



The mobilization of civil society during the past 15 months – building on the leadership of youth and children – provided unprecedented momentum for higher ambition and more inclusive and socially just policies. This mobilization has already resulted in the enhancement of climate policies in several countries. This movement confirmed the statement of the IPCC in its 1.5°C Special Report that “civil society is to a great extent the only reliable motor for driving institutions to change at the pace required.” In this context, it is imperative that governments live up to their commitment in the Paris Agreement to “enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement” (Article 12).

Through their ratification of the Aarhus Convention or their adoption (and, for some, early ratification) of the Escazú Agreement, 71 UNFCCC parties across Europe, Central Asia, Latin America and the Caribbean have committed to promoting the right of the public to access to information, public participation and access to justice in policies related to the environment. The Paris Agreement implementation at the national level offers a unique opportunity for these Parties to uphold these principles across all climate policies. Ensuring that the COP-25 reflect a more inclusive and participatory approach to climate governance would demonstrate that the Parties are responding to the mobilization and leadership of the younger generations.

Recent Developments under Legal Instruments related to Environmental Democracy

At the global level, all countries committed to promote procedural rights in environmental policies through **Principle 10 of the 1992 Rio Declaration** stressing that “environmental issues are best handled with participation of all concerned citizens, at the relevant level”. Further guidance regarding the implementation of this principle has been developed by international environmental institutions (such as **the UNEP Bali Guidelines** on Principle 10), by **International Human Rights institutions** and in **Agenda 2030**. The principle of public participation in environmental decision-making has been further elaborated through two international legal instruments: the 1998 Aarhus Convention and the 2017 Escazú Agreement. Both instruments consider public participation from the perspective of the human rights of the individual and communities directly impacted by environmental decisions.

Progress towards the entry into force of the Escazú Agreement

In March 2018, 24 UNFCCC Parties from Latin America and the Caribbean adopted a Latin American and Caribbean Convention on information, participation, and justice in environmental matters (the Escazú Agreement). The Agreement further emphasizes the importance of capacity-building and is the first legal instrument to provide a framework for the effective protection of environmental defenders. Regarding international environmental negotiations processes, the Agreement stresses the importance of the growing awareness in international

forums regarding the need for public participation in environmental decision-making. It also provides a commitment to promote public participation in the context of international forums and negotiations on environmental matters, including at the domestic level in matters related to these forums.

The Agreement has been **signed by twenty-one countries from the UN-ECLAC region and ratified by six States: Guyana, Bolivia, Jamaica, Uruguay, Saint Kitts and Nevis, and Saint Vincent and the Grenadines**. The Escazú Agreement will enter into force as soon as eleven States have ratified it. The first Meeting of the Signatory Countries was held in October 2019 in Costa Rica immediately after the pre-COP. During the meeting, the Parties initiated work towards the entry into force of the agreement.

Technical work under the Aarhus Convention

Forty-seven (47) UNFCCC Parties from Europe and Central Asia are Parties to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The Convention is also open to ratification by other States - Guinea Bissau has formally provided notification of its intent to accede to the Convention. Article 3.7 of the Convention provides a legally binding obligation for all of its Parties to promote procedural rights in international environmental negotiations. The scope of this obligation has been further elaborated through the adoption of the Almaty Guidelines on the Promotion of the Application of the Principles of the Aarhus Convention in International Forums. The Guidelines stress in particular the importance for Aarhus parties to promote public participation and access to information in the substantive outcomes of international negotiations, including work programmes, projects, and decisions adopted by these processes.

Aarhus Convention - Article 3.7

Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.

During the most recent Working Group of the Parties to Aarhus held in June 2019, Parties discussed among other issues the incompatibility of the current modalities applied by the International Civil Aviation Organization (ICAO) regarding civil society participation – particularly given that the ICAO plays an important role in climate policies by governing the implementation of CORSIA. Concerns related to the hosting of the COP-24 and the arrest, detention, and deportation of environmental advocates by Poland were also discussed. Finally, the Parties discussed how the importance of ensuring that modalities of international forums for civil society participation includes special measures that should be taken to ensure a balanced and equitable process and facilitate the participation of those constituencies that are most directly affected and might not have the means for participation without encouragement and support (Almaty Guideline 15).

Relevant Agenda Items of the COP-25

Committing to rights-based and participatory climate action as laid out in the Paris Agreement (COP Decision 1/CP.25)

To promote the vision laid out in the Paris Agreement, the Parties should stress in Madrid the need for a participatory process in the planning or revision of NDCs and Long-Term Strategies in 2020. These principles should be reflected in decision 1/CP.25 laying out the expectation for national implementation next year. This decision should recall the wording of decision 9/CMA.1 regarding the communication of NDCs that stressed the importance of “public participation and engagement with local communities and indigenous peoples, in a gender-responsive manner” in the planning process of future NDCs. Recalling this agreed language from Katowice would signal that the Parties remain committed to the participatory planning of national commitments.

