



Introduction to the Conference on "Environmental Governance and Civil Society: Challenges and Opportunities for Europeans"

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Three months ago the first meeting of Parties of the **Aarhus Convention** took place. This Convention is, on the international level, currently the most important legal instrument to promote environmental governance. And I am not only referring to its content, but also its origination and its procedures.

The meeting started off with adopting the so-called **Lucca Declaration**. Unlike in other occasions, this was not a Declaration of the Ministers only, but environmental citizens' organisations had taken part in its formulation and were co-signatories. The Declaration starts off with two paragraphs that I would like to quote here, because for me they reflect an important part of what environmental governance is about.

"1. The engagement of the public is vital for creating an environmentally sustainable future. Governments alone cannot solve the major ecological problems of our time. Only through building partnerships with and within a well-informed and empowered civil society, within the framework of good governance and respect for human rights, can this challenge be met."

This statement refers to the functional side of good environmental governance: it will help to make better decisions, and you cannot do without it anymore!

"2. Access to information, public participation and access to justice are fundamental elements of good governance at all levels and essential for sustainability. They are necessary for the functioning of modern democracies that are responsive to the needs of the public and respectful of human rights and the rule of law. These elements underpin and support representative democracy."

This statement goes beyond the first one. It says that there is a need for a rights based, consistent and permanent approach: further democratisation of our societies is simply an essential element of sustainable development!

On the EU level that first element is more and more recognised, but the second element is rather absent yet. This was admitted by the Commission in the report on the discussion on Governance it published last month.

PARTICIPATORY DEMOCRACY

In the body that is now shaping the future decision-making structures for the European Union, the so-called Convention, recently a very important initiative was taken. Giscard d'Estaing, the President of the Convention proposed to introduce the concept of "**participatory democracy**", saying that "*the Institutions are to ensure a high level of openness, permitting citizens' organisations of all kinds to play a full part in the Union's affairs*". He does not fill this in yet, but the launch of this concept is interesting. Indeed, here the essential elements of an open and inclusive democratic process need to be laid down, including the right of access to justice for the public in case of failure of the Institutions, irrespective of whether there it is a matter of direct interest.

The European Commission published, in December as well, a detailed study on how the new Treaty could look like. "Participatory democracy" as a concept is apparently too revolutionary still, it is not used. And what it proposes on substance is really poor. It implicitly suggests to extend the existing "right of access to documents" beyond the Commission, Council and Parliament, which is interesting for those interested in more transparency of f.e. the European Investment Bank. And it describes, not in the form of a right, but in functional terms that: "**To secure proportionality, consistency and transparency in Union activities, the Commission shall undertake extensive consultations with interested parties**". Access to justice on the EU level is not touched upon.

In parallel to the Convention, the Commission has developed "**general principles and minimum standards for consultation of interested parties by the Commission**", published on the 11th of December, 2002. It has positive elements, but besides the fact that it excludes the so-called "comitology" from its scope, there are two major concerns the EEB has:

First of all that it **does not establish rights to EU citizens or their organisations**. They can complain that in cases the consultation did not take place or was too narrow, but they cannot insist on rectification. This shows that the Commission sees dialogue as a tool to improve the quality and acceptance of a policy, a tool to be used when it is functional. It does not see it as part of democratisation of society.

Another concern is that the Commission tends to rely a lot on internet consultation, and on hearings organised by the Economic and Social Committee (ESC). While we believe internet consultation is very useful, it cannot replace a **discussion directly between interest groups and senior officials of the Commission**, in which views are exchanged, opinions are tested, creative

solutions found. And such a process is not taking place either in hearings organised by the ESC, as the Commission then tends to take a position as observer, not as main discussion partner.

In the preparations for this Conference today, we agreed with the organisers not to limit the Commission' participation to DG Environment. **Environmental governance is not to be limited to the functioning of environmental authorities.** As we all know, agriculture, transport, cohesion, energy, development, taxation, internal market, all these policies can have a tremendous impact on the environment. And the European Community Treaty includes, since 1997 a clear obligation to integrate environmental considerations in the formulation and implementation of all these policies. This means that the debate of today is equally relevant to them.

