>Those implementing plans communicate information to the public only when required. Nonetheless, the public is confident in the nuclear industry and its regulators. There is a lack of resources for early and effective public involvement. There is an inability to disseminate appropriate, comprehensible information through the entire range of media.</td>
<td>NGO comments: The general public has made no formal request to improve this pillar. Authorities display a reluctance to address the issue of transparency, which is a long-term problem. Legislative changes, including the competencies of particular authorities in licensing processes, occur repeatedly. One-way information flow is problematic. Little respect is shown to the public and public rights are generally disregarded.</td>
</tr>
</tbody>
</table>

**Further comments (one year later)**
The Ministry of Education manages national legislation on access to information, but implementation of the Aarhus Convention is the responsibility of the Ministry of Environment, which in practice leads to difficulties in common understanding and implementation of public information. There is no clear definition of “information sensitivity” — that is, which information, according to the Atomic Act, is confidential. The Internet and official web pages are usually considered by regulators and implementers as “sufficient” sources of information for the public.

| Slovenia | Information flow tends to be one way: in other words, there is no dialogue. There is general lack of knowledge about the Aarhus Convention, and this includes responsible authorities. | (No report) |

**Further comments (one year later)**
There are no significant changes to report, even with a change in government structures that took place in February–March 2013. In fact, the new director of the Radioactive Waste Management Agency has been appointed with the mission to curb public intervention and facilitate the needs of the nuclear industry as much as possible. The national ombudsman has been used successfully in the past to obtain information. The future EIA for the LILW facility will ensure that all documentation will be open, and comments will be addressed. This EIA was scheduled three years ago, but will take place, perhaps, within a year and a half.
**TABLE 6B OPPORTUNITIES AND SUPPORT FOR CONVENTION IMPLEMENTATION**

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>OPPORTUNITIES AND SUPPORT/ACTUAL SUPPORT AS OF THE DAY OF THE SESSION</th>
<th>OPPORTUNITIES AND SUPPORT/LIKELY POTENTIAL OPPORTUNITIES FOR THE FUTURE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Czech Republic</strong></td>
<td>“Execution on information”: This refers to the seizure of town or municipal property if the relevant information is not provided. Legislative changes are being prepared: just one general legislative regulation (Ministry of Finance). Novel information channels have been established: (e.g. information centres, newsletter of the Radio-active Waste Repository Authority (RAWRA) for pre-selected localities, RAWRA video-sharing website on YouTube, Working Group website, various communication events). Information is provided through various common reference groups, working groups and committees, such as the Working Group for Dialogue on Deep Geological Repository (DGR).</td>
<td>(No report)</td>
</tr>
</tbody>
</table>

**Further comments (one year later)**

In the sphere of nuclear waste management, the Working Group for Dialogue suggested relevant legislative changes to empower municipalities concerned in decision–making processes in terms of DGR siting. It is also one of the possibilities for implementing Aarhus Convention requirements into Czech law and practice. At present, however, there is no political will to enforce this proposal.

| **Poland** | There is a good level of expertise, and also:  
- willingness from experts to participate in information and educational campaigns,  
- an information campaign on NPP supporting other nuclear energy–related programmes;  
- support from governmental institutions and administration; and  
- information of added value. | More specialists are able to provide information: launch of new courses of study at Polish universities, training of specialists at foreign centres. There is more experience in transferring information and knowledge. Sufficient information is given to stakeholders. Decision making is based on trustworthy information. Expert experience on decision-making processes in cooperation with the local community should be increased (building a group of experts). Confidence in the validity of the research base (based on expert knowledge from all possible fields) could be greater. |
| **Romania** | Access to info and confidentiality issues:  
- Rapid development of communication systems allows quick and easy to access information; also, local sources (e.g. administration, school, family doctors) are very frequently consulted.  
- Participation in international programmes and events (COWAM 2, CIP, IPPA, GMF) has facilitated community access to information, especially regarding the exchange of experience. Competence building and access to expertise:  
- Participation in international programmes and events (COWAM 2, CIP, IPPA, GMF) has facilitated community access to methods and tools. | Access to information and confidentiality issues:  
- The Local Information and Consultancy Committee, created in Cernavoda, serves as a good example of decision making related to access to info. Related to new investments (Cernavoda NPP Units 3 and 4), a special department was created to answer questions raised by the public and other interested parties. There is a legal framework to inform the general public in a correct and appropriate manner |
### TABLE 6B OPPORTUNITIES AND SUPPORT FOR CONVENTION IMPLEMENTATION (CONTINUED)

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>OPPORTUNITIES AND SUPPORT/ACTUAL SUPPORT AS OF THE DAY OF THE SESSION</th>
<th>OPPORTUNITIES AND SUPPORT/LIKELY POTENTIAL OPPORTUNITIES FOR THE FUTURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slovakia</td>
<td>The main communication channels, as presented by JAVYS, are the Internet and web pages about waste management facilities. Official public hearings are another communication channel, which is also more active. Special meetings with local communities were held to discuss cases related to new building.</td>
<td>Better quality information about the recent DGR project should be provided to the public. The DGR seminar at the end of the IPPA project connected with the new Platenso project. The new proposal for nuclear resources allocation could launch new projects related to public participation.</td>
</tr>
<tr>
<td>Slovenia</td>
<td>(No report)</td>
<td>Things might change, but opportunities for two-way information flow are minimal. Requests will be responded to as a minimum.</td>
</tr>
</tbody>
</table>

#### Further comments (one year later)

Information committees on nuclear sites could be expanded and develop a proactive approach towards dissemination of information and fostering dialogue with the public.

### THE PARTICIPATION PILLAR (TABLES 7A AND 7B)

#### TABLE 7A COUNTRY SESSION FINDINGS

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>DIFFICULTIES AND BARRIERS/CONSENSUAL VIEWS</th>
<th>DIFFICULTIES AND BARRIERS/SPECIFIC STAKEHOLDER GROUP VIEWS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>Administrative proceedings are inconsistent and too fragmented. The requirement for early participation is often interpreted as public participation only at the beginning. Identification of key stakeholders: The “affected public” is not clearly defined. It is not clearly specified who can take part in what, when they can take part, and what they can say. The deadline structure for receiving information and submitting comments is flawed. “Due account” requirements regarding proper consideration are problematic.</td>
<td>Conditions for NGO participation in permit proceedings: ● NGOs took part in the EIA procedure. ● The NGO statement was incorporated into the EIA statement. ● NGOs were not excluded from the permit proceedings.</td>
</tr>
<tr>
<td>Poland</td>
<td>There are limited opportunities to participate in decision making at an early stage, when all outcomes are possible. Civil society is considered neither as an asset nor as a permanent and influential player in the local, national and international contexts of RWM. The quality and vibrancy of local democracy is poor. There is no tradition of inclusive governance and</td>
<td>There is a general lack of conviction about the importance of the Aarhus Convention. Decisions are not taken in a transparent way. Green organisations are excluded. Experts should play a key role, but NGOs currently have low levels of knowledge.</td>
</tr>
</tbody>
</table>
### TABLE 7A COUNTRY SESSION FINDINGS (CONTINUED)

