



**16th Working Group of the Parties to the Aarhus Convention (WGP 16)
(Geneva, 19-21 June 2013)**

**Draft recommendations on Public Participation in Decision-making in
Environmental Matters**

Draft contribution by the EU and its Member States and Croatia

(1) The EU and its Member States and Croatia would like to thank the Secretariat and the Task Force for the opportunity to comment on the current draft recommendations and for the changes made to reflect earlier comments, including the insertion of references to the findings of the Compliance Committee.

(2) We support the development of a user-friendly document that will assist public authorities involved in public participation procedures.

(3) The recognition that the recommendations are non-binding is welcomed. Notwithstanding this, we wish to reiterate that it is important that these recommendations should be based on, and informed by, the obligations of the Convention.

(4) In this regard, we would again like to restate the view of the EU and its Member States in its submission of July 2012, that it is not possible to support the use of the wording “should” in instances where recommendations exceed the obligations of the Convention. While the amendments made to the document in this respect are welcomed, there remain some instances where recommendations go beyond the existing legal obligations. For example, paragraph 13; while this paragraph provides useful guidance, its provisions are not a requirement of the Convention and therefore the wording should be amended. Also paragraph 118 states that the requirement for the text of the decision to be made public includes “*when it is still subject to review procedures*”. This is not a requirement of the Convention and the text should be amended accordingly.

(5) A number of references to the inclusion of specific detailed material in the legal framework are a cause of concern as they would not seem appropriate for inclusion in such a framework. Examples include: paragraph 26 requires the preparation of guidance for public authorities to be required in the legal framework. We are of the view that this is not an appropriate requirement for a legal framework; the current document is designed as a resource to assist public authorities and therefore, it should not be a requirement for each Party to develop guidance. Also, paragraph 39 refers to the establishment of a legal framework to outline a clear list of criteria to be used by public authorities to make the determination under article 6, paragraph (1)(b) through a case-by-case examination. This is overly prescriptive for a legal framework.

(6) Recommendations that go beyond the requirements of the Convention and that could place disproportionately onerous requirements on public authorities should be optional. For example, in relation to public participation on GMOs, we believe that the proposed extension of the provisions of the public participation requirements of the Convention to low risk contained use GM applications could result in an unnecessary and disproportionate workload for the public authorities and researchers involved.

(7) The Secretariat will also receive separate, more detailed comments from some individual EU Member States.

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