

Sklepne ugotovitve

2. konference Okolje in človekove pravice:

Sodelovanje javnosti v okoljskih zadevah – teorija in praksa

Udeleženci konference

poudarjajo,

- da postaja čisto, zdravju neškodljivo in varno okolje temeljna človekova pravica, ki izvira iz pravice do človekovega dostojanstva in postaja temelj za izvajanje vseh drugih človekovih pravic;
- da so varovanje okolja, ohranjanje narave in zdravega življenja enako pomembna vprašanja kakor razvojne potrebe prebivalstva. Presojanje in usmeritve morajo biti naravnani k trajnostnemu razvoju in skupnemu cilju uravnoveženega gospodarskega in socialnega razvoja, ki sta v medsebojni soodvisnosti;
- da človek ni vladar narave, ampak je z njo neločljivo povezan v razmerju odvisnosti, saj degradirano okolje vpliva na njegovo zdravje. Tega se javnost čedalje bolj zaveda, zato je tudi čedalje večje njeno zanimanje, da se vključi v odločanje;
- da je sodelovanje javnosti predvsem iskanje soglasja v družbi o umestitvi dejavnosti v prostoru, ob največji racionalnosti in gospodarski učinkovitosti ter najmanjših posledicah za prostor in okolje. Večja angažiranost v predhodnih postopkih priprave prostorskih aktov prinaša na poti do umestitve projekta v prostor številne prednosti. Za okoljske projekte je pomembno, da se opravi javne razprave ter se vključi strokovno in laično javnost v njihovo oblikovanje, saj s tem pridobijo legitimnost in podporo prebivalcev, kar je prvi pogoj za njihovo uspešno izvedbo;
- da je za polno uveljavljanje Aarhuške konvencije potrebno obveščanje in ozaveščanje javnosti glede možnosti dostopa do okoljskih podatkov, sodelovanja pri odločanju in učinkovite uporabe pravnega varstva oziroma zakonodaje;

- da je v primerih vključenosti javnosti v odločanje že od samega začetka občutno zmanjšana možnost nastajanja sporov, opozicij, začetih sodnih postopkov in drugih oblik nasprotovanja, ustvarjena pa sta širše soglasje in družbena kohezija;
- da veliko okoljevarstvenih vprašanj izvira iz dejavnosti na lokalni ravni, zato sta udeležba in sodelovanje lokalnih oblasti ključna pri izpolnjevanju okoljevarstvenih ciljev. Lokalna raven je najlažje dostopno mesto izražanja interesov in vključevanja v različne ravni okoljskega odločanja, zato morajo imeti lokalne skupnosti ključno vlogo pri izobraževanju in ozaveščanju javnosti za trajnostni razvoj;
- da sklicevanje na pomanjkanje kadrov ne sme biti razlog za nespoštovanje zakonskih rokov za odločanje. Opravičljivo tudi ni, da je zaradi velikega števila občin oziroma njihove premajhne kadrovske zasedenosti odločanje o okoljskih zadevah na lokalni ravni močno oteženo;

ugotavljajo,

- da Varuh človekovih pravic RS opravlja tudi naloge ombudsmana za čisto okolje (in prihodnje generacije) v smislu in sorodno, kot ga opravlja madžarski parlamentarni ombudsman za prihodnje generacije;
- da je Ministrstvo za okolje in prostor na področju sodelovanja s civilno družbo premalo aktivno, zato bi bilo treba proučiti kritike in izboljšati sodelovanje ministrstva s civilno družbo;
- da je strokovna usposobljenost lokalnih nosilcev za kakovostno vodenje vseh procesov velikokrat šibka, kar dodatno otežuje uveljavljanje načel obveščanja in vključevanja širše javnosti v pripravo in odločanje o okoljskih zadevah;
- da so lokalne skupnosti premalo strokovno usposobljene za pripravo dobrih strokovnih podlag za odločanje, nimajo ustreznega informacijskega sistema, ki bi omogočal dostop do »pravih« okoljskih informacij in nimajo izdelanih strategij obveščanja in ozaveščanja ter vključevanja lokalne javnosti v odločanje;

