

ENVIRONMENTAL RIGHT – INFORMATION, PARTICIPATION IN DECISION MAKING AND THE RIGHT TO ADDRESS THE COURT FOR ENVIRONMENTAL ISSUES, KNOWLEDGE OF THESE RIGHTS FOR THE INHABITANTS NEAR POWER PLANT “KOSOVA A” AND “KOSOVA B”, MUNICIPALITY OF OBILIQ – REPUBLIC OF KOSOVO

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SUMMARY

In Kosovo, so far, there have been positive developments regarding environmental legislation framework, each passing day, this legislative framework has been developing in conformity with the situation and the possibility of human capacities of the country, but it is also worth stressing that a contribution during the composition of environmental legislation has been given by the EC, through technical assistance respectively TAIEX, the amendments made so far have been made conform governmental policies for environmental protection and based on the *acquis communautaire* and other demands of European Commission of the EU during the assessment of the institutions, through progress report.

National legislation in power should guarantee the right on environmental information, public participation in decision making and the right to address the court for environmental issues, according to the international conventions on environment, especially based on the Aarhus Convention which is without doubt one of the most important environmental conventions for the fact that it defends the principal rights of the environment.

Even though Kosovo is not a signing member of many international agreements, the responsible public institutions should work hard to ensure these rights in an efficient and effective way, because signing and ratification of these agreements in which these developments play key role and have a specific importance.

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However, in Kosovo there is a huge number of the laws approved by the Ministry, government and parliament, but we are too far from the implementation practice.

Environmental right in Kosovo has its basis from the Constitution of the Republic of Kosovo, Law of Access on Public documents Nr. 03/L-215, Penal Code of the Republic of Kosovo Nr. 04/L-082, Law on Environmental Protection Nr. 03/L-025, Waste Law Nr. 03/L-160, Law for protection of Air from Pollution Nr. 03/L-160, VNM Law Nr. 03/L-214, Administrative Order Nr. 09/2011 Information for participation of the public and interested parties in procedures of evaluation on environment impact, Law for Chemicals Nr. 02/L-116, Law for Waters Nr. 04/L-147, Law for Nature Protection Nr. 03/L-233. The environmental right means access in all natural resources which enable survival of live organisms in biosphere, including earth, water, air, biodiversity, nature, food and habitats.

Key words; Environmental right, *acquis communautaire*, EU, Environmental legislation, Aarhus Convention

1. INTRODUCTION

Presently, humanity faces with a lot of problems. One of the main issues is the pollution and devastation of the environment. Many international treaties, conventions, protocols, regulations, laws and decisions for environment protection were considered in the second half of the XX century. Initially, human rights were not mentioned, but since the 1970s the relations between human rights and environment took the progressive and the right path. During the period of 70s the world began to be aware of the problems that the environment was being threatened with and the fear of pollution in the near future. So, humanity began to understand and realize that a clean and healthy environment is essential for basic human rights. Such rights are; the right to live, to a personal integrity, to have a family, hence all the attendees of the meetings during that period of time had agreed upon a clean and healthy environment and sustainable development. It has been scientifically proven that, each species is depended on environment protection and life conditions, so why should we not take care of a healthy environment?

The right on environment is a basic right and undeniable, since life itself is directly connected to the development of environmental processes. The concept of the right for environment information is shown in a clear way in international acts as the Aarhus Convention, but even on the Constitution of the Republic of Kosovo and other legal acts and subacts on national level. The promotion of environmental legislation and other laws remains a necessity of the environmental right, then raising the level of education and community awareness regarding the opportunities that national legislation

offers for the right of access to three basic pillars of the Aarhus convention; such as: the right to environmental information, the right to participate in key roles and the right to lawsuit. The fact is that, there is a number of unsolved cases regarding the right of information and the right of participation in key roles for environmental issues. All that disadvantage remains as lack of citizens' general knowledge regarding the right on environment, which means that if the first and the second pillars are implemented in general, there is not much to talk about the third pillar.

Our country faces with various environmental issues, problems which have been recorded on reports on the environment, waste material, air, nature, water and other documents regarding environment.

Even though Kosovo has not signed the Aarhus Convention, in one way or another, it is mandatory for Kosovo to implement the Aarhus Convention. Initially, on implementation of the convention, Kosovo should begin with transposition of the Convention in national level.

International Convention on the research, is the Aarhus Convention, which deals with access to information, public participation in decision-making and Regulation to RA to court (Hallo, RE (1997)). Kosovo is an interesting case, because it is a new country and has not signed or ratified this convention. To become part of the international convention, Kosovo should first and foremost be a member of the United Nations of the World. Citizens' access to information and environmental data that are of public interest held by public authorities is important for each environmental democracy. It establishes a bridge of communication between citizens and public authorities in environmental decision-making processes and enables citizens to participate in the process of developing environmental policies (NGOs and private sector), and have an active role in this process. (V. Morina 2006 March Pristina).

