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EVALUATION OF THE CURRENT TRENDS FOR SUCCESSFUL PUBLIC PARTICIPATION IN THE ENVIRONMENTAL DECISION- MAKING PROCESS IN GEORGIA

Summary

The article evaluates the current situation of public participation in the decision-making process in Georgia and particularly in the field of environmental decision-making and discusses the existing legislation in accordance with this issue. The article also depicts successful examples, defines obstacles to public participation in the environmental decision-making process and gives recommendations.

Keywords: public participation, decision making process, environment, NGO, Georgia.

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1. Introduction

Public participation in the decision-making process is one of the main tools for the democratic development of the developing countries like Georgia. The long period of Soviet regime resulted in an absence of tradition for public participation in the country. Public participation in the decision-making process, especially in an environment field, was an absolutely new approach for Georgian society. In 1990-1999, the increasing aggravation of the environmental situation in Georgia required an active and direct public intervention. Georgia did not have a long history concerning environmental traditions. The first non-governmental organization in this field "The Green Movement" was launched after collapse of the Soviet regime. The new emphasis on democracy in the country's development was the main reason for rapid growth of the NGO sector in Georgia. At that time the number of NGOs in Georgia was high and large numbers of them were ones connected with environmental issues. The majority of environmental NGOs faced numerous problems, one of which was an often and ineffective participation in the decision-making process. The increasing number of problems in the field of environment in Georgia required urgent involvement of the NGO sector. For this reason, finding new ways to activate the involvement of the non-government sector in this procedure were both useful and important. 90's new environmental legislation in Georgia envisaged and encouraged public participation

in the environmental decision-making process, but substantial gaps remained. The laws did not provide for the possibility of detailed procedure for public participation and results of public participation were not binding. The future development of the country was directly connected with the implementation of several international projects that would require Environmental Impact Assessment (EIA) procedure. At that period, the legislation contained some provisions on public participation in EIA, but it was necessary to adopt a separate law on EIA with particular emphasis on the procedure of public participation.

New millennium brought a low level of transparency in the parliamentary and executive phases, the lack of democracy in the country together with a public non-willingness to co-operate with decision-makers (government, authorities, etc.) and with one another in solving environmental problems resulted in only a few examples of successful participation to date.

The economic, social, and other conditions in Georgia did not assist the development of public participation, although the tax system favored NGOs to some extent. Most environmental NGOs were surviving on foreign donations and there was a need for obtaining NGO self-sustainability. A number of environmental NGOs were trying to control the environmental conditions in Georgia and provide public involvement in decision-making. Remarkable cases of effective public participation in Georgia at different stages existed, when the public /NGOs affected

the decision-making process and prevented damage to the environment. The development of public participation directly promoted environmental protection, as well as development of democracy in Georgia.

CSO METER Report (2021) underlined the improvement of the situation under this area last years. As stressed in the report, the decision-making process is partially institutionalized; however, in most cases the participation happens “ad hoc”. On the national and local level CSOs and other individuals have an access to important tools for participation such as: right to petition, submitting comments to draft laws, participation in budgetary process, etc.

Many cases prove that the public involvement in the decision-making process on environmental issues has a real influence on proposed or planned activities and final decisions are acceptable for all main stakeholders: the government, public, and developer of activity (Gokhelasvili 2015).

However, numerous laws and strategic documents are adopted without consultations. Besides that, citizens and CSOs are not interested in participating in already established mechanisms. During the reporting period, there were cases observed when parliament enacted several regulations without consideration of CSOs participation and activists in the process. The adoption of new Forest Code of Georgia without creating possibilities of participation in the process was criticized (CSO Meter 2021).

According to the Open Budget Survey (2021), Georgia has a public participation score 44 (sufficient score is 61) out of 100.

2. Legal instruments for the public participation in the environmental decision-making process

There are rights directly related to the public participation in the environmental decision-making process in the Georgian Constitution. In 1995, with great efforts from the Greens Movement of Georgia, several paragraphs were added. Article 29 of the 2020’s amended version of the Georgian Constitution envisages everyone’s right to live in a safe environment, receive full, non-biased and timely information about the environmental condition where he/she works and

lives, use and protect environment and participate in the environmental decision-making process.

