

“Time for EU membership”

In 1999-2001 Polish organization Environmental Law Center (Centrum Prawa Ekologicznego - CPE), in co-operation with two Dutch organizations: Stichting Natuur en Milieu and MilieuKontakt OostEuropa, carried out a three year project “Time for EU membership”. The project was sponsored by the Dutch Foreign Ministry within the MATRA programme. Its overall objective was to provide Polish public and environmental NGO's with information about EU environmental legislation and to support public scrutiny of the approximation process in Poland in this respect.

Goals of the project

The project had the following goals:

1. promoting in Poland pro-European ideas and supporting the rule of law, legal certainty, open government and participatory democracy, as well as promoting the development of democratic and legal ways of resolving environmental disputes;
2. developing a sense of legality and knowledge of law among administrators, polluters and the public;
3. strengthening the capacity for using formal possibilities of public participation in environmental and "European" law- and decision-making,;
4. encouraging local communities, ecological organisations and ordinary citizens to become actively involved in the formulation and implementation of environmental and "European" policy, and assisting them in employing legal avenues for protecting their rights in this respect;
5. achieving environmental policy and law in Poland which is fully compatible with EU requirements, effective from an ecological

point of view, designed and implemented with full public participation;

6. helping the public, environmental authorities and courts in Poland become familiar with EU institutions and environmental law and making reference to EU law a routine practice in legal and administrative proceedings in Poland.

To achieve the above objectives, the project assumed a number of activities. They included, inter alia:

1. providing NGOs in Poland with a basic knowledge and understanding of EU (and other European) institutions and environmental law, legislative and enforcement procedures, and how to "use" them (getting familiar with "Brussels");
2. supplementing the pro bono counselling, provided by CPE to NGOs and the public, with the "European" dimension of environmental cases;
3. monitoring new environmental laws adopted in Poland from the point of view of their conformity with EU environmental law, and communicating the results of the assessment to the Environment Ministry, the Parliament, NGOs the public;
4. establishing a library at CPE (to be open free of charge for environmental organisations and the general public) on EU and European environmental law and on issues related to the harmonization of Poland's law with that of the EU;
5. preparing an easily accessible (in clear, non-technical language) compendium of basic knowledge about 'European' and Polish environmental law and procedures, to serve all actors (governmental administration, environmental organisations, industry and the general public) interested in actively and knowledgably participating in designing, implementing and enforcing environmental policy and law harmonized with "European" standards;
6. assisting in networking and cooperating between Polish environmental organisations interested in the "European" aspects of environmental policy, as well as (through SNM and MKOE) with Dutch NGOs and their European umbrella organizations.

Successful story

One of the most successful activities undertaken by CPE under the TIME project was related to public participation in adopting new Polish environmental laws harmonised with the environmental *acquis*.

It is worthwhile to mention that NGOs in Poland have quite broad possibilities to participate in the law-making at the Parliament. It relates in particular to Sejm (the lower chamber of the Parliament) which has adopted very participatory way of running the sittings of its committees and sub-committees, at least as far as those dealing with environmental matters are concerned. The Standing Orders of the Sejm provide for a large margin of discretion for the presidium of a committee or its Chairman to invite representatives of professional and social organizations, and NGOs have recently benefited a lot from this. There is a number of NGOs who receive routinely invitation to participate in sittings, while other usually have no problem to be invited if so requested. The usual practice is that those invited to participate enjoy broad procedural rights at the sittings. This is particularly important at the working sittings of subcommittees where the actual draft text is being debated. Quite often the invited experts, NGOs, business lobbyists and representatives of the government do play the most active role: they submit proposals, make arguments, question experts etc. – while MPs act as judges who accept the most convincing views regardless of whose view it is.

Significant in this respect was participation of NGOs, in the period February 2000 – September 2000, in the sittings of the subcommittee dealing with the governmental bill on access to environmental information and environmental impact assessment. This piece of legislation was meant to implement fully 3 relevant Directives (namely: the Access to Information, EIA and SEA Directives) and the Aarhus Convention. Bearing the subject in mind it was of utmost importance to assure proper public participation. That is why all NGOs willing to have their representatives participating in the subcommittee sittings were allowed to do so. Permanently participated 2 representatives of the Polish Green Net (the then a nationwide coalition of 12 NGOs) as well as 1 or 2 representatives of the Polish Ecological Club, and representatives of the Institute for Sustainable Development, Environmental Lobbying Support Office and Association Friendly City. As a result, in an average sitting of the subcommittee the representation of NGOs (usually about 5-6 persons) outnumbered representation of other stakeholders (usually 4-5 representatives of the central government, 3-4 independent experts, 1-2 business lobbyist, and 1-2 representatives of regional/local authorities).

CPE facilitated and assisted NGOs in participating in this important exercise. First of all, CPE prepared a detailed analysis of the draft law from the

point of view of its conformity with the EU law and the Aarhus Convention. This analysis was not only distributed among MPs, relevant governmental officers and NGOs, but also published in official Parliamentary publication, and then published (in an abridged version) in several professional journals. The CPE analysis helped NGOs in preparing their own positions and comments to the draft law.

Moreover, CPE helped NGOs to create its own resource group of legal experts and assisted in drafting NGOs proposals during hearings. The resource group consisted of 5 environmental lawyers working for NGOs (most of them were those who participated in the study visit in Brussels and Utrecht organised within the TIME project by SNM and MilieuKontakt). The idea of the resource group was that it would provide, supported by CPE and Ralph Hallo of SNM, a professional assistance (by helping draft concrete proposals or explaining provisions of the EU law or the Aarhus Convention) to NGO representatives actually participating in the Parliamentary sittings.

While the draft law in general was very welcome and considered a huge step forward, it had also some flaws, gaps and inconsistencies. The NGOs questioned for example some provisions of the draft law related to the time limits of providing information, some related to exemptions (for example the exemption relating to information supplied by third parties not being obliged to supply information) as well as provisions relating to public participation. In the latter case, NGOs in particular vigorously opposed the draft proposal to abolish hitherto existing legal obligation to notify them individually about commencement of a procedure requiring public participation. This particular issue raised a lot of tension since NGOs considered it as an attempt to reduce already existing rights by using the Aarhus Convention as an excuse. As a result of long arguments (and even a public demonstration held in front of parliamentary buildings) a compromise was reached, whereby individual notification was replaced by the requirement for electronic notification i.e. by obliging public authorities to put the information about initiating permitting procedure on their www pages.

The results of the participation of NGOs in drafting the law (latter on known as the Act of 9 November 2000 on access to environmental information and environmental impact assessment) can overall be considered a success – despite the fact that many NGOs considered the law as not fully satisfactory itself. A lot of suggestions made by NGOs have been taken into account, while some have been eventually rejected by MPs. All submissions however were considered seriously and often analysed in detail. As a result, the original governmental bill has been improved a lot in particular with respect to make it fully compatible with the environmental *acquis* (in particular with the Access to Information, EIA and SEA Directives) and the Aarhus Convention.