In the last decade, environmental issues in Kosovo, are beginning more and more to get the multidimensional status and we can say that conservation and environmental protection, has been permanent concern of humankind. Environmental problems in some areas are still quite unknown and the environment issues related to the protection of the trailer are strongly interrelated with each other and directly or indirectly affect the development and sustainable use of his own. In many conferences, meetings, roundtables, various workshops discussed a lot to this Convention, in terms oratorical can not say that nothing has been done, but in practice little has been done.

To facilitate its implementation, Convention clarified and defined a series of important concepts for, has detailed the scope and content. The information should be made available to the public in a transparent and progressive bank, through the electronic data and reports periodic (Baraku, Tirana 2013),

In formal legal terms, environmental democracy in Kosovo has begun to gain ground in recent years. Besides the Constitution, a significant number of laws and regulations outline the relationship between citizens and public authorities in the field of environmental protection and preventing its degradation. The importance of environmental legislation in Kosovo is manifold. First, the environmental legislative framework contributes to the protection of the right of individuals to live in an environment adequate to his health and wellbeing. Second, the environmental legal framework, enabling individuals and public access to environmental information, to participate in environmental decision-making and to address the court in relation to environmental issues, gives special meaning to environmental democracy. Therefore, citizens are not just spectators in the decision making process, but become actors influential in articulating give rise ESIM environment and in the prevention of measures / activities that can have a damaging effect developed in Kosovo. (Mahmutaj Veselaj, Morina, September 2013 Tirana).

2. METHOD AND MATERIAL

The method used in this research was The Access Initiative (TAI) is a methodology developed mainly for research, progress of implementation of the Aarhus Convention. The Acces Initiative method, is based on new questions or indicators that researchers use to assess the provisions of their governments for transparency and accountability in decisions affecting the environment (Kiss, C . et al. (2006). The method referred to in the context of research questions, indicators, and research tools (including guidelines on the selection and source documents) that are used to conduct a national assessment TAI for access right to be informed, participate in decision-making on environmental issues and the right to justice, but also research the situation and the need for capacity building. Assessment based on this method, refers to the process of country level performance in approximation of access to information, participation and justice, including the collection of data to answer research questions selected.

The method used in this research - The Access Initiative (TAI) is a global network that promotes access to information, participation, and justice. Environmental decision-making initiative in access network is the largest in the world dedicated to the civil society organizations to ensure that their community governments have rights and have the ability to gain access to information and participate in decisions that affect their lives and their environment. Members from all over the world have the opportunity to carry out advocacy, evidence-based to encourage collaboration and

innovation to develop transparency, accountability, and involvement in decision making at all levels. For issues of environmental rights protected by law, the right to environmental information, the right to participation in decision making and access to justice prey environmental issues, so with a word and environmental promotion of democracy in practice.

One of the gaps in research mainly on the collection of data was accurate dependency source of official and non-official. Another shortcoming was that other research methods are highly dependent on the ability of the researchers themselves. While priority during the research, the accuracy of the literature sources is the most efficient way to study and better rates and statuses (Marshall, 1989).

3. RESULT AND DISCUSSION

From the results obtained during this research can be concluded that local community of this part lacks basic on the right basis as follows usual environmental; the right to environmental information, the right to participate in decision-making and the right to tiu the courts for environmental issues.

Table. 1. The result of frequency responses and input from the community who lives near the power plant Kosova A, Kosova B, in the municipality of Obilic - The first pillar of the Aarhus Convention - the right to environmental information.

Replies	Frequency
Yes	295
Not	6 79
I do not know	136

In Table 1, it is clear that the answers given by local communities that have very little knowledge of the law to the courts for different issues of environmental disputes where it is presented in a table shows that 679 have answered “ NO”, while 295 have answered “YES”.

Responses regarding the first pillar-the right for environmental information and environmental issues from community - Obiliq, inhabitants near Kosovo A and B.

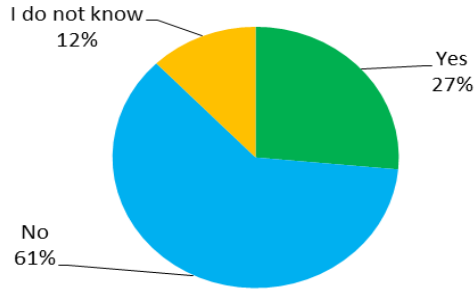


Figure. 1. The result as a percentage of the answers given by the community which resides near the power plant Kosova A, Kosova B, in the municipality of Obilic - community who lives near the power plant Kosova A, Kosova B, in the municipality of Obilic - The first pillar of The Aarhus Convention - the right to environmental information, by percentage on the implementation of the Convention on the environmental law, 46% said “no”, 40% said “do not know” and 14% “yes”, this result clearly shows that local community lacks knowledge about the right to participate in decision-making on environmental issues.

Table. 2. The result percentage and frequencies provided by the community which resides near the power plant Kosova A, Kosova B, in the municipality of Obilic - the second pillar of the Aarhus Convention - the right to participate in decision-making on environmental issues.

