

GMO Almaty Amendment to Aarhus Convention – what outcomes for NGOs are?

*Ilya Trombitsky
Eco-TIRAS NGO, Moldova
European ECO-Forum*

Strengths of Amendment

- In comparison with EU Directive, it uses a stronger term “Participation” instead of “Consultations”
- It provides the right on information on GMO release localities
- In EU it is the additional political and legal instrument which highlights the GMO-PP agenda
- It is directed not only to EU but to the rest of Pan-Europe, where specific GMO-PP legislation does not exist

Strengths of Amendment (2)

- Each Party shall ensure transparency of decision making procedures and provide access the relevant procedural information to the public. The info could include for example:
 - the nature of possible decision;
 - the public authority responsible...;
 - public participation arrangements...;
 - an indication of public authority from which relevant info can be obtained;
 - an indication of public authority to which comments can be submitted and the time schedule for the transmittal of comments
- The final stage of public participation the procedure requires the text of the final decision to be made publicly available along with the reasons and considerations upon which it is based.

Weaknesses of the Amendment

- Point 7 of Annex I-bis remains to be the most disputable one: “Each Party shall endeavour to ensure that, when decisions are taken on whether to permit the deliberate release of GMOs into the environment, including placing on the market, due account is taken of the outcome of the public participation procedure organized pursuant to paragraph 1”.
- Both the interpretation and implementation of the principle regarding ‘taking due account of public opinion’ when taking the final decision raises controversies not only within the meaning of the Almaty Amendment but also within the meaning of paragraph 8 of Article 6 of the Convention.
- The outcomes of the public participation procedure are believed to be legally binding and the final decision of a public authority could not contravene to them. The practice uses a variety of approaches within the listed extremes.

In a number of instances the Almaty Amendment provides that the public participation procedure may be inapplicable to the decisions related to GMOs

The mentioned exceptions are not mandatory and could be applied on the discretion of a Party.

In the case of the deliberate release of a GMO into the environment the exceptions include the situation when:

- (a) such a release under comparable bio-geographical conditions has already been approved within the regulatory framework of the Party concerned; and
- (b) sufficient experience has previously been gained with the release of the GMO in question in comparable ecosystems.

In the case of the placing of a GMO on the market the public participation procedure may be inapplicable if:

- (a) a GMO was already approved within the regulatory framework of the Party concerned; or
- (b) it is intended for research or for culture collections.

Confidentiality issue

- Notwithstanding rather clear regulations on confidentiality to be found in paragraph 4 of Article 4 of the Aarhus Convention, in the Almaty Amendment the Parties decided to separately identify certain types of information which for the purposes of Annex I-bis should not be considered confidential:
 - a general description of the GMO or GMOs concerned, the name and address of the applicant for the authorization of the deliberate release, the intended uses and, if appropriate, the location of the release;
 - the methods and plans for monitoring the GMO or GMOs concerned and for emergency response;
 - the environmental risk assessment.

Outcomes for NGOs

- In EU it is additional instrument for arguing the public participation in biosafety issues;
- It should be used together with EU legislation and Cartagena Protocol Art.23
- In non-EU it is the main instrument ensuring PP in GMO issues
- Efforts should be directed to entering of the Amendment into force (ratification by of Parties for 2005)

Tactics to reach ratification

- Do not discuss the risks of GMOs with politicians or GM-business – politicians in their souls on your side;
- Insist on the RIGHT TO KNOW – it is not disputable
- Try to lobby amendments to national legislation ensuring wider PP than in GMO amendment – Aarhus is a minimum standard of participation only