- da le formalno zagotovljen okvir vključevanja javnosti na lokalni ravni velikokrat ne vodi do družbeno sprejemljivih rezultatov vseh deležnikov. Sodelovanje javnosti je v praksi velikokrat le formalno in navidezno, organi lokalnih oblasti lahko tako formalno upravičijo svoje odločitve na področju okolja, ker poskrbijo za zakonitost izvedenega postopka sodelovanja javnosti, vsebinskemu upoštevanju pripomb pa se velikokrat izognejo. Javnost je v postopke pogosto vključena prepozno in ni zadovoljna z odzivi lokalnih nosilcev oblasti;
- da lokalne skupnosti v praksi velikokrat podcenjujejo vlogo in pomen civilne družbe pri odločanju o okoljskih zadevah ter jih finančno ne podpirajo dovolj na področju izobraževanja in ozaveščanja najširše javnosti za trajnostni razvoj;

priporočajo,

- spremenjen odnos države do civilne družbe in strokovne javnosti ter ustvarjanje medsebojnega zaupanja s spoštovanjem, upoštevanjem stroke in izogibanjem tistim zahtevam politike, ki v želji po vsečnosti zagovarjajo nestrokovne rešitve. Avtoriteta državne oblasti ni zadosten razlog za sprejemanje odločitev mimo stroke in civilne družbe;
- da država s svojim ravnanjem izkaže spoštovanje javnosti in civilni družbi pri njenem zavzemanju za sprejemanje odločitev, ki bodo prispevale k zdravemu okolju. V ta namen naj država zagotovi pravočasno vključevanje civilne družbe v odločanje, ji priskrbi kakovostne informacije in ji zagotovi zadostna finančna sredstva za njeno delovanje;
- sklicevanje neposredno na določila Aarhuške konvencije v primerih, ko jih nacionalna zakonodaja ne povzema;
- jasnejšo opredelitev odločevalskega procesa z določitvijo vloge stroke, zlasti v primeru nasprotujočih si interesov in določitev meril za reprezentativnost civilne družbe ter rokov za pripravo posameznih faz procesa;
- da se sistemsko uredi vir financiranja študij o presoji vplivov na okolje, ki jih ne bi več naročal in financiral le zavezanec / investitor, saj je to pogost razlog za pomislek o korektnosti in neodvisnosti tako izvedenih študij;

- vsem investorjem, naj v najzgodnejši fazi odločevalskega procesa glede posega v prostor obvestijo javnost, jo poslušajo in slišijo ter s tem pridobijo zaupanje in kredibilnost;
- tvorno sodelovanje javnosti in civilne družbe z investorji in organi ter njihovo dobro organiziranost pri izražanju interesov in komunikaciji z vsemi, ki sprejemajo odločitve ali nanje vplivajo;
- spremembo zakonov o prostorskem načrtovanju, o varstvu okolja in o ohranjanju narave, tako da bo javnosti omogočena večja dostopnost do informacij in možnost sodelovanja pri odločanju z oblikovanjem konferenc, na katerih bodo enakopravno sodelovali vsi uporabniki prostora;
- da se v zvezi z objavljanjem okoljskih podatkov zagotovi dosledno uresničevanje tretje točke 101. člena Zakona o varstvu okolja: obveza, da mora povzročitelj obremenitve ministrstvu in občini, na območju katere oseba obratuje, sporočati podatke obratovalnega monitoringa;
- da se zagotoviti učinkovit nadzor v primerih, ko zavezanci ne posredujejo predpisanih podatkov v zbirke, ki so jih zavezani voditi organi skladno s predpisi;
- da se zagotovi sprotno in učinkovito obveščanje o dostopnosti in razpoložljivosti okoljskih podatkov (tako iz zbirk kot iz aktualnih monitoringov) in uporabnikom nudi pomoč pri iskanju želenih informacij;
- da država zagotovi za vse sodelujoče pri sprejemanju odločitev o posegih v prostor usposabljanje za strpno in pošteno komuniciranje, usklajevanje in učinkovito iskanje za vse sprejemljivih rešitev;
- da država zagotovi dodatno usposabljanje in izobraževanje uradnikov, ki delujejo na področju okolja, o okoljski zakonodaji ter drugih domačih in mednarodnih standardih;
- da se javnost seznana s primeri dobre prakse:
 - o Mestna občina Maribor – primer sodelovanja javnosti pri okoljskih zadevah,
 - o Civilna iniciativa Celje – primer organiziranega delovanja civilne družbe,
 - o ELES – primer prizadevanja za obsežnejše obveščanje lokalne javnosti;

