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REPORT ON TASK 4

REFLECTIONS ON THE INFLUENCE OF THE LOCAL ACTORS ON THE NATIONAL NUCLEAR WASTE MANAGEMENT FRAMEWORK

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

An important factor in the overall decision making framework is how the local actors, who are primarily affected by the decisions, are given provisions and are encouraged to influence the process.

The extent the local actors can influence the decision-making process should contribute to the consistency and practicability of the overall waste management policy.

The practical ways of this influence should be clearly defined.

A national decision making process with minimum or no local influence has in many cases led to confrontation between the national and the local actors and is in this context not seen as a way to site a nuclear waste repository.

During the series of COWAM seminars an attempt has been made to characterise and reflect over the key modalities according to which the local actors can influence the national decision-making process which is further described under the general headlines below.

Need for a flexible approach

Compared to a rigid up-front defined decision making process a more flexible approach is suggested. A flexible approach which can respond to review and consultations where milestones are seen as checkpoints where progress and process form the basis for the way forward.

A format established at the beginning of the decision making process where national as well as local parties can influence the direction of the programme as well as the narrowing of options is an essential part of such a flexible process. To carry this joint responsibility for the progress of the program the roles of the participating parties must be clear and well defined. There must also not be any perceived hostage situation for any of the local parties.

As the process gains experience there must be enough strength – both in order to focus the resources on what is important as well as exclude alternative options and issues not to be covered in the future basis for a final decision (such a decision can be establishment of a national policy or licensing of a certain method and site).

A process that is too rigid and forced is likely to leave serious issues open that will reoccur at a later stage with possible setbacks as a result. On the other hand the lack of a defined process is likely to lead to no conclusions being reached. The risk that national resources are wasted thereby is increased and lack of progress in solving the overall waste management problem is likely.

To define a well balanced decision making process may not be possible. Maybe a definition of important ingredients can be established. Three key factors identified are:

- a national legislative framework setting the grounds for a national policy and identifying the responsible key players (e.g implementer and regulator)
- basic standards to be met for health and safety
- the role of local communities in continuous development of the national framework

Before siting and detailed development of the safety case and license application can take place the actors should define and refine - what and when are the future decisions to be made about – who is involved and how in the future decisions - what kind of waste and volumes does it concern.

For local communities it is not only health and safety, geological and technical matters that are of major interest. Social and economic issues must be given equal importance.

The initial phase of a national process may thus identify preliminary requirements and clarify the scope of the decision-making process at the national level including the local involvement. The issue of power and review capacity should be addressed, as well as leadership, and control of the participation should thus be carefully organised.

Early involvement of local actors

As regards waste management issues, historically local actors were mostly consulted at the very end of the decision-making process to approve of a siting decision. There has often been little if any participation opportunities for local actors before the final site selection. In two of the COWAM case studies (Sellafield and Gorleben) the outcome of the public inquiry or public intervention has led to rejection or a moratorium after a long and adversarial process. After a conflict such as the Sellafield inquiry there are lasting, negative mistrust amongst local communities and NGOs towards government agencies and experts. To start over in such a situation with involvement of local stakeholders is one aspect of “early involvement”.

A conclusion in the COWAM discussions is that early involvement of local actors is an essential and valuable element in the decision-making process. It is however more difficult to define how such an early involvement should take place. One key ingredient when comparing various national experiences is the level of local independence and judicial authority. A traditional strong local independence for municipalities such as in Finland, Switzerland and Sweden with a local veto over national siting projects is very different from the standing of e.g. French and Spanish municipalities. While Finland and Sweden can develop its already existing decision making framework new initiatives are often called for to empower the local influence in other countries. The existence of national, state and local scale administration also has significant impact compared to a two layer administration containing national and local levels only. For example in England there are often four levels: National, County, District and Parish or Town. Town and Parish Councils have less powers.

A challenge for any national dialogue to be initiated is the engagement of local communities without being subject to siting considerations. It is even more difficult to get citizens involved in the framing of an issue when they do not yet feel concerned, for instance, when the decision is only set in general outlines. To allow early involvement of local actors there must be existing national systems in place for this where existing national systems of government and formal networks do not restrict the point at which local actors can engage.