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>DIFFICULTIES AND BARRIERS/CONSENSUAL VIEWS</th>
<th>DIFFICULTIES AND BARRIERS/SPECIFIC STAKEHOLDER GROUP VIEWS</th>
</tr>
</thead>
<tbody>
<tr>
<td>democratic and transparent decision making. NGO participation rates are low. The mechanism for public participation in the EIA procedure lacks effectiveness (short deadlines, poor dissemination of information).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td>Early participation is needed to influence decision making. Decision-making process should begin earlier (e.g. the Saligny case). The citizens of this young democracy lack knowledge and practice. A heavy emphasis is often placed on lack of practice in public debate and participation. Key stakeholders need to be identified. The definition of “affected public” is not clear to all parties. During long decision-making processes, structures and procedures need to be improved in order to facilitate continuous citizen involvement. A legal framework for the local committee is lacking. Political changes are disruptive and have negative effects on long-term processes. Society lacks sufficient practice for citizens’ involvement. There is little interest among citizens in participation in long processes (“fatigue syndrome”).</td>
<td></td>
</tr>
<tr>
<td>Early participation is needed to influence decision making. The investors’ lobby is powerful in the early stages, while citizens’ resources are few by comparison. Public interest in participation is low. There is little trust in authorities, and people are sceptical and pessimistic regarding their actions and final results. Key stakeholders need to be identified. Structures and procedures are needed to facilitate continuous citizens’ involvement during long-term decision-making processes. Appropriate knowledge is not always transferred to new, incoming public representatives, such as mayors and local councillors. Existing local-level structures are based on non-formal initiatives. In the case of Cernavoda, NPP support for the Local Committee for Information is not optimal. Independence is needed for such structures to work. Citizens show little interest in investing their time and energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slovakia</td>
<td>There is a preference for passive communication tools. Participation in EIA processes is limited to local communities and stakeholders. In the absence of dedicated structures, citizens’ interest in participating in long processes is low (“fatigue syndrome”). Political changes are disruptive and have negative effects on long-term processes. There is an absence of NGOs concerned with nuclear and environmental issues.</td>
<td></td>
</tr>
<tr>
<td>Citizens show little interest in investing their time and energy. Implementers are unduly cautious and anxious, as they have very little experience in decision-making processes involving a large number of participants. Despite 10 years of systematic work, public awareness and participation remain at low levels.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>Local and state authorities use local partnerships only for as long as needed, which has generated apathy.</td>
<td></td>
</tr>
<tr>
<td>Local partnerships are ending or have ended. The Aarhus Convention is used mostly by NGOs, not local communities. There is a lack of formal regulation with regard to participation. There was a lack of workshop participation among representatives of decision makers. Authorities are not sufficiently responsive to local initiatives.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 7A Country Session Findings (Continued)

<table>
<thead>
<tr>
<th>Country</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Further comments (one year later)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>There are no changes to report. Local partnerships are not functioning, and there are no plans for their re-emergence.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The sole concern of local communities is to receive money, which comes regularly and is distributed according to strange criteria.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Accounting Court of Slovenia reported recently that siting money was not handled properly and in a transparent way, and has proposed to change the Compensation Decree. It relies on the legislation on limited land use; there should not be two compensations granted for both the NPP and RWM facility on the same domain — same limited land use, same area; this should be taken into account). According to the law, compensation is due only for an officially recognised environmental impact. As the repository project has no impact, local communities have no legal basis for compensation that they have received anyway from 2010. This legal issue is affecting local willingness to pursue hosting.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Table 7B Opportunities and Support for Convention Implementation

<table>
<thead>
<tr>
<th>Country</th>
<th>Opportunities and Support/Actual Support as of the Day of the Session</th>
<th>Opportunities and Support/Likely Potential Opportunities for the Future</th>
</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>There is an opportunity to develop independent working groups or committees as consultative bodies of relevant governmental departments and institutions (e.g. the Working Group for Dialogue on DGR was established with the support of the Ministry of Industry and Trade in cooperation with the Ministry of Environment). There are representatives of the public on the RAWRA board (one from the Parliament and three from municipalities in which operating radioactive waste repositories are located).</td>
<td>(No report)</td>
</tr>
<tr>
<td>Poland</td>
<td>State administration personnel and experts need to engage all stakeholders in decision making. The main groups of stakeholders have been identified. There is parallel, if questionable, support for a nuclear energy programme.</td>
<td>Member states are to notify the EC of the content of the national RWM programme no later than August 23, 2015. Democratic society in Poland is undergoing continuous development. More and more decisions are being taken at local level. All of the most interested stakeholders are involved. There is stable community participation in continuous decision making related to RWM (e.g. during whole process).</td>
</tr>
</tbody>
</table>
**TABLE 7B OPPORTUNITIES AND SUPPORT FOR CONVENTION IMPLEMENTATION (CONTINUED)**

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>OPPORTUNITIES AND SUPPORT/ACTION SUPPORT AS OF THE DAY OF THE SESSION</th>
<th>OPPORTUNITIES AND SUPPORT/LIKELY POTENTIAL OPPORTUNITIES FOR THE FUTURE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Further comments (one year later)</strong></td>
<td>It was very strange to learn that there is an Aarhus Convention Bureau, and that it was developed in some other non-nuclear areas. The need for public involvement and its importance in the development of risk-generating programmes is not very apparent in everyday life.</td>
<td>Early participation is needed to influence decision making. Public involvement at a very early stage is being considered for a DGR process that might be launched in the coming years. Regarding the EU Waste Directive, there is a willingness to prepare and meet requirements (e.g. peer review). Key stakeholders need to be identified. There is an understanding at municipal level that the interested parties could be extended to other neighbouring localities in order to obtain a genuine balance between parties. The mayor of Saligny is determined to consult the population prior to taking a final decision. Awareness must be raised about the need for a legal framework to support continuous and balanced partnerships. Structures and procedures need to be in place to facilitate continuous citizens’ involvement during long-term decision-making processes. Stakeholders more widely recognise that it is vital for community relationships to have real continuity. It is more widely understood that dialogue with the National Radioactive Waste Agency is a crucial factor for increasing levels of public participation.</td>
</tr>
<tr>
<td><strong>Romania</strong></td>
<td>Early participation is needed to influence decision making. Public consultation is required by law, starting with the stage of approval for development programmes and strategies. The participation of local communities in European projects or organisations provides good opportunities to exchange information and practices. The fruit of COWAM 2 and CIP programmes is that local people know that they have a say in the process; also, institutional actors now understand that they must actively take the first steps towards consultation and involvement. Key stakeholders need to be identified. The nuclear industry organised a longer than usual public debate in order to collect several points of view from Romania and beyond (e.g. U3 and U4). The public debate announcement was made in the mass media, and the EIA text was published on the Internet. Observations were received from Constanta, Cernavoda, Bucharest, Bulgaria and Austria. There are structures and procedures in place to facilitate continuous citizens’ involvement during long-term decision-making processes. The aims of the Local Information and Consultancy Committee, recently created in Cernavoda, is to stimulate the participation of citizens.</td>
<td>Early participation is needed to influence decision making. Public consultation at a very early stage is being considered for a DGR process that might be launched in the coming years. Regarding the EU Waste Directive, there is a willingness to prepare and meet requirements (e.g. peer review). Key stakeholders need to be identified. There is an understanding at municipal level that the interested parties could be extended to other neighbouring localities in order to obtain a genuine balance between parties. The mayor of Saligny is determined to consult the population prior to taking a final decision. Awareness must be raised about the need for a legal framework to support continuous and balanced partnerships. Structures and procedures need to be in place to facilitate continuous citizens’ involvement during long-term decision-making processes. Stakeholders more widely recognise that it is vital for community relationships to have real continuity. It is more widely understood that dialogue with the National Radioactive Waste Agency is a crucial factor for increasing levels of public participation.</td>
</tr>
<tr>
<td><strong>Further comments (one year later)</strong></td>
<td>Another important gain in IPPA is related to geological disposal. Discussion started in summer 2013, and the process began with a screening of previous ideas — that is, reviewing all R&amp;D and activities related to geological disposal, and holding a discussion on the principles to be included in the strategy (openness, transparency, early involvement, inclusiveness). All stakeholders understood that the strategy needed to be discussed from the very start. We tried to change the course of national strategy development, as the normal practice in Romania is for experts and politicians to write strategy; discussion is limited because the final text is posted on the Internet for comments only. We want to gather stakeholders to help the State Agency for Waste Management to build the strategy. The stakeholders are very clear about this. Beyond obtaining information, everyone understands that participation is very important and that it is wise to have potentially affected stakeholders present during debates on strategy. Consolidation has been more or less continuous since COWAM 2 and is a development that is gaining support as Romanian society continues to open up. However, the actual experience of the National Strategy and Forecasting Group for Research and</td>
<td>Another important gain in IPPA is related to geological disposal. Discussion started in summer 2013, and the process began with a screening of previous ideas — that is, reviewing all R&amp;D and activities related to geological disposal, and holding a discussion on the principles to be included in the strategy (openness, transparency, early involvement, inclusiveness). All stakeholders understood that the strategy needed to be discussed from the very start. We tried to change the course of national strategy development, as the normal practice in Romania is for experts and politicians to write strategy; discussion is limited because the final text is posted on the Internet for comments only. We want to gather stakeholders to help the State Agency for Waste Management to build the strategy. The stakeholders are very clear about this. Beyond obtaining information, everyone understands that participation is very important and that it is wise to have potentially affected stakeholders present during debates on strategy. Consolidation has been more or less continuous since COWAM 2 and is a development that is gaining support as Romanian society continues to open up. However, the actual experience of the National Strategy and Forecasting Group for Research and</td>
</tr>
</tbody>
</table>
Development in Romania is cause for concern. The process looks good from the outside: it was conducted by professional mediators and utilised the Internet, questionnaires and group work. In practice, however, it is difficult to get good ideas from 10 people in just a single day, which was the amount of time allotted for debate and consensus building. Good information was collected, but the follow-through was not participative: data were culled without further consultation. While this consultation may be viewed as an important gain, and while there are opportunities to simulate this upward curve, there remains a core lack of interest at ministerial level in participation, and the actual influence of participation is weak. Political pressure is stronger. While several experts were consulted, it is the politicians who eventually decide on priorities and values, as they feel that it is within their mandate.