- da se izboljša kakovost komuniciranja, sodelovanja, usklajevanja in zaupanja:
 - o med posamezniki in organi države,
 - o med posamezniki in lokalno skupnostjo,
 - o med državo in lokalno skupnostjo,
 - o med organi v sestavi Ministrstva za okolje in prostor,
 - o med vsemi naštetimi in Varuhom človekovih pravic RS;

- da se z dodatnimi ukrepi države okrepi vloga civilne družbe, zlasti:
 - o s spodbujanjem prebivalstva za večje zanimanje o dogajanju v širšem življenjskem prostoru,
 - o z aktivnejšo vlogo Ministrstva za okolje in prostor ter lokalnih skupnosti pri spodbujanju sodelovanja civilne družbe v okoljskih zadevah.

Varuh človekovih pravic RS vabi sodelujoče na konferenci in druge, ki to želijo, da posredujejo pobude za obravnavo domnevnih kršitev, predloge, mnenja in priporočila s področja okolja. Prav tako vabi na mesečna srečanja civilne družbe s področja okolja (več o tem na www.varuh-rs.si).

Final Observations

of the 2nd conference on the Environment and Human Rights:

Public Participation in Environmental Matters in Theory and Practice

The participants of the conference

Emphasize

- That a clean, harmless to health and secure environment is becoming a fundamental human right, arising from the right to human dignity, and is becoming a milestone for the implementation of all other human rights;
- That environmental protection, nature preservation, and healthy living are regarded as equally important issues as the development needs of the population; Assessments and policies must be oriented towards sustainable development and a common goal for balanced and interdependent economic and social development;
- That man is not the sovereign of nature but that he is rather inseparably connected within the relationship of dependence insofar as the degradation of the environment influences his health. Public awareness of this fact is increasing as well as its willingness to participate in the decision-making process;
- That the cooperation of public means especially a search for the consent within the society regarding the positioning of the activity in the space at greater rationality and economic effectiveness and minor consequences for the space and environment. Greater engagement in the preliminary procedures of the preparation of spatial planning documents brings numerous advantages on the way of incorporation of the project. It is of great importance for the environmental projects to be presented on public discussions where experts and laic public can participate in their design thus providing legitimacy and gaining public support which are prerequisite for their successful implementation.

- That informing and public awareness regarding the access possibilities to environmental data, cooperation in decision-making, and the efficient use of legal protection and legislation are deemed necessary for full implementation of the Aarhus Convention;
- That in cases where the public is included in decision-making from the beginning, the possibility of conflicts, oppositions, initiated judicial proceedings, and other forms of objections are reduced to a minimum; thus wide consensus and social cohesion are developed.
- That many environmental issues arise from the activities at the local level, therefore the participation and cooperation of local authorities are crucial for achieving the environmental objectives. That the local level is the access point for the expression of interests and inclusion in different levels of environmental decision-making and for this reason the local authorities must represent a key role in education and public awareness regarding sustainable development;
- That any implication of a lack of employees should not be the reason for disrespecting time limits for decision-making. It is also not justifiable that decision-making on environmental issues at the local level is impeded due to the large number of municipalities or an insufficient number of employees;

Identify

- That the Human Rights Ombudsman of the Republic of Slovenia also performs the duties of the Environmental Ombudsman (and Future Generations) within the meaning of and similarly to the Hungarian Ombudsman for Future Generations.
- That activities of the Ministry of the Environment and Spatial Planning in the field of cooperation with the civil society are insufficient; therefore critiques must be reassessed and cooperation between the Ministry and civil society must be improved;