Replies	Frequency
Yes	155
Not	5 08
I do not know	447

In Table 2, it is clear that the answers are given by the community which resides near the power plant Kosova A, Kosova B, in the municipality of Obilic - the second pillar of the Aarhus Convention - the right to participate in decision-making on environmental issues, where it is presented in a table shows that 508 are answered “No”, 447 have answered “ I do not know”, while 155 have answered “YES”

Responses for the second pillar- taking part in decision making environmental issues

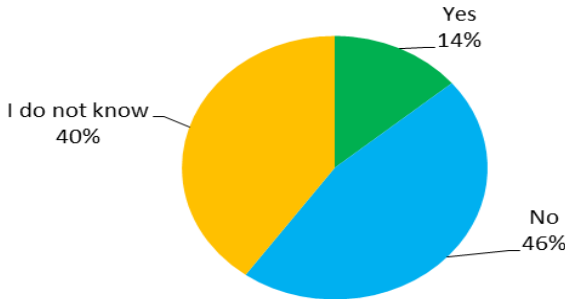


Figure. 2. The result as a percentage of the answers given by the community which resides near the power plant Kosova A, Kosova B, in the municipality of Obilic - The second pillar of the Aarhus Convention - the right to participate in ven dimmarrje on environmental issues, based on the percentage related to implementation the Convention on the environmental law course that 46% said no, 40% said do not know and 14% yes, this result is obvious that the local community lacks knowledge about the right to participate in decision-making on environmental issues.

Table 3. The result as a percentage of the answers given by the community which resides near the power plant Kosova A, Kosova B, in the municipality of Obilic - the third pillar of the Aarhus Convention - Access to the courts for environmental issues.

Replies	Frequency
Yes	159
Not	480
I do not know	471

In table 3, it is clear that the answers given by local communities that have very little knowledge of the law to the courts for different issues of environmental disputes where it is presented in a table shows that 480 are answers 'NO', 471 have answered 'I do not know', while 159 have answered 'YES'

Graph. 3. The result as a percentage of the answers given by the community which resides near the power plant Kosova A, Kosova B, in the municipality of Obilic - the third pillar of the Aarhus Convention - Access to the courts for environmental issues, according to the percentage associated with implementation of the Convention on the environmental law course that 44% said no, 42% said do not know and 14% yes, this result clearly shows that local Communist lacks knowledge on the right to go to court environmental matters.

4. THE RIGHT TO ENVIRONMENTAL INFORMATION

We need to develop a practical guide concerning the right to information, online web , websites, newspapers, radio programs or information through TV, or written forms, newsletters and magazines ..

MESP should be Aarhus Information Centre, mainly in large cities.

Information centers must cooperate with environmental NGOs - in order to develop an effective and functional network where every institution is connected with each other and plays his role and contributes to the improvement of the right to environmental information.

It is necessary to inform the public and should be more information provided online, in relation to information on decision-making, environmental policies, strategic documents, plans and environmental programs, decisions as: decisions taken by the authorities regarding the public various permits

It is necessary to increase the level of complete information on the situation as; Water, Air, Land and Biodiversity, ie having environmental information online refresh pollution in daily, weekly, monthly and yearly.

More user-friendly information and interactive methods should be used to provide information and communication with the public.

4.1. The right to participation in decision-making

It should improve and facilitate the implementation of procedures of public participation, particularly in decision-making, in cooperation with operators and local communities.

MESP should ensure a stronger control of proceedings of public participation and public debate, seeking a review of standard reports, to provide relevant information, organize public debates, gather comments, evaluate the results of public comments, the participation should ensure that procedures be developed according to standards.

Development of a Practical Guide for Public Participation in Environmental Decision-Making for the implementation of the Aarhus Convention in Kosovo. There is a constant need for practical guidance and capacity building for authorities, entrepreneurs, local governments, the role and responsibilities.

Significant improvements are needed regarding public participation procedure in decision-making on specific activities, environmental policies, strategic documents, plans and environmental programs, decisions.

4.2. The right to justice

Avoiding financial barriers and other obstacles that should be avoided such as high court fees, expert fees and lawyers, the lack of free legal aid, lack of awareness and recognition of the rights of the Aarhus Convention by the judiciary and the lack of public interest lawyers on environmental issues.

Generally more support is needed with great institution responsible for a more effective implementation of the Convention - interagency cooperation.

The increased demand for support through projects, the demand for technical support from the Secretariat UNECE or by TAIEX - European Commission or by other donors. In the moment of establishing a national coordinator for the Aarhus Convention, may be initiated mutual cooperation between the Ministry of Justice, Basic Court, Ombudsman, environmental NGOs and Civil Society to draw their attention to the role they have in the implementation of the pillars of the right to address the court in Aarhus Convention and reducing barriers to raise awareness of the requirements for the right to justice of the Convention.

Practical solutions should be considered to reduce the financial barriers and other obstacles (such as demand for the removal of administrative tax court for NGOs, can be included in the environmental provisions of the new Law on Environmental Protection).

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