Slovakia

There is a mutually proactive attitude towards public participation. Communication is early and broad. Single-topic meetings with local communities kept comments to a constructive minimum and streamlined the EIA report content. The public and other stakeholders are seen as partners for dialogue. The participative process led the local community to adopt a waste disposal project.

The DGR project should lead to early public involvement. Experiences with IPPA project implementation lead to a better understanding of national layout; results will be considered for future projects on public participation, and mainly for the DGR project.

Slovenia

People want to participate. Normative regulation of LPs has been suggested. In order to provide initiative for participation, it is important to:
- ensure a better understanding of Aarhus Convention demands on the part of authorities;
- establish trust; and
- foster continuous participation.

(No report)

Further comments (one year later)

Local citizens in the siting area are preparing proposals for a kind of modified local partnership without direct reliance on the authorities. They are establishing an independent functioning that could deliver good results in the next two years.
### THE JUSTICE PILLAR (TABLES 8A AND 8B)

#### TABLE 8A COUNTRY SESSION FINDINGS

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>DIFFICULTIES AND BARRIERS/CONSENSUAL VIEWS</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>Court decisions are not made available in a timely manner, and construction can continue in the meantime.</td>
<td>NGOs have restricted recourse to judicial action (e.g. a judicial authority cannot conduct a material review of an issued decision on the initiative of NGOs).</td>
</tr>
<tr>
<td>Poland</td>
<td>There is a lack of long-term strategy and policy at every institutional level, which affects all interested stakeholders. Society is not fully aware of the spirit and principles of the Aarhus Convention. Politics is not excluded from economics and safety issues (no splitting of roles). Public authorities and their sub-units are not completely independent from current ruling government and political parties. An additional independent organisation, preferably with some sociological expertise, is needed.</td>
<td>Existing law is not always respected.</td>
</tr>
</tbody>
</table>
| Romania       | Regarding access to justice and Compliance Committee cases:  
  ● There is a gap between discourse and reality, as ministries say that the Aarhus Convention is perfectly transposed and applied, but review shows that practice is far from perfect.  
  ● National level discourse is shortsighted.  
  ● For investors everything is possible; for citizens, nothing is possible. Long-term efforts involve complex procedures.  
  ● There is little trust in justice and strong perceptions of competitive imbalance. | (No report)                                                                                                               |
| Slovakia      | Regarding access to justice and Compliance Committee cases:  
  ● National regulations are not always adequate for public participation, and restrictions on stakeholder selection led to suggested involvement of the Aarhus Convention Compliance Committee.  
  ● There is little general trust in the justice system.  
  ● Court decisions are not available in a timely manner, and construction may continue in the meantime. | There is a gap between discourse and reality: authorities are convinced that the Aarhus Convention is perfectly transposed and applied, but in practice there are some discrepancies and difficulties with its implementation. |

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**REPORTS ON AARHUS CONVENTION SESSIONS**

**DECISION MAKING FOR THE FUTURE**
TABLE 8B OPPORTUNITIES AND SUPPORT FOR CONVENTION IMPLEMENTATION

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>OPPORTUNITIES AND SUPPORT/ACTUAL SUPPORT AS OF THE DAY OF THE SESSION</th>
<th>OPPORTUNITIES AND SUPPORT/LIKELY POTENTIAL OPPORTUNITIES FOR THE FUTURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slovenia</td>
<td>Authorities do not listen to the public and do not support participation. Regulations are not always adequate for public participation. Public comments are not taken into consideration. Regarding the SEA for the LILW repository, there are 70 pages of remarks but only requests from local authorities are included.</td>
<td>There have been some citizens’ initiatives for legal judgment of a process, but all have been refused.</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>(No report)</td>
<td>(No report)</td>
</tr>
<tr>
<td>Poland</td>
<td>A legal basis for public participation in decisions does exist. The Aarhus Convention was signed in 1998 and ratified in 2002. The Public Information Act (September 6, 2001) is the legal basis for access to information. The Act on Access to Information covers environment and environmental protection, public participation in environmental protection and EIA (October 3, 2008).</td>
<td>The RWM Directive had to be transposed on August 23, 2013, and gives an opportunity for civil society stakeholders to increase their influence and improve their chances for the further improvement of the public information and participation framework in the national context of RWM. The government respects community decisions on the environment.</td>
</tr>
<tr>
<td>Romania</td>
<td>Regarding access to justice and compliance committee cases: ● Some cases prove that access is possible and produces effects. ● Greenpeace successfully requested the court to cancel the partial licence of the LILW repository due to lack of public consultation. ● There are examples of blocking large projects (with strong investors) via the utilisation of existing procedures (e.g. the Rosia Montana gold mine).</td>
<td>(No report)</td>
</tr>
<tr>
<td>Slovakia</td>
<td>(No report)</td>
<td>(No report)</td>
</tr>
<tr>
<td>Slovenia</td>
<td>(No report)</td>
<td>(No report)</td>
</tr>
</tbody>
</table>

Further comments (one year later)

There is nothing new to report in recent months. You have a legal right to sue, but the issue is whether you have enough information in your dossier and whether you can wait until the courts can schedule hearings. One must wait 10 months for the first hearing, and then two to three years for a decision. A second barrier is that there is little trust in the Romanian justice system. Judges cannot enforce verdicts, and many are arrested for corruption. Those NGOs which are strong and have enough money can be aggressive on environmental issues, but in the case of RWM the question is whether the NGO is working on its own or on behalf of another, larger institution. Environmental protection groups become pawns in a war between big organisations, and not as something between the public and the polluter. No real changes are expected in the coming five years.
Future reference group activities and field actions

Country contact persons also reported future IPPA reference group activities and field actions that were planned in order to take advantage of a new understanding of the Aarhus Convention. Views from summer 2013 are reported in “further comments”.

### TABLE 9 FUTURE ACTIVITIES AND FIELD ACTIONS

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>FUTURE ACTIVITIES</th>
<th>FIELD ACTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>Main conclusions of the Aarhus Convention seminar will be presented to a broader audience during the Working Group for Dialogue’s regular meeting.</td>
<td>(No report)</td>
</tr>
</tbody>
</table>

**Further comments (one year later)**

At present we are dealing with a serious crisis in the Working Group for Dialogue with regard to the DGR siting process in our country. Recent steps taken by the Ministry of Industry and Trade, in cooperation with RAWRA, broke all previous promises given to the affected communities and NGOs — namely, that exploratory site work would be done only with the consent of the affected communities. This destroyed any basis for mutual confidence, and relations between the parties are at a new low. It is very difficult in this situation to get members of the working group (municipal representatives and NGOs) involved in any IPPA activities. At its last meeting, the working group decided to suspend its activities. Unfortunately, the situation is further intensifying, and in the current political situation in the Czech Republic there is no hope of any improvement in the near future. We will deliberate about what to do next if the working group meets again.

| Poland           | We need to attract more stakeholders (potential localities) working in the RW field in order to have more complete representation. Aarhus Convention objectives should be included in RW-related discussions. There should be another training session on the Aarhus Convention. | Keep dialogue open with all interested stakeholders, including the public during the preparation of decisions and decision-making processes. Define the reference methodology for siting and make it understandable to communities and local authorities. The process should be discussed with the local community in an appropriate manner (according to Aarhus Convention). Guarantee the time necessary for debates (for ecological organisations, local governments etc.). A longer period for public documentation review and questioning is necessary. |

**Further comments (one year later)**

Our main goal is to keep the group alive and continue its activities. We want to organise a new, separate seminar to encourage greater NGO involvement. We need time to create a safe space for this. The IPPA project will end, but if the group can continue its work then some ideas will be developed and realised. Actual organisation is not clear and we will have to look at the scope of the next project, with activities closely related to society. For example, our group can assist with evaluation.