Only two laws, the Law on Environmental Protection (article #6 and #7), Law on Environmental Assessment Code (article #12 and #13) allow an access right to environmental decision-making. According to these laws, citizens have the right to unite and participate in environmental public associations, take part in the decision-making process and examine the decision in the light of environmental protection, get compensation for damage resulting from the violation of Georgia’s laws on environmental protection, and, under a court ruling, demand to change decisions on designing, building, deposition, reconstruction and use of the units dangerous from an ecological point of view, take part in the EIA process. Due to those legal rights Georgian environmental NGOs participated in the environmental decision-making process.

Hence the global community acknowledged the central role of the public participation in decision-making and gradually all countries attempted to integrate some measures for the PP in their national legislation. However, all multilateral financing agencies, such as World Bank and IFC, set mandatory requirements for guaranteeing involvement of public in decision-making process. These efforts lead the countries to stronger democracy and better environment. The literature review reveals that in most cases, especially in developing countries, such measure is the EIA legislation, though it is obvious that countries experience different levels of public participation that raise a lot of questions regarding the reliability and credibility of decisions. While countries with higher level of democracies are much advanced in this sense, most newly emerged democracies still have many problems due to the nonexistence of the public engagement history in the decisions and number of legislative deficiencies (Antidze 2013).

Adoption of the Environmental Assessment Code (2017) envisaged requirements of the convention “on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters” (hereafter, Aarhus Convention) in environmental protection issues and ensured public participation in the

decision-making process in relation with environmental effects.

In 1995, the representatives of non-governmental organizations, called Coalition of NGOs drafted the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (hereinafter - the Convention). Fourth Pan-European Environmental Ministerial Conference, which was held in the town of Aarhus, Denmark, from 23 to 25 June 1998, submitted the Convention. The convention came to force in 2001. The same year the Georgian Parliament ratified the convention.

The Aarhus Convention (1998) establishes minimum rights of citizens in the following three areas [Aarhus convention]:

1) Right to information - according to the Convention, the Government shall ensure the collection and dissemination of environmental information; all citizens have the right to request and receive such information.

2) Right to participation in decision-making – public representatives are entitled to participate in the decision-making process on environmental matters. That is, any action that may lead to the environmental deterioration shall be subject to consideration in public and to public's consent.

3) Access to justice - in the violation case of the public participation rights in open consideration and decision-making processes, the Convention entitles citizens and public organizations to address the bodies of administrative and court appeal.

Since 1990, the Parliament of Georgia has adopted environmental laws and ratified international conventions during the independence on the different environmental issues. Due to the adoption of the Environmental Assessment Code of Georgia in 2017, existing laws were annulled, because none of them guarantees the

public participation in the environmental decision-making process. In addition, the licensing authorities are not obliging to inform the public about the decision-making process or ensure their participation in the decision-making process, and responsibilities are mainly delegated to the operator. It should be also underlined that the list of activities subject to Environmental Impact Assessment (EIA) did not correspond to the activities defined by the Aarhus Convention.

The participation rights in decision-making are specified in general environmental protection acts or more specific environmental laws, as well as in administrative laws or codes. General environmental protection laws usually only include general provisions for participation; due to the lack of further implementing regulations these laws only provide partial possibilities for participation (Public Defender of Georgia 2021).

3. Study methods and analysis of study findings

3.1. Study methods

Several obstacles were found in the current articles based on the studying¹ of 12 environmental non-governmental organizations² in Georgia. All necessary information was collected through interviews³ and questionnaires⁴. Four hypotheses were developed to find answers to these obstacles.

3.2. Analysis of study findings

3.2.1. Hypothesis 1. self-financing helps the environmental NGOs in Georgia to improve their financial status and increase their flexibility in the environmental decision-making process

Part of this hypothesis is true, although it is not easy to assess the impact of self-financing activities themselves on the financial status of each organization. Many other issues can also determine an organization's financial status, for example, the staff, management and political and economic situation of the country.

¹ The current study based on the research for obtaining PhD degree.

² All interviews were conducted and all questionnaires distributed in Tbilisi, Georgia. In this respect the view of the environmental NGO participation in the environmental decision-making process in Georgia may be incomplete, as there is no information about the provinces.

³ 28 interviews were conducted with 6 environmental experts, 1 environmental law expert, 1 environmental health expert, 2 environmental journalists, 12 environmental NGO representatives, 1 private company representative, 1 international fund representative, 1 environmental activist and 3 NGO experts.

⁴ 12 environmental NGOs participated in fulfilling out the questioner.