And I must say, other sectors of the Commission can learn something from DG Environment. Particularly since the start of the 5th Environmental Action Programme, we see more and more structured consultation and in general a greater readiness to communicate also in informal manners. There is still room for improvement, as the readiness is variable, sometimes more determined by personal preferences it seems than a consistent internal policy. And in particular when DG Environment is working in co-operation with another DG, we can suddenly see the doors shut.

In other DG's the need for structural change and, even more, cultural change is still vast. Formal consultation procedures have been set up by DG Agriculture, DG Trade and DG Transport and Energy, but we frequently have the impression that they are not accompanied with the necessary cultural change inside the DG's. This means that we can experience consultations as isolated, infertile processes, aiming to add legitimation to policies without any substantial impact on them. So cultural change inside the Commission at large is essential for good environmental governance.

However, environmental governance is not just about the communication between citizens and authorities. It also consists of the ambitious implementation of the integration clause in the Treaty, one that should stay in the future Constitution without any weakening. **The Environment Commissioner and the Environmental Council should use the Article to get a bigger and bigger foot in the door of the other decision-makers in the Union.**

POLITICAL LEADERSHIP

Good environmental governance also requires **leadership**. The fact that problems are complex does not mean that authorities should withdraw and leave the initiative to the powerful players in the economy. The public is not against leadership of politicians, rather the contrary. It is frustrated if vision and leadership is absent.

In fact the Commission, in the Sustainable Development Strategy it published in May 2001, makes it clear itself that consensus building with all stakeholders may not always be the best idea.

"Political leadership is essential: Strong political commitment will be needed to make the changes required for sustainable development. While sustainable development will undoubtedly benefit society overall, difficult trade-offs between conflicting interests will have to be made. We must face up to these trade-offs openly and honestly. Changes to policy must be made in a fair and balanced way, but narrow sectional interests must not be allowed to prevail over the well-being of society as a whole."

With this remark I refer in particular to the ongoing discussion on the tools to use on the European level. Next to old-style directives we certainly need market instruments like environmental taxes, financial incentives, eco-labels and certificates, green public procurement. We are less excited about shifting to framework directives, voluntary agreements and other soft instruments. These instruments make it more difficult for civil society to play its part in the implementation, and negotiations in particular on voluntary agreements are difficult to bring in line with participatory democracy.

As environmental organisations we get more and more involved **in multi-stakeholder dialogues**. Nothing against in principle, but they should not be used to devolve responsibility by authorities to what they call civil society (a definition including the business sector, a definition that we do not share). Such dialogues should be used to define the best possible steps for the environment within the framework of sustainable development. Then the authorities need to act. Yes, often this means legislation, so that both the public and business can clearly understand what is expected and if the expectations are not fulfilled, political or legal action can follow, initiated by citizens if the authorities fail to act.

We need to address the issue of the large and still growing fascination of politicians with business. The enormous influence large companies and the industry federations have in the market, on consumption patterns, employment opportunities, is hardly seen anymore by politicians as a problem that needs to be addressed. The choice now rather seems to simply accept it and try to convince business that it should behave. Well, that may work for some specific environmental problems, but voluntary agreements are not going to solve the climate problem, phase out hazardous chemicals, prevent penetration of genetically modified organisms in nature, nor poverty and social exclusion.

I am not saying that the EU is handing over power to industry. It is more complex. The recent fights to introduce producer responsibility into the Ends-of-Life-Vehicle and the Directive on Waste from Electric and Electronic Equipment have shown this. And in particular the last example shows that listening to industry is

not always wrong. What is dangerous is to give the sector as such too much influence. Because the sector as such is represented by federations that tend to fight for its most conservative members. We as EEB have shown how essential it is to break through the privileged position of such federations. The campaign we had together with pro-active companies in favour of the individual producer responsibility gave the push needed to integrate this in the Waste from Electric and Electronic Equipment Directive in the end. For the Commission this should be a lesson: **good environmental governance is to look for, and work with the innovators, not the laggards.**

I would like to end with thanking Commissioner Wallstrom for hosting this meeting. I am looking forward to what promises to be a conference with interesting and important debates, hopefully leading to both political messages on matters of principle as well as practical ideas on how to improve the day to day practice of environmental governance.