A hearing was held in May 2012, which was the biggest event for Poland within the IPPA project. It was a successful event and was well organised and attended. However, some strong, hidden conflicts emerged. Officials think that it is possible to go ahead without actual public involvement. Real conflict exists between nuclear experts and ecological groups. The Aarhus Convention was new to many officials, especially as it applies to the nuclear domain and the rights it grants, including access to justice. There is little knowledge about public involvement.
We have nuclear professors and ecological scientists who have very different and strongly conflicting opinions on how Poland should develop its future energy supply. As some ecologists who are least well informed on nuclear matters employ weak and naive arguments, their discourse is then ridiculed. Very good cooperation exists with the Ministry of Economy, which agrees with the statement that public involvement is needed; but in practice it is often easier for them to shrink the circle of consultation when they prepare documents. As a rule, convenience comes first. Discussion is possible, however. Discussions between experts are not so easy. They tend to lack flexibility and rarely shift away from their opinions. Although they are members of the same societies and universities, they do not communicate. They have little field experience, and there is not much of a tradition of public dialogue in Poland or of defending an argument in front of people who do not share your perspective. These academics tend to treat citizens as students who should listen but not speak. These dynamics were clearly evident during the recent IPPA event, it was very good to identify this risk and the need for further discussion.

There are plans to discuss the participation methodology proposed by Institute for Nuclear Research for the Saligny case. The need for a clear legal framework for public participation has been identified. The way is being prepared for real participation in geological disposal decisions.

Future activities include:
- presentation of main conclusions of the Aarhus Convention session; and
- preparing a public seminar on IPPA topics.

Field actions include:
- preparing the way for real participation in geological disposal decisions; and
- education for experts, as well as trainings to encourage public participation and changes of attitude and behaviour.

Next meeting (effectively held at the end of 2012)
Use the media to inform the public about participation problems and possibilities. The Ministry of Environment should extend opportunities for public involvement in spatial planning procedures and EIA.

Special IPPA meetings between CSOs and NGOs were organised from April to July 2013. NGOs organised themselves and invited people from around the world to provide building advice and form credible and willing partnerships. For example, France’s federation of local information committees, ANCLIL, and public expert IRSN both attended an IPPA event in November 2013, at which the respective positions of NGOs and CSOs, the regulatory body and industry were discussed. NGOs have also asked to set up an independent review of several expert mission reports. Two or more missions were organised in cooperation between the International Atomic Energy Agency and the Slovenian Agency for Radioactive Waste Management (ARAO). NGOs obtained the mission reports through the information ombudsman under Slovenia’s strong, Aarhus-compliant Law on Access to Public Information (information flowing from publicly funded programmes). Nuclear Transparency Watch, which was established in October 2013 with the support of the European Parliament, is another international activity that Slovenian NGOs and local actors will join.
Endnotes

1. This element of support, which appeared to be guaranteed in 2012, was no longer in view in 2013. In any case, the anticipated legislation was due to have been presented in 2015.

2. See the website of the Czech Radioactive Waste Repository Authority (www.surao.cz).
Strategy Building for Public Information and Participation in Nuclear Activities
Principles for the inclusive governance of nuclear activities

At the European workshop held on September 20–21, 2012, a strategy-building discussion in one of the sessions relied on the examination of RWM-related information from the PIPNA study. The PIPNA study identified basic principles for inclusive governance of all types of nuclear activities, reproduced below. These generic principles are extremely pertinent to the experience uncovered by the Aarhus Convention sessions in the IPPA countries. If well applied, these PIPNA principles could provide help with overcoming handicaps and impediments that appear in the RWM governance context, as analysed by IPPA participants.

The RWM-specific summary analytical sheet from the PIPNA report (page 56) was highlighted as a tool to support discussion with stakeholders in any national context.

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**BASIC PRINCIPLES FOR THE INCLUSIVE GOVERNANCE OF NUCLEAR ACTIVITIES**

- Provide a “safe space” for discussion.
- Provide civil society with access to expertise to favour their engagement in the process while developing their own understanding of the issues at stake and preserving their autonomy.
- Have flexibility in the design of the dialogue process in order to give stakeholders the opportunity to adapt the dialogue process to their needs and constraints.
- Organise power sharing within the dialogue process.
- Develop the inclusiveness of the process to encourage the participation of all stakeholders who have an interest in, or who would be affected by, decisions.
- Ensure the independence of the dialogue process.
- Ensure the responsiveness of decision makers engaged in the process.
- Develop a collective learning process in which every engaged person and/or organisation can learn from other participants.
- Allow participants to reframe the issues at stake.
- Ensure the accountability of the initiator of the process.
- Ensure the availability of adequate resources for supporting stakeholder engagement.
- Enable participants to exert some reflexivity over the process itself by assessing its quality over the course of the process in order to adapt it to emerging needs.
SUMMARY ANALYTICAL SHEET: RADIOACTIVE WASTE MANAGEMENT

Key issue: What are the means and conditions for public access to information and participation in the context of radioactive waste management?

IDENTIFICATION

The issue of RWM encompasses all types of waste that have been produced in the past and will be produced in the future, and is therefore connected to the issue of energy policy. It is a national issue with a localised technical management option on the one hand, and involvement of a supranational (notably European) dimension on the other. It builds a relationship between communities in need of an RWM solution (the national community benefits from energy production activities and local communities from neighbouring nuclear facilities), and local communities are in a position to make a localised contribution to a long-term solution. This raises issues of inter-generational ethics and long-term solidarity, as well as of long-term funding of RWM activities. It also raises the question of what is passed on to the next generations in terms of accountability, resources and freedom of choice.

Concerned local communities are not limited to hosting municipalities (or hosting candidates) for RWM facilities. Neighbouring communities belonging to a broader geographical area (taking into account economic, geographic, political and socio-cultural factors) are also concerned. Energy consumers and nuclear operators are also accountable vis-a-vis RWM. Future generations are also concerned with RWM.

RWM is an issue with highly technical dimensions in which experts play a key role. Stakeholders from the public have to develop the skills necessary to address technical issues, as they are often not familiar with nuclear matters. RWM is about managing a negative, long-term legacy, while compensatory incentives may be proposed by the national community. For local communities that host or might host an RWM site, the integration of these elements into a long-term sustainable development strategy is a key issue.

The core issue regarding public information and participation is therefore to establish conditions for fostering long-term shared responsibility and vigilance on RWM at national level while maintaining solidarity between the national community and local communities hosting the facilities.

DIAGNOSIS

At the national level, political actors play a key role in the decision-making process, while radioactive waste operators are at the centre of the technical design of facilities. Experts perform the evaluation of technical arrangements. Beyond the nuclear field, scientific expertise is also mobilised in fields that are not nuclear specific (e.g. geology).

The EU features a wide range of national situations regarding RWM: progress, obstacles, lack of initiative etc. Different actors in different European countries (civil society actors, government, waste operators, the EC) have initiated mobilisation processes for civil society at national level on RWM issues, thus enabling local actors to be engaged both at national and local levels. This includes the Committee on Radioactive Waste Management (CoRWM) in the UK and COWAM in Spain. In France there is national public debate on RWM and a working group on the National Plan for Radioactive Waste and Materials Management, which is the permanent group on RWM set up by the National Association of Local Information Committees (ANCCLI). It also includes different European research projects with stakeholder participation dimensions (RISCOM, IGNIA, COWAM, ARGONA, IPPA etc.) and the Aarhus Convention and Nuclear (ACN) dialogue process. These projects have enabled networking between stakeholders at a European level, but also include national forums. Civil society mobilisation at national and European levels facilitates reflexive thinking of local actors on their own process, and helps them to better identify the stakes and possibilities through comparison with other territorial and national contexts.