Most NGOs in Georgia survived on foreign donations and were not sustainable. Ten international donors⁵ located in Georgia had so far been the main supporters of environmental protection, education and media activities. They funded only nine projects involving the environmental decision-making process, of which five were dedicated to environmental protection issues.

Existed legislation gave NGOs the possibility to become “self-sustainable”. NGOs needed sufficient funds to solve the current environmental problems through public participation in the environmental decision-making process. Almost all representatives of the NGO sector shared this opinion.

NGOs with financial diversity due to self-financing became more independent of their financial sources and more flexible. Besides they continued participation in the decision-making process and increased their level of activity in the future. The NGOs with only one financial source, even if their current activity level was high, faced many more difficulties.

3.2.2. Hypothesis 2: ngo’s successful participation in the decision-making process in georgia was directly connected with the development of an environmental legal system

This hypothesis is based on interviews’ results. Twenty four out of the twenty eight interviewees cited the inadequate legal system as the main obstacle to developing successful public and NGO participation in the environmental decision-making process in Georgia. According to the interviewees, the public cannot succeed in this field because of substantial gaps in Georgian legislation. This also causes many problems for the NGOs.

Georgia has created environmental laws that envisage some provisions for public participation. These rights are mainly concentrated on Georgian Constitution, Laws on Environmental Protection and the last time adopted Environmental Assessment Code. Thanks to these rights, NGOs have participated in the decisionmaking process. But having good environmental laws is not enough. It is essential to adopt decrees and

orders for better law regulation, because without them laws only provide general guidelines rather than precise regulations.

Besides that, the Georgian Parliament ratified the Aarhus Convention, NGOs do not submit claims to a court, because it is not free. Half of the interviewees see the financial problems as the main obstacle for taking the cases to the court. Irakli Shavgulidze (NGO-NACRES) suggests that besides adoption of the Aarhus Convention, the Parliament of Georgia should still adopt a Georgian law on Public Participation in the Decision-Making Process.

Comments and recommendations prepared by the public are not binding according to the current legislation of Georgia. Furthermore, Georgian legislation does not give the right to lobby, although some environmental NGOs have lobbied in an informal way their decisions and proposed new draft laws/ amendments in the existing ones to the appropriate state institutions.

While some NGOs have taken part in EIA, many problems appeared during the rapid NGO participation in this process. More than a half of NGOs blamed developers and state institutions not informing the NGOs on the early stage of proposed project development. Ramaz Golhelashvili (MS, International Environmental Expert) supposes that environmental legislations needed significant improvement according to the international standards and underlined that without these changes public participation in the environmental decision-making process will not be completed.

Georgian legislation has to create a way to include public participation in all types of decision-making.

3.2.3. Hypothesis 3: efective cooperation with one another is a better way for ngos to participate in the envrionmetal decision – making process

According to interview results, nineteen out of twenty two interviewees answered that cooperation between NGOs is disjointed. There is only one example of environmental NGOs’ effective cooperation in Georgia. This is *Emerald*

⁵ OSGF, European Foundation, GEF, USA Embassy, Swedish Embassy, Polish Embassy, Embassy of Netherlands, EU Delegation, Caucasus Nature Fund, GIZ

Network of Ares, when two NGOs - NACRES and Green Alternative, cooperation were able to create three maps for Georgia.

Disjointed cooperation among NGOs has weakened participation in the decision-making process, especially at the legislative level. Six interviewees defined the absence of relationships between NGOs as the main reason for this.

Lack of information has also caused ineffective cooperation among NGOs. Environmental NGOs know very little about each other. Nugzar Meladze (NGO “Green Earth”), shares this opinion and encourages environmental NGOs to cooperate in a more open way.

There are also cases when NGOs have information, but choose not to cooperate. The *Namakhvani HHP Project*, which included NGO participation in EIA process and was not joined by several influential NGOs, can serve as an example.

3.2.4. Hypothesis 4: transparency in the decision-making process promotes successful public participation

This hypothesis seems true, based on results of a literary review and interviews. In the current survey, the low level of transparency was cited by fifteen interviewees as the main obstacle to successful public participation. To achieve a high level of transparency, the government should follow the laws it has already made.

The issue of transparency is not addressed by current legislation in Georgia and any decisions made by public/NGOs are not officially binding. Despite low transparency, especially at the parliamentary and executive levels, environmental NGOs lobby new drafts laws and make their comments to the appropriate state committees. Decision-making using the EIA procedure is not transparent and shows the need for the creation of new legislation or further improvement of the existing ones.

