

DRAFT
18.03.2003 (FINAL)

**GENERAL IDEAS FOR FOLLOW-UP WORK THAT HAVE BEEN INSPIRED BY
DISCUSSIONS WITHIN COWAM RECOMMENDATION GROUP 3¹**

Note

- The paper reflects views from people working for *institutions* of one kind or another. As a result the paper might not reflect enough attitudes held by the general public.

1. Local democracy

The following text in *italics* is a quotation from the ‘Framing paper’.²

How is the local democracy organised to provide input in the nuclear waste management decision-making process? Which actors are involved in the local democracy? Is there a driving force? Are rules relevant for local participation? How is the participation and competence of the local communities structured?

While it was acknowledged that the answers to these questions will be different according to European countries, and especially according to the institutional power exercised at the local level of each country, it was agreed that these questions are relevant for all countries concerned with nuclear waste management.

It might be possible to identify *principles and/or best practices* for the involvement of the concerned local population when deciding on nuclear waste management issues. These might be formulated in a way that makes them applicable in different EU-countries. But the *implementation* has to be adapted to the traditions and the constitutional structure of a particular country.

It might be useful to recognise that the concept of ‘local government’ has different meanings in different countries. Compare, for instance, the traditionally strong position of Swedish municipalities or Swiss local entities vis-à-vis the central government with the position of a local community in a country with a centralised form of government, e.g. France. Compare the Swiss tradition of local referenda on many issues with other democracies where local referenda are very rare. But in all cases it might be appropriate to use the term ‘local government’.

It is evident that the concept of local democracy also has different meanings for different actors on the local scene. The following observations reflect some of the many aspects that should be taken into account.

- Given the fact that we are dealing with countries with a democratic structure, the policy adopted on nuclear waste management should in theory reflect the attitudes of a majority of the population of the country. If there is a clear majority behind the policy

¹ See Annex 1 – List of participants

² However, the first sentence of the second paragraph has been reformulated to improve clarity.

on nuclear waste management, the policy is legitimate, even if there is strong criticism. However, this may be difficult to take for granted, as nuclear waste management does not seem likely to be a major issue at general elections at the national level.

- If the policy adopted meets widespread national opposition, but it has local support, that serves to confirm that the democratic system is imperfect. If a policy is clearly supported by a majority on the *national* level, but meets strong opposition by a majority on the *local* level (in communities that will be affected by that policy), there is a democratic dilemma to be solved. Efforts by a central government to impose a policy that a majority at the local level believe is fundamentally wrong is a scenario which is difficult to cope with in a democratic society. In many countries – though Switzerland appears to be an exception - the dilemma is usually resolved by resorting to the distinction between the national interest and the local interest. It is then argued that the national interest is the will of the majority and that, in a democracy, ought to prevail. However – and particularly on an issue as sensitive as nuclear waste - this can leave local communities feeling disenfranchised and alienated. Feelings will be particularly strong if there are grounds for believing that the national policy does not really reflect the views of the national population.
- However, the disconnection between the national and local level might also be the other way around, as was shown in the Belgian and the Swiss cases. In The Swiss case there clearly was local support for a particular policy, but that was contradicted by a cantonal vote. This is certainly an example of a democratic dilemma. In the Belgian case, local support seems likely but there is no indication of the outcome on the national level, which has to make the final decision.
- Principles for the decision-making process on the national level should also contain clear principles for local participation in this decision-making process.
- Principles for local participation in this decision-making process should contain some minimum requirements, for instance stating that the ‘normal’ locally elected representative body (a municipal council or a corresponding body) should always have a decisive role. However, there might not be a need to regulate in detail how such a representative body reaches its conclusions.
- If possible, a local community should be able to work out its own decision-making process, e.g. about the use of local referenda if considered a useful tool in the decision-making process.
- Much more than lip service has to be paid to concepts such as transparency, openness and dialogue. These concepts have to reflect a reality. Good examples have been illustrated in some of the case studies during COWAM.
- It might not be possible to set up clear principles, or even best practices, for all details of a decision-making process at the beginning of this process. There could also be advantages for the local community if the process of decision-making allows for continuous improvements, based on experiences. BUT a situation has to be avoided where the local actors experience a lack of principles or are given the impression that they are in the hands of the main actors on the national level, such as the Government, its regulating agencies or the implementer.
- Efforts are expected by the local authorities to involve the silent majority in decision-making processes in order to overcome democratic gaps.

4. Influence of the local actors on the national nuclear waste management framework

The following text in *italics* is a quotation from the ‘Framing paper’.³

The existence of a national framework for nuclear waste management was viewed as an essential basis for decision-making processes at the local level. A national framework should comprise a national waste management policy together with procedures for decision-making along the implementation at the national and local level and the required institutional structures.