This is a very strong focus in Europe on siting for storage or disposal facilities, and the development of siting approaches involves a new role for local communities and stakeholders (notably in Sweden, Belgium, Slovenia and the UK). These approaches have most often resulted in the identification of potential sites for RWM; however, in some cases they result in switching the RWM debate to the local level and removing the national context from the issue. Moreover, there is a risk of losing momentum in public participation at national and local levels after the siting phase.
A discussion with workshop participants validated the quality and relevance of PIPNA tools and guidance for implementing transparency, information and public participation, and especially within the framework for the implementation of Directive 2011/70/Euratom of July 19, 2011. Participants say that a translation of these tools into national languages would be very useful in facilitating stakeholder appropriation, with reference to civil society in particular. It was also suggested to develop a communication tool, such as a brochure, to support the dissemination of PIPNA study results.
The discussion also helped to clarify the purpose of the proposed scenarios. Whereas some participants expressed scepticism about the feasibility of the proposed inclusive governance patterns, it became clear that the PIPNA study is by no means an attempt to predict the future. It provides instead a description of a dynamic situation with diverse potential evolution scenarios, with several categories of interacting stakeholders with different capacities and opportunities. This generic description could be refined through a pluralistic analysis in each context of the conditions required to achieve public information and participation. This cooperative investigation would in and of itself be a step on the road towards providing such conditions.

The strategy to facilitate a transition towards more inclusive patterns of governance of nuclear activities must be implemented at national level, taking into account the social, political, legal, cultural and historical specificities of each country. This includes a range of possible negative or positive attitudes of different stakeholders vis-a-vis the perspective of developing public information and participation in the context of nuclear activities. It is understood that the purpose is not necessarily to provoke immediate changes but rather to build long-term partnerships involving, as much as possible, all categories of concerned stakeholders. The workshop demonstrated that transition strategy need not necessarily entail a precondition that all stakeholders be convinced that it is advantageous to increase public information and participation and the overall transparency of nuclear activities, including RWM. The quality of public participation in such processes remains a critical dimension, and one should question the validity of a process that would brush aside major components of interested civil society.

The discussions also underlined the importance of external support for national initiatives. Examples were given of European initiatives (e.g. the ACN roadmap) and participatory projects on RWM governance (COWAM, ARGONA etc.). The implementation of the RWM Directive is viewed as an opportunity for national stakeholders to initiate strategies in order to improve public information and participation. A careful review of RWM stakeholder positions regarding public information and participation, and of national or European timing and opportunities, would be a necessary starting point for each member state.

Endnotes
1. This section is adapted from the final report of the project Public Information and Participation in Nuclear Activities (PIPNA), an assessment of good practices on the participation of civil society in the development of nuclear activities: Contract No. ENER/D2/2011-539 between Mutadis and the EC’s Directorate-General for Energy (www.mutadis.org/index.php/en-cours/134-pipna).
2. As defined by the ARGONA European research project, safe spaces are spaces of interaction where “different stakeholders can move forward together to increase their understanding of the issues and also of their respective views without being committed to find common solutions, which may cause certain stakeholders to feel like hostages for a certain purpose”.
3. Local information committees in France are local forums attached to nuclear sites which gather a wide range of territorial actors: elected representatives, civil society organisations and qualified individuals. They monitor the activity of the site and inform the local population on this basis.
Summary and Conclusions
The Aarhus Convention and its significance for RWM

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was initially adopted by 39 signatories (including the EU) in Aarhus, Denmark, on June 25, 1998, and has been ratified to date by 46 parties. The Aarhus Convention is a powerful and extensive environmental agreement. Although developed in a European context it can be ratified by any member of the United Nations.

The convention links environmental rights with human rights by acknowledging that we owe an obligation of environmental conservation to future generations; it also emphasises the importance of public involvement in supporting sustainable development, and holds governments accountable for environmental protection.

At its core, the convention is about the relationship between people and public authorities within a democratic context. It is an environmental agreement with the added goal of increasing government accountability, transparency and responsiveness. The convention achieves this aim by granting public rights and imposing obligations on public authorities regarding three pillars: access to information, public participation in decision making, and access to justice in environmental matters. It is particularly significant for the IPPA project because it applies to plans, projects and specific activities in the domain of radioactive waste management (RWM).

Aarhus Convention pillars, issues and questions arising a priori, and their significance for RWM, are summarised below. These considerations lie at the heart of the IPPA-organised country discussion sessions.

The information pillar

The Aarhus Convention supports the active provision of information from public authorities. Relevant questions in this context are: How does this pertain in an RWM context? What is considered as “environmental information”? What should be the content and scope of such information, and what kind of tools can be developed to support active information provision from the side of authorities and operators? How can citizens get the data and information they need to understand nuclear waste management issues? How can citizens then explore and recommend follow-up procedures to decision makers? What kind of difficulties do authorities experience when they receive requests for access to information or actively provide information to the public? And what obstacles do citizens face when practising their right of access to information?

Access to information, according to the Aarhus Convention, recognises some exemptions of confidentiality in which a request for environmental information may be refused. There are cases when the disclosure of information would adversely affect certain legal interests, but these are exceptions to the general rules of high-level transparency and serving the public interest. When information is claimed to be confidential, it is necessary to inquire about the legal or political process involved in order to assess its relevance and, when needed, to challenge the confidentiality claim or eventual decision.
The public participation pillar

To date, facility siting is the RWM-related process that most requires the implementation of participation approaches. What are the key challenges, and which tools and processes provide effective means and opportunities for the public? What is the earliest possible stage at which participation can exert actual influence on the decision-making process, at both local and national levels? What is the capacity of the local communities to assess the relevance of a facility in their constituency? How can local democracy be organised to ensure the participation of both elected representatives and the public or public concerned? How can participation lead to better and more transparent decisions? How should public participation procedures be organised for long-term decision-making processes?

European participatory research projects such as COWAM and ARGONA have stressed that the governance of nuclear waste management is a local and national issue, and not limited to siting. COWAM in particular emphasises new challenges associated with the long-term dimension of nuclear waste management. What are the implications of this when implementing participation approaches? Does facility monitoring and oversight provide opportunities for information and participation over the long term?

As a result of Directive 2011/70/Euratom of July 19, 2011, EU member states are to establish nuclear waste management programmes. Public participation in policies and programmes, as planned by the Aarhus Convention, provides a framework for transparency and accountability in the preparation, development and SEA of these programmes, as well as during the decision-making process.

Facility siting is usually followed by planning and construction activity. Article 6 of the Aarhus Convention on public participation in decisions on specific activities is relevant for regulating public involvement requirements in decision-making procedures on permitting and licensing or for EIA. The requirements should be implemented in practice in the RWM decision-making procedures, including involvement in early stages when it is still possible to influence the decision, and to provide reasonable timeframes for public participation at different phases of decision making.

Is it possible to move beyond single-window opportunities for the public? What is meant by “reasonable timeframes”, “effective information” and “due account”? What are the methods and techniques for arriving at such definitions? These requirements should be applied also in RWM issues, and practical approaches should help to interpret the legal requirements for procedures that are technically complex, involve long-term decision making, and have multi-generational implications.

The access to justice pillar

The access to justice pillar often comes into play as a last resort for implementing the first two pillars. There may be specific issues on this topic in the field of RWM, given that the decision-making processes are long and develop in a stepwise manner. The process entails several stages of decision making and authorisation — involving parliament, safety authorities, local and central government officials, plus building and operating safety permits and licences — that can go on for several years. Do the provisions of the Aarhus Convention apply to each step? What is the role
of justice in guaranteeing the provision of information, public participation and administrative or judicial redress when the rights of the public or public concerned are infringed or national environmental laws are breached? What other opportunities are there to challenge decisions on policies, programmes, plans and legislation? Is the right of candidate municipalities to remove themselves from the site selection process by veto reflected in legal practices?

**Team accomplishments in WP3.3**

IPPA WP3.3 examined difficulties related to the implementation of the Aarhus Convention in the field of RWM in view of informing national authorities, the EU and the Aarhus Convention Secretariat.

The WP3.3 team therefore put together a menu of possible issues to be discussed at the Aarhus sessions in participating IPPA countries (see Annex 2), and then sent an invitation letter to IPPA national contact persons to prepare the sessions (see Annex 1). The national reference group of stakeholders formed in each IPPA country (Czech Republic, Poland, Romania, Slovakia and Slovenia) met for tailored individual sessions to identify and discuss the most pertinent issues. Issues and related observations were presented during a WP3.3 European workshop held on September 20–21, 2012, at the REC in Szentendre, Hungary.