- That professional competence of local operators of effective management is frequently inadequate which additionally impedes the implementation of the principles of informing and including public to the preparation and decision-making on environmental issues;
- That local communities lack professional expertise for the preparation of a good scientific basis for decision-making, an adequate information system which would provide access to the “right” environmental information, and have no developed strategies for informing and raising public awareness and for including the local public in decision-making;
- That only a formally provided framework of including the public at the local level usually does not lead to socially acceptable results for all participants. The cooperation of the public is, in practice, frequently only formal and artificial, but nonetheless it gives the local authorities the right to formally justify their decisions regarding the environment since the legality of the procedure for public participation has been ensured, the comments regarding the content, however, are very often avoided. Frequently, the public is included in these processes too late and is not satisfied with the responses from the local authorities.
- That the local communities in practice frequently underestimate the role and the meaning of the civil society in the environmental decision-making process and do not provide efficient financial support for education and raising the awareness of the public regarding sustainable development;

Recommend

- An altered approach of the state towards the civil society and professional public and the creation of mutual trust with respect, acknowledgement of profession, and avoidance of those politicians’ requests which, in order to be pleasing, speak in favour of unprofessional solutions. National authority is not a sufficient reason in itself to accept decisions without the acknowledgement of the professionals and civil society;
- By way of its conduct, the state shows respect to the public and civil society at their involvement in adopting decisions which would contribute to a healthy environment. To this end, the state should ensure inclusion of the civil society in decision-making in due time, it

should supply high-quality information, and provide adequate financial support for its operation;

- Direct reference to the provisions stipulated in the Aarhus Convention in cases when national legislation does not conform to it;
- A clearer definition of the decision-making process with the determination of the profession's role, especially in the case of opposite interests, and the determination of measures to better represent the civil society, and setting-up deadlines for the preparation of individual phases of the process;
- To systematically organise the financial resources of environmental impact studies which would no longer be ordered and financed by the liable person/investor as this is a frequent reason for concerns about the correctness and independence of such studies;
- All investors should already notify, listen to and hear public opinion in the early phase of a decision-making process regarding those activities which affect the physical environment, thus gaining trust and credibility;
- Active cooperation between the public and civil society with the investors and authorities and their good organisation in expressing the interests involved and communication with all who make decisions or have an influence on them;
- An amendment of the laws on spatial planning, environmental protection and nature preservation in such a way that better accessibility of information would be provided to the public as well as the possibility for cooperation in decision-making by way of preparing conferences where all users of the space could participate equally;
- That, regarding the publication of environmental data, there is consistent implementation of the third point of Article 101 of the Environmental Protection Act: An obligation that the polluter should communicate data of operational monitoring to the Ministry and municipality where it operates should be provided;

- To ensure effective control in cases where liable persons do not submit required data to databases which the authorities should manage according to applicable regulations;
- To ensure up-to-date and effective informing on the accessibility and availability of environmental data (from databases as well as current monitoring processes) and to provide help for users, searching for desired information;
- That, for those who make decisions regarding the activities which affect the physical environment, the state should ensure training for tolerant and fair communication, coordination, and an effective search for solutions which would be acceptable for all;
- That the state should provide additional training and education regarding the environmental legislation and other domestic and international standards for those officials who work in the environmental field;
- To notify the public with examples of good practice:
 - o Municipality of Maribor – an example of the cooperation of the public in environmental issues,
 - o Celje Action Group - an example of the organised operation of the civil society,
 - o ELES – an example of an attempt for increased informing of the local public;
- To improve the quality of communication, cooperation, coordination, and trust:
 - o Between individuals and the authorities,
 - o Between individuals and the local community,
 - o Between the state and the local community,
 - o Between the authorities within the Ministry of the Environment and Spatial Planning,
 - o Between all the aforementioned and the Human Rights Ombudsman of the Republic of Slovenia;
- To strengthen the role of the civil society with additional measures, especially:
 - o By encouraging the population to increase its interest in the events affecting a wider area,

- o With a more active role of the Ministry of Environment and Spatial Planning and local communities in promoting the cooperation of the civil society in environmental issues.

The Human Right Ombudsman of the Republic of Slovenia invites the participants of the conference and others wishing to do so to submit initiatives to review alleged infringements, suggestions, opinions, and recommendations from the environmental area. Furthermore, she invites the civil society to join the monthly environmental meetings (see more at www.varuh-rs.si).