Low level transparency in the decision-making process could be avoided by improving the relationship between the government and NGO sector. This improvement would open relationships and promote effective public participation in the decision-making process. Many governmental officials, particularly in the provinces, are still suspicious about the NGO role in

decision-making. The government should learn how to treat NGOs seriously.

Representatives of environmental NGOs share this opinion and advise the government to recognize the crucial role of NGOs in the decision-making process. However, it should be mentioned that without transparency of the decision-making process, the Georgian NGO sector and public in general will not succeed in improving the participation process.

4. Future recommendations

The environmental NGOs in Georgia face immense problems, one of which is their lack of involvement in the decision-making process. There is a need to strengthen the environmental movement in Georgia through expanding public participation in the process of environmental decision-making.

Many environmental NGOs face financial problems. Most foreign aid (generally from the US) has supported the NGO movement, but this aid is only an intermediate solution, helping NGOs to survive until they manage to live on their own resources. Unfortunately, many NGOs in Georgia need to become more financially independent and stable in order to achieve their main goals and successfully participate in the decision-making process.

However, self-financing alone is not enough to achieve this goal. NGOs also need to develop staff-management (a proper division of function between staff and volunteers), high diversity of financial activities (membership fees, small business, etc.) and proper division of financial sources both within and out of the organization. In general, NGOs have little experience with organizational management. They require a special training.

Generally, all NGOs interviewed faced problems during participation in the decision-making process due to the inadequate environmental legal system in Georgia. The quantity and quality of NGO participation will rapidly increase if this system improves.

Effective cooperation among NGOs refines the quality and quantity of NGO participation in the environmental decision-making process. Despite the fact that there is only one successful example of an environmental NGO cooperating

in Georgia, even this one example can encourage other NGOs to cooperate as often as possible.

Sharing an international experience in this field will also help Georgian NGOs to work together and broaden their knowledge of a particular issue.

The provision of transparency in decision-making by government agencies is of great importance for successful public participation in Georgia. A high level of transparency can be achieved by creating an adequate legal system, and by the state recognizing and encouraging NGO role in the decision-making process.

In order that the Georgian environmental NGOs should effectively participate in the environmental decision-making process, they should define their role and importance in the decision-making process and develop a strategy to become more respected by Georgian society.

NGOs need to: cooperate with each other as well as with state institutions, develop an environmental legal system and within this system act more effectively in the environmental decision-making process. All this partly recognized by Georgian society and is an area which requires future development.

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**ОЦЕНКА СОВРЕМЕННЫХ ТЕНДЕНЦИЙ УСПЕШНОГО УЧАСТИЯ
ОБЩЕСТВЕННОСТИ В ПРОЦЕССЕ ПРИНЯТИЯ ЭКОЛОГИЧЕСКИХ РЕ-
ШЕНИЙ В ГРУЗИИ**

Резюме

В статье оценивается текущая ситуация с участием общественности в процессе принятия решений в Грузии и, в частности, в сфере принятия решений, касающихся окружающей среды, и обсуждается действующее законодательство в соответствии с этим вопросом. В статье также показаны успешные примеры, определены препятствия для участия общественности в процессе принятия экологических решений и даны рекомендации.

Ключевые слова: участие общественности, процесс принятия решений, окружающая среда, НГО, Грузия.

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**GÜRCÜSTANDA ƏTRAF MÜHİTLƏ BAĞLI QƏRAR QƏBULU PROSESİNDƏ
İCTİMAİƏTİN UĞURLU İŞTIRAKI ÜÇÜN MÖVCUD TRENDLƏRİN
QIYMƏTLƏNDİRİLMƏSİ**

Xülasə

Məqalədə Gürcüstanda qərarların qəbulu prosesində və xüsusilə ekoloji qərarların qəbulu sahəsində ictimaiyyətin iştirakının mövcud vəziyyəti qiymətləndirilir və bu məsələyə uyğun olaraq mövcud qanunvericilik müzakirə edilir. Məqalədə, həmçinin uğurlu nümunələr göstərilib, ekoloji qərarların qəbulu prosesində ictimaiyyətin iştirakına maneələr müəyyən edilib və tövsiyələr verilib.

Açar sözlər: ictimai iştirak, qərar qəbuletmə prosesi, ətraf mühit, QHT, Gürcüstan.