**Synthesis of the main issues emerging from the country sessions**

The process initiated by IPPA WP3.3 created a learning experience at both country and European level. In the Czech Republic, Poland, Romania, Slovakia and Slovenia — with support from the Aarhus Convention and RWM study materials, plus guidance from the WP3.3 team — national contact persons consulted with reference group members to select case studies and speakers. Invitations were issued widely for stakeholders to participate in a session dedicated to learning about the Aarhus Convention and how it can function as a tool to improve the governance of RWM. This provided in itself a lesson about identifying concerned publics and meeting their needs for participation.

Several different perspectives on public access to information, public participation and access to justice in the RWM domain or others were presented at the sessions, and a number of favourable factors and impediments, successes and failures were identified and explained. In Poland, two hands-on trainings and one NGO meeting were organised.

The WP3.3 sessions revealed that the IPPA countries share many issues in common in terms of Aarhus Convention implementation in the area of RWM, as shown below.
Information
Common issues:
- the lack of a coordinated system for information flow;
- the low level of public knowledge due to limited access to information (plus confidentiality claims due to copyright, protection of business secrets, fees for information requests etc.);
- lack of access to independent expertise and lack of debate amongst experts representing different viewpoints; and
- inadequate financing for information dissemination and education.

Participation
Common issues:
- ineffective information dissemination to support public participation;
- unclear definitions of “concerned” and “affected” public; and
- the lack of a legal and administrative framework to guide proceedings.

Access to justice
Common issues:
- the length and complexity of procedures (court decisions are often not delivered in a timely manner); and
- the fact that the public is not protected when authorities lack interest or fail to take action.

Stakeholder participants in the IPPA WP3.3 Aarhus Convention sessions across countries revealed an unanticipated strong interest in the issues of access to justice, highlighting the importance of this pillar.

Summary and conclusions from the IPPA WP3.3 European workshop
The country-based sessions identified Aarhus Convention implementation issues, the conclusions of which were placed in a common framework during a European-level workshop held on September 20–21, 2012, in Szentendre, Hungary (the Slovak session took place only in spring 2013). National contact persons presented the findings in a standard format, largely facilitating comparison. Further food for thought was provided from France (recounting a strong if recent tradition of the democratisation of nuclear-related decision making) and from Bulgaria (with the example of emerging “nuclear” democracy through bottom-up championing by civil society). A special
strategy-building session examined tools specific to improving public information and participation in RWM. Fifty or so participants, mostly institutional but in some cases representing civil society, gained insight into great similarities and smaller differences amongst IPPA countries regarding actual access to information, participation and justice in the RWM area. The workshop discussions engaged not only national, institutional and civil society, but EC personnel as well. The frank exchange uncovered good will on all sides, but intensive effort is still needed to foster and enforce rights under the Aarhus and Espoo Conventions in many contexts.

The European workshop presentations and discussions on establishing strategy showed that, beyond the structural or administrative issues seen in each country, there is a long way to go to change the attitudes of those who have the most power to rectify the situation — and who generally were not present in the room. Education and practice are needed for all stakeholders, but particularly those in positions of authority and power, who need to learn to respect both the letter and spirit of the Aarhus Convention. Two striking examples of this were given:

- Industry recently published 22 implementation recommendations that could foster cooperation and mutual progress if they were accessible across Europe, yet it was deemed “too expensive” to translate the document. It thus falls on the shoulders of dedicated grassroots volunteers to perform the translation.

- A strong local-level participatory arrangement was completely marginalised, and its actual contributions were rudely snubbed.

All in all, the business as usual approach taken by the wealthiest and most powerful stakeholders in RWM is one of the greatest challenges to the actual implementation of the spirit of the Aarhus Convention.

Presentations at the WP3.3 workshop also showed that “When the demand for democracy is pushed out the door, it comes back in through the window.” The learning acquired from the WP3.3 Aarhus Convention sessions and the PIPNA materials presented in Szentendre (see footnote 3 on page 11) could yet help IPPA countries in the long process of developing inclusive governance of RWM. In order to foster Aarhus Convention applications in several IPPA countries, WP3.3 is organising more open meetings, allowing NGOs to gather in a safe space to learn about this treaty and how it can empower citizens’ participation over a broad range of salient environmental issues.

Conclusions

The main conclusions of the report based on the lessons of the Aarhus sessions held in the IPPA countries and the European workshop underline the need to empower civil society actors. This will enable the public to exercise their role in RWM as provided under the Aarhus Convention. This requires:

- creating background conditions and resources (human, financial and time) for supporting and maintaining the involvement of civil society during different phases of long-term, complex decision-making processes on RWM issues;
• ensuring barrier-free access to information from the authorities, and also from independent and reliable sources;
• building expertise in civil society through more durable and stable support structures (such as local commissions, partnerships etc.), providing access to independent expertise to maintain continuity, and being involved in and monitoring RWM processes;
• developing the ability of civil society actors to interact more efficiently with governmental, private and community stakeholders;
• implementing inclusive decision-making processes that involve all stakeholders, or at least the “public concerned”;
• preparing for challenging decisions and practising access to justice when rights are infringed (including court procedures and appeals, international agreements, the Aarhus Compliance Committee etc.); and
• recognising the benefits and advantages of using the Aarhus Convention, as there is potential for improving implementation of the three pillars in IPPA countries in the RWM field.

Council Directive 2011/70/Euratom also provides opportunities for more inclusive stakeholder involvement and for future Aarhus Convention implementation. The directive urges member states to develop structured information on RWM with a “public statute” (first pillar on access to information), and to implement decision-making processes ensuring “that the public be given the necessary opportunities to participate effectively in the decision-making process regarding spent fuel and radioactive waste management in accordance with national legislation and international obligations” (second pillar on public participation). This approach, which is similar to that of the Aarhus Convention, creates opportunities for the public to enter the decision-making process and to have their views taken duly into account.

It is necessary to identify and implement the conditions under which IPPA countries can go beyond the simple, time-constrained consultations on RWM, using the Aarhus Convention and Directive 2011/70/Euratom, to create a working, multi-level, long-term civil participation and quality assurance process around a shared goal of environmental and health protection and nuclear safety. The major remaining challenges for the future are to:
• stimulate interaction between experts and society on topical nuclear issues involving high stakes for civil society;
• create conditions for the dynamic co-evolution of relations between nuclear stakeholders and civil society;
• develop appropriate inclusive governance frameworks at local, national and European levels; and
• engage in future interdisciplinary and participatory research involving civil society to support the development and implementation of practicable solutions.
Annexes
Annex 1 Letter of invitation

From: Kaidi Tingas (REC, Hungary)
Date: February 11, 2012
To: Hana Vojtechova (UJV REZ, Czech Republic), Grazyna Zakrzewska (INCT, Poland), Daniela Diaconu and Marin Constantin (INR, Romania), Adela Mrskova (Decom, Slovakia), Marko Polic and Drago Kos (University of Ljubljana, Slovenia) and Nadja Zeleznik (ARAO, Slovenia)
Cc: Magdolna Toth Nagy (REC, Hungary), Gilles Heriard Dubreuil and Claire Mays (Mutadis, France)
Subject: Involvement of IPPA Work Package 3.3 in your programme

Dear IPPA National Contact Persons,

The REC and Mutadis would kindly like to remind you that it is time to invite Work Package 3.3 partners into your upcoming reference group or working group meeting(s) in order to discuss the issues related to radioactive waste management and the requirements in your country to fulfil the requirements of the Aarhus Convention (access to information, public participation on environmental decision-making, and access to justice on environmental issues) regarding RWM.

As you all know, the Aarhus Convention is transposed into national laws of each of your countries: therefore we would like to review and, if needed, to assist in the performance of implementing the Aarhus Convention — from both legal and practical points of view. We would like to remind you that you play an important role in implementing the convention in your country during the RWM process in line with your relevant national legislation and EU directives. Within the current IPPA project we can be at your disposal if any support is needed in this regard.