But how are the local actors, which are primarily affected by the decisions, allowed for in the process? To what extent does the local actors' participation in the decision-making process contribute to the consistency and practicability of the overall waste management policy? What are the ways and means of this participation? Several links between the national and local levels were pointed out during the seminar. During the course of the discussions, a first attempt was made to identify the ways in which local actors can influence the national decision-making process.

General

Based on the case studies presented during COWAM, it is obvious that **there does not exist ONE best way** of handling these matters from the perspective of the local community (local democracy). What works once does not necessarily work always.

A desirable basis for local involvement is the existence of a clear national policy. Such a national policy should contain answers to at least four basic questions:

- Where does the power rest to decide on the policy and the principles for carrying out the policy (National government, Parliament)?
- Who is responsible for regulating this policy in detail and what exactly does this responsibility mean?
- Who is responsible for implementing this policy and what exactly does the responsibility of the implementer cover?
- How is the implementation of the policy going to be financed?

Another important issue for local involvement is to what extent local vetos can overturn national policies. This issue has to be considered.

Respective roles of the different local actors

The existence of different local actors working in different ways when influencing national nuclear waste management framework must be acknowledged and regarded as an asset. Major features should be the following:

- Local involvement in nuclear waste management issues should be based on usual democratic rules that are used for decisions on other issues of major importance for a

³ However, last sentence of the second paragraph has been reformulated to improve clarity

local community. It is the democratic duty of elected representatives to take a stand on difficult issues as well as on less fundamental ones.

- However, given the often deep concerns and involvement of local NGOs and many individuals among the population on matters concerning nuclear waste management, ‘ordinarily’ elected officials and bodies should consider the significant potential contribution by concerned individuals when democratically elected representatives of the municipality have to make a decision which they believe is in the interest of the municipality and its inhabitants. Thus, local opposition and local NGOs should be regarded as an asset, a resource for a dialogue with both the implementer and the regulator. Asking questions serves the purpose of ‘stretching’ experts to provide clear answers to peoples’ concerns.
- To take part in a dialogue also means taking on a responsibility. At some point, decisions have to be made by institutions that have been given such powers through a democratic process. Participants in a dialogue might or might not be satisfied with the final content of a decision made by a decision-making body. But in the latter case, participants in the dialogue should not have reasons to complain that they have not been listened to or that their arguments have not been taken up and scrutinized. If such requirements on a fair decision-making process are not met, elected representatives cannot expect their decisions to be fully respected by opponents.

Local competence and resources

The participation of local communities in the decision-making process requires that they develop some competence and that they have access to resources that enables them to do so. Local communities are able to develop a high level of competence to understand and comment on technical issues as soon as they consider it is of value for them to enter the discussion. Regional collaboration between communities involved in a site selection process might also be helpful.

- The key issue is that concerned municipalities have access to funding mechanisms that allow them both to inform their inhabitants and to develop a competence of their own that provides them with the tools for meaningful participation.
- If concerned municipalities have access to a funding mechanism, there should be clear rules as to how they are entitled to use such money.
- Funding mechanisms should be constructed in a way that guarantees an independence from the implementer concerning the use of money for different purposes. One way to achieve such independence could be to have the system decided by the national government, after consultations with the concerned municipalities.

Annex 1 – Participants in Recommendation Group 3

Mr	Bard, Jean-Christophe	ANDRA	France
Mrs.	Bergmans, Anne	University of Antwerp	Belgium
Mrs.	Boudard, Bernadette	CSPI (La Hague Local Liaison Committee)	France
Mrs.	Chouchan, Michèle	ANDRA	France
Miss	Derveaux, Katleen	Stola-Dessel	Belgium
Mr.	Dose, François	Député de la Meuse	
Prof.	Espejo, Raul	CLIS (Bure Local Liaison Committee)	France
Mrs.	Hawkins, Iris	Syncho Ltd.	United Kingdom
Mr.	Jorda, Michel	Shetland Islands Council	United Kingdom
Mrs	Jotter, Fanny	CEA/Saclay	France
Mrs	Larsson, Christina	Attaché Parlementaire de Mr F. Dosé	
Mrs.	Mele, Irena	CLIS (Bure Local Liaison Committee)	France
Mr.	Nilsson, Rune	SOS Tierp	Sweden
Mr.	Smeyers, Luc	ARAO	Slovenia
Mr.	Söderberg, Olof	Municipality of Östhammar	Sweden
Mr.	Waffelaert, Antonio	Mona	Belgium
		Swedish Ministry of Environment	Sweden
		Stola-Dessel	Belgium