Article 6 Mechanisms (SBSTA Agenda Item 12)

At the COP-25 one of the high profile agenda items is the rules for the Article 6 market mechanisms and non-market approaches. Access to information, public participation, and justice in relation to climate mitigation activities is critical to their success and to ensuring that people are not negatively impacted, but instead that these activities provide benefits and deliver on truly sustainable development. The shortcomings of the Clean Development Mechanism (CDM) have been mentioned repeatedly in the Aarhus proceedings for failing to uphold the principles of the Aarhus Convention. Parties at COP-25 should prevent that from happening with Article 6. To do so, it is critical to ensure that the rules for Article 6 mechanisms include:

- The need for social and environmental safeguards to prevent harm from these activities;
- Meaningful and effective stakeholder consultation that involves communities from the beginning of project design and ensures respect for the free, prior, and informed consent of indigenous peoples; and
- An avenue for communities to seek redress for harms if they do occur. To ensure that this avenue for redress exists, the Sustainable Development Mechanism should establish an independent, legitimate, accessible, transparent, equitable, and rights-compatible grievance mechanism.

Including these three key elements will reduce the risk that the cooperative approaches under Article 6 do not facilitate projects that undermine the obligations of Aarhus and Escazú in the name of addressing the climate crisis.

Essential elements to ensure that Article 6 mechanisms respect human rights



Meaningful stakeholder consultation and effective participation



Robust social and environmental safeguards



Independent grievance mechanism



For more information regarding the importance of integrating human rights in the modalities related to carbon markets established under Article 6 of the Paris Agreement – including specific proposals, please see our briefing note dedicated to the issue:

bit.ly/RightsArticle6

Gender and Climate Change (SBI item 17)

The COP-25 is expected to finalize the review of the Lima Work Programme (LWP) and its Gender Action Plan (GAP). This review should result in the adoption of an enhanced, gender-responsive and human rights-based long-term work programme and comprehensive action plan. This should reflect the need for a human rights and gender just approach to meet the overall goals of deep emission reductions and the transition to a just, equitable, and sustainable future. To do so, the renewed Lima Work Programme should call on Parties to provide support to enhance the

capacities of stakeholders to develop and implement rights-based and gender responsive climate policies and programmes. The renewal should be utilized, among other objectives, to ensure greater recognition of a just transition and the need to integrate gender considerations for a just transition.

Local Communities and Indigenous Peoples Platform (SBSTA item 8)

At the COP-25, Parties will be invited to endorse the first programme of work adopted by the newly established Local Communities and Indigenous Peoples Platform. The Platform is a unique body that allows governmental delegates and indigenous peoples representatives to participate in its proceedings on equal footing. Adoption of practices that create better representation of indigenous peoples within the UNFCCC could reverse the trend of the last two decades of negotiations that have largely ignored the importance of traditional knowledge and collective rights of indigenous peoples. In this context, it is crucial that SBSTA does not interfere with the work of the Local Communities and Indigenous Peoples Platform and adopts the work plan as put forward by the Platform's Facilitative Working Group.

Reviewing the Role of Public Participation in National Implementation through the Interactive Dialogues of the Transparency Framework

At the COP-25, the interactive dialogues taking place under the transparency framework will offer an opportunity for a discussion among peers regarding the role of public participation in progress towards the achievement of the 2020 climate target of the states under review. The States under review at the COP-25 will be Austria, Belgium, Bulgaria, Chile, Greece, Ghana, Kazakhstan, India, Malaysia, Luxembourg, New Zealand, Portugal, Saudi Arabia, and Switzerland. Raising these questions through the interactive dialogues could contribute to promoting understanding of the role of public participation in enhancing ambition. Building on the information that the Parties had included in their latest biennial reports, other States could ask more specifically:

- to Ghana, India, and Malaysia: how strengthening the rights of and empowering local communities and indigenous peoples have contributed to combating deforestation and to reforestation;
- to Belgium, Chile, and Portugal: how the recognition and protection of the right to a healthy environment contributes to more effective climate responses; and,
- to Chile, Kazakhstan, Portugal, and Switzerland: how fulfilling the right of the public to access to information, public participation and access to justice in environmental matters strengthens climate governance.

Beyond Madrid: Key Opportunity in 2020

Review of the Doha Work Programme on Action for Climate Empowerment

Next year, the SBI is mandated to conduct the review of the Doha Work Programme on Action for Climate Empowerment (ACE). Adopted in 2012, the work programme has offered the prime forum for the promotion of the implementation of the commitments listed in Article 6 of the Convention and Article 12 of the Paris Agreement: climate education, awareness raising, training, access to information and public participation. The review of the work programme will offer a unique opportunity for the Parties to consider how the implementation of UNFCCC Article 6 and of Paris Agreement Article 12 can be strengthened to further promote the rights protected under the Aarhus and Escazu instruments.