We would like to sum up how the convention is implemented in IPPA countries during the European workshop in September 2012 (to be held in Szentendre, Hungary). In order to collect country practices, problems, challenges and success stories in advance, the national meetings need to be held before July 2012.

For this reason we kindly ask you to contact us during the latter half of February and let us know when we can have a half-day meeting with your National Reference Group.

The wide range of subjects pertinent to implementation of the Aarhus Convention in RWM is reviewed in the attached document. This document is similar to a menu of issues that might be brought up in the reference group or working group meetings. The actual selection of topics for your own group needs to be customised according to your country’s needs and preferences, and this we will be doing together with you in preparing for the half-day national Aarhus session.

We suggest that after your reply, we could set up a Skype call with you to discuss further and more concretely how we could help to prepare and attend your upcoming meeting.

We are looking forward to hearing from you as soon as possible!

[Signed] Work Package 3.3 team, the REC and Mutadis
Annex 2 Menu of Aarhus session issues and questions

Prepared by Mutadis (Gilles Heriard Dubreuil, Claire Mays) and the REC (Kaidi Tingas, Magda Toth Nagy)

Introduction

The Aarhus Convention, with its three pillars of access to information, public participation in decision making and access to justice in environmental matters, offers new governance approaches in a relationship between traditional decision makers and civil society actors. This United Nations treaty acknowledges that the engagement of the public in environmental affairs is not a problem, but rather a vital contribution to sustainability.

The Aarhus Convention is transposed into national law in each country of Europe. IPPA WP3.3 proposes to ask whether this important convention is bearing all its fruits in the area of RWM or in other nuclear activities (according to the priorities of the reference group members).

The WP3.3 half-day session dedicated to the Aarhus Convention needs to be organised before July 2012 in each IPPA country during the meeting of national reference groups or working groups. During the seminar there will be an opportunity to assess how national legislation applies in practice, and the extent to which citizens’ rights in RWM (or nuclear) decision making are guaranteed. This review will be grounded on European best practices regarding the implementation of the convention, not only from a formal legal point of view but also from a practical perspective.

Each seminar will allow reference group members to evaluate the extent to which access to information and meaningful participation is being achieved in the eyes of the concerned public. Most importantly, it will be an occasion for each IPPA reference group to identify the conditions needed to improve and progress in their own national or local context so that civil society is enabled to make a vital contribution to safe, sustainable RWM.

A European workshop in September 2012 will allow IPPA participants to report on their assessment of the practical implementation of the Aarhus Convention in their country, make comparisons, and author resolutions and recommendations to aid the EU and the Aarhus Convention Secretariat to raise the level of public participation.

To prepare for the half-day session in each IPPA country, the WP3.3 team offers below a tentative menu of questions that could be addressed. It is based on the background document “IPPA — Aarhus and RWM Issues”, which Mutadis and the REC distributed last fall. We will work with national contact persons (in Skype meetings) to customise this menu to those selected issues and questions which you find are most appropriate for your group.

Thematic menu of potential issues to be addressed in each national WP3 Aarhus Convention session

Among the issues listed below, national contact persons are invited to identify which subset would be most interesting for consideration by their reference group during the session. Pointers are given to help identify illustrative national case studies that could be addressed and discussed during the session with the concerned stakeholders.
Early participation (Aarhus Convention, Articles 6.4, 8.7)
The Aarhus Convention foresees public participation concerning plans, programmes and policies relating to the environment at an early stage when all options are open and effective participation influence is possible. Early participation allows civil society to help shape or frame the national approach.
- Is your national RWM programme (or other nuclear activity) at an early stage at which options and alternatives can still be influenced? Are the options and alternatives, along with their rationale, fully disclosed to the public?
- Are conditions and opportunities for influencing decision making being shared with civil society by traditional decision makers? If not, what are the obstacles?
- Where should pressure be applied to enable citizens to obtain their rights? What help do traditional actors need to open the process? What resources does civil society need?
- Do you see a concrete case in your national context in which citizens have had the opportunity to participate early in a decision-making context regarding RWM or another nuclear activity?
- Or, on the contrary, are there instances in which conditions have not been met to enable meaningful early participation?

Due account (Aarhus Convention, Article 6.8)
Accountability exists when decision makers explain how they take decisions, which information was considered, and why any particular information was left aside.

Article 6.8 of the Aarhus Convention states that “each Party shall ensure that in the decision due account is taken of the outcome of the public participation.” “Due account” means that appropriate weight is given to civil society views when the decision is deliberated. However, there is no strict international standard telling which weight is “appropriate”. Furthermore, it is often difficult for citizens to actually obtain information about how the decision was taken in order to assess whether there is compliance with the principle of due account.
- In your context, which motivation or rationale is provided for decisions taken about RWM or other nuclear activities?
- How does this rationale refer to inputs from participating citizens? Is there a body to check the quality of the participation process in this respect?
- Has there been transparency regarding the comments received or any feedback given by the authorities to these comments? Has a reasoned decision been published that could identify the comments and concerns taken into account and that contains a justification of how they have or have not been taken into account? Is “reasoned decision” a practice in your country?

Concerned public (Aarhus Convention, Articles 2.5, 3.9, 4.1)
The Aarhus Convention gives rights to the public concerned, which is defined as “the public
affected or likely to be affected by, or having an interest in, environmental decision-making. For the purposes of this definition, non-governmental organisations promoting environmental protection and meeting the requirements under national law shall be deemed to have an interest.” This concerned public “shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile, and in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of activities.” Furthermore, any citizen has the right of access to environmental information “without an interest to be stated.”

It is a typical concern of industry decision makers to seek acceptance of their projects, and to look for local-level support from those people living near the prospective facility. In many cases, public participation is organised according to a narrow administrative perspective and restricted to a particular local community, while neighbouring communities are excluded from information and participation even though they share the same environment. Although such restriction might be legitimate from the operator’s perspective, restricted participation does not meet the stipulations of the Aarhus Convention, whose purpose is to reach sustainable decisions in the public interest. Also, decision-making on nuclear issues may be deemed to have a broader public interest in a country than other types of smaller-scale administrative decision-making procedures that have less of an overall impact.

- Does the public, in your national context, have the opportunity to get information or to participate in decisions on programmes or projects that concern them? Or, on the contrary, have stakeholders met difficulties in exercising this right? What obstacles do citizens face?
- Are there concrete examples from your country in which citizens have gained access to information and participation has been facilitated in a decision-making context regarding RWM or another nuclear activity? Are there, on the contrary, examples in which favourable conditions have not been provided?
- Links with the Espoo Convention, which grants rights to neighbouring populations across national boundaries, could be addressed here.

**Continuous participation (Aarhus Convention, Articles 3.4, 6.3)**

Participation is often understood as an institutional process limited in time (a window of opportunity for the public). The process usually takes the form of a public enquiry, SEA, EIA or a permitting/licensing procedure.

The Aarhus Convention stresses the need to think of participation as a process broader than a temporary procedure and one-time opportunity. It is all the more needed in the nuclear context, which involves complex, long-term decisions, meaning that citizens must build up knowledge and competence over time. The Aarhus Convention insists on the capacity of the public to investigate issues at stake, and to contribute to the decision-making process on a regular or continuous basis.
In your national context, do procedures or structures exist to facilitate the continuous involvement of concerned citizens in the follow-up of RWM or other nuclear activities at national level (e.g. consultative committees, participatory procedures for safety review), or at local level (local information committees or citizens' monitoring boards etc.)? Are they formally constituted or informal initiatives?

To what extent do those structures or procedures actually provide continuous and meaningful information and civic participation? Are the appropriate resources made available so that these structures can be effective? What is the attitude of decision makers regarding the role of these structures?

Are there concrete examples in your national context where the continuity of public information and participation has been achieved?

Or, on the contrary, do citizens encounter obstacles when trying to be involved on a continuous basis?

Would a comparison with other EU member states be relevant in this context?

Access to information and transparency (Aarhus Convention, Articles 5.9, 10; see also the RWM Directive) (Transparency and confidentiality were combined for convenience in the reporting of the Aarhus Convention sessions)

Council Directive 2011/70/Euratom includes provisions to assign international and national responsibilities guaranteeing the rights of information, participation and justice, and directs the development of guidance or regulations to foster these rights. It is required in particular to formulate a transparency policy or process within each RWM process.

Regarding which information should absolutely be provided, the notion of a register and inventory is a key component of the Aarhus Convention. Several European countries have developed a national inventory of radioactive waste that is updated on a regular basis and gives a transparent basis to foresight and planning for its management.

Which actors (e.g. ministries, agencies, industry or elected bodies) are required to provide RWM or nuclear information in your country?

Is an inventory in place?

How does your country meet the transparency policy or process requirement? Which specific transparency activities can be proposed over the midterm by the IPPA reference group to support RWM institutions and fulfill the spirit of this requirement?

Which forums exist for transparency dialogue at national level? How can IPPA interact with these and reinforce their sustainability?

What can IPPA add to national guidance to support information sharing, access to participation and justice?

Can you identify a concrete case in your country in which citizens received complete infor-
mation, facilitating their actual participation in an RWM or other nuclear-related decision-making process?

- Or, on the contrary, are there examples of insufficient transparency and deliberate blocking of effective participation?

Confidentiality (Aarhus Convention Article 4.4) (Transparency and confidentiality were combined for convenience in the reporting of the Aarhus Convention sessions)

Article 4.4 recognises different grounds for refusing access to information, while insisting that “the aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.” Also, this information “may be refused if the disclosure would adversely affect [...] the confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest.”

In the context of nuclear activities, reasons of national security, defence or commercial interests have been regularly mentioned as grounds for refusal. It should be of common interest to consider that nuclear activities are now mostly separate from their military origins, and should comply with general rules for activities that have an environmental impact. However, citizens are not sufficiently empowered to investigate the fairness of refusals on the basis of defence or commercial interests.

- How can the public in your country be sure that reasons for refusal are relevant, or when a detailed justification for holding back information is not transparent?
- Have practical solutions been tested in your country, such as giving access to confidential documents to assigned experts from NGOs with a commitment not to divulge the content to third parties?
- Is there reluctance in your country to move in this direction?
- Are there concrete examples in your country in which confidentiality procedures have been adapted in order to provide, within certain limits, public access to such information, or at least to check the validity of confidentiality claims through an appropriate legal or administrative procedure?
- Can you identify specific cases of access denied on the basis of a confidentiality claim that is insufficiently credible?
- Would a comparison with other EU member states be relevant in this context?

Competence building and access to expertise

Participation is closely associated with a background and permanent capacity of the public to be aware of environmental issues and to raise questions. In a highly technical domain, such as the nuclear sector, deep involvement is required from members of the public, who must be willing to invest sufficient time and energy to achieve competence and gain their bearings.
Scientific uncertainty is at the origin of many controversies. To overcome uncertainties, calls are often made for independent, objective experts. Such efforts fall short of recognising that even “scientific” expertise has a political and ethical dimension that should be clarified. While recognising the indisputable value of technical assessment, the Aarhus Convention does not call for exclusively science-based decision-making processes. Instead, it holds that it is through the confrontation of views and assessment that decision-making processes can be improved, and sustainable solutions can be found by making visible and taking into account the multiple dimensions of a problem, which can be informed by science, but also needs to be informed by ethical, social, legal and political choices open for the public or concerned public.

The various stakeholders in nuclear and RWM issues want to be sure that their own, possibly divergent, values are recognised and represented in any deliberation requiring expertise. Generally, this implies that a diverse panel of expertise should be assembled and a dialogue process conducted.

- In your country, which processes and arrangements facilitate interactions between scientists, experts and civil society? Are these supported by sufficient background conditions (legal, financial etc.)?
- Do public authorities, including safety authorities and other mandated public experts, support these interactions or facilitate understanding of highly technical issues and their impacts?
- Do citizens have access to nuclear operators’ expertise during the decision-making process?
- Is it possible for civil society actors to contribute to the overall expertise process, from the early framing of questions posed to experts to the final dissemination of results, and from the design of the process to making a contribution to modelling and data collection?
- Is it possible to provide citizens with adequate resources so that they can develop their own expertise autonomously?
- Are there concrete examples in your country in which citizens could call upon public actors to provide expertise? Has civil society contributed to the framing of questions or to the evaluation of expert conclusions?
- Or, on the contrary, have citizens met with obstacles after demonstrating a willingness to develop expertise on their own and participate in assessment procedures?
- Would a comparison with other EU member states be relevant in this context?

**Access to justice (Aarhus Convention, Article 9)**

The Aarhus Convention’s access to justice provision significantly reinforces the rights to access to information and public participation in decision making by making these legally enforceable before a court or other legally established and impartial body. However, several types of difficulties reduce the effectiveness of judicial recourse: insufficient information can cripple citizens’ ability to compose a complete case and achieve justice; sufficient time and financial resources are required to engage in and follow judicial procedures; judicial procedures come late in the sequence of information and participation and might not suspend the decisions or activities in question. These difficulties are not specific to justice in the nuclear realm, but are all the more important because of the magnitude and long-range impacts of nuclear projects.
In your country, is easy access offered to judicial recourse when Aarhus Convention obligations have not been met in practice? Do citizens have the appropriate resources and support, as well as access to legal assistance, required to engage in judicial procedures?

Does the legal procedure suspend the decision-making process temporarily, or does it permanently halt an operation or activities? Do judgments come too late?

Does an environmental ombudsman or mediator exist in your country? If so, do these individuals contribute to solving conflicts related to the refusal of Aarhus Convention rights regarding nuclear activities? Have there been other citizens’ attempts to use the Aarhus Compliance Committee, European Ombudsman or European Court of Justice to help resolve such conflicts?

Are there concrete examples in your country of successful or unsuccessful challenges to authorities or industry regarding the fulfilment of Aarhus Convention rights?
Annex 3 Case studies examined during IPPA Aarhus Convention sessions, and stakeholders assembled

Case studies

Czech Republic
- Implementation of Aarhus Convention Requirements in Connection with EIA Procedures (e.g. completion of the Temelin Nuclear Power Plant, expansion of Vodochody airport)

Poland
- Development of the New Repository for Low- and Medium-Level Radioactive Waste

Romania
- Siting of Low- and Intermediate-Level Waste Repository at Saligny
- Commissioning of Intermediate Spent Fuel Storage Facility (DICA) at Cernavoda Nuclear Power Plant
- Construction of Units 3 and 4 at Cernavoda Nuclear Power Plant
- Geological Disposal

Slovakia
- Slovakian Experience with the Aarhus Convention

Slovenia
- Siting of Low- and Intermediate-Level Waste Repository: Termination of Local Partnership
Stakeholders

This overview, presented at the European workshop in Szentendre, Hungary, in September 2012, shows stakeholder families participating effectively in the IPPA Aarhus Convention discussion sessions.

The ratios indicate the number of invitations issued and accepted overall. There is relative under-representation of local members of civil society (despite strong invitation efforts) and also of regulatory authorities.

While a large selection of NGOs is mentioned, the types of organisations are mixed. Several NGOs represented the nuclear industry or professional organisations, while an apparently smaller subset were citizens’ groups devoted to issues related to environmental protection. In order to correct possible imbalances and to address the fact that environmental groups could have reasons to decline invitations issued by nuclear institutions (fearing that the meeting is not really a “safe space”), IPPA WP3.3 followed up in 2013 by helping to organise more neutral discussion forums, on both a larger and smaller scale. In this way, citizens’ groups could learn about the Aarhus Convention and discuss its application not only to RWM but also to other pressing environmental issues in their own context, and develop their strategy from there. These specific open meetings were organised in Slovenia and Poland.

### OVERVIEW OF STAKEHOLDERS ATTENDING THE SPRING 2012 SESSIONS (EXCLUDING SLOVAKIA)

<table>
<thead>
<tr>
<th>Stakeholders attending the AC seminar (in blue) or invited but not attending (in red)</th>
<th>NGOs 14/33</th>
<th>LOCAL 15/38</th>
<th>INDUSTRY 11/13</th>
<th>RWM AGENCIES 3/7</th>
<th>SAFETY AUTHORITIES 2/9</th>
<th>NATIONAL GOVT 9/17</th>
<th>R&amp;D UNIVS 13/16</th>
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<td>Slovenian: 5</td>
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<tr>
<td>Several invitations - Still, why do locals stay at home?</td>
<td>Where are the safety authorities?</td>
<td>Is RWM “none of their business”?</td>
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