It has been suggested that host communities of nuclear facilities and a broad representation of communities potentially interesting after early screening should at least be invited to participate. Those who do not take part in the early debate, even if invited and encouraged, may not feel committed to the resulting decisions and national policy.

It is noted that once the national policy is set, the decision-making process often switches to the question of site selection. The actual involvement of local communities is often linked with the siting process, when almost all the options of the national policy are already fixed, impeding therefore a constructive involvement of local communities. The key to a stronger local involvement may therefore be the challenge to define a decision making process. From

that moment there should therefore be provisions in the decision making process for local actors to debate the national policy and to influence its components.

The involvement of local actors at the national level should also include the follow up of the policy implementation. There should be provisions for the municipalities and the NGOs to take responsibilities in the review of the national policy implementation at the local level. Directly concerned communities can gain confidence in the process if involved in the national follow-up of the policy implementation. They would for instance make sure that the implementation is discussed and actually developed taking into account local concerns. One possible example of a method for this to take place is from Sweden where the industry is required by law to publish a comprehensive R&D programme that is broadly reviewed.

It may not be possible to engage all concerned stakeholders in crafting a national process. Some totally disagree with fundamental issues. It can not be a goal by itself to engage all stakeholders but there must be a genuine effort to find mechanisms to at least collect comments from as many stakeholders as possible even if they decide to work outside a nationally established procedure.

Modalities of influence

Possibilities for local actors to influence the decision-making process should be clear. A good common understanding of the capacity and channels of influence available to stakeholders need to be reached. A clearly laid out decision making process in stages should promote clarity when the actors are invited to review and discuss the program direction and the content of the next step.

A well determined and crafted organisation of stages of a programme at critical decision making points providing local involvement and influence should be established. The local communities need to be provided with channels to government and waste organisations to make the local involvement possible and effective. All questions should be legitimate and the communication should take place in an open fashion open to all parties.

One basis for open dialogues is the argument that an open dialogue on controversial issues improves the decision making process and brings to the surface issues for resolution early rather than late. Moreover it should be made clear that the discussion is carried out as a two way communication and some way of documenting that the issues discussed actually are taken into account in the final decision is required.

A demanding process, including municipalities and NGOs, where the disposal method, the technical basis and proposed solutions are explained and discussed should improve the final outcome. There is thus no difference between the local review and the scientific one. The involvement of local citizens in the framing of the policy and development of the disposal programme brings a more comprehensive understanding of the social and technical issues at stake in nuclear waste management.

The participatory process requires capacity for the local community and NGOs to participate. If subject to limited resources it will be difficult for the community and the NGO's to make their voice heard.

National provisions for the local debate

One important issue is to make sure that the local communities will not be left alone with the waste management issue and that national institutions, notably the central government and such bodies as the Parliament will maintain involvement in the decision-making process. Provisions should be clear on how far the national actors are accountable and to what level the Government and the Parliament leave/interact with the local communities in dialogue with the operator.

Role and missions of the different actors involved at the national and local level

The national framework should include a clear definition of the role and responsibilities of the various actors involved in each relevant context (national and local), as well as a clear definition of the relationships between them.

This includes the role of public authorities. National regulators should be involved throughout the decision making process as an independent authority. Their responsibility is to ensure that the waste operators achieve their task in a safe way and that their economic structures are safe. This role of guardian of the process should be defined in each national context.

Defining the responsibilities of the energy producer, the waste management organisation, the public authorities and a possible pluralistic review commission is suggested as an early activity in a program.

There are many questions to be raised in discussing how to set up the decision making process and the role of the key players such as:

- What is the overall responsibility of the public authorities in the decision-making process?
- Who does what in the national policy implementation?
- Should the designer of the policy and the implementers be the same ?
- What are the links and relationship between the industry (producing the waste) and the waste management agency?
- Should energy producers or their waste operator be solely responsible for the waste (in accordance with the polluter-pays principle) ?
- Are the operators trustworthy to lead the decision making process?
- How then can the responsibility for the decision-making process be shared with other actors?
- In case of a creation of an independent pluralist commissions what is their role and composition?
- What would their contribution in the decision-making process consist of?
- How does one define the plurality of such structures?
- Should such a commission involve the operator, the regulator?
- Who will be chairing it?
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Structures for policy implementation

Of importance to the clarity of the decision making process are the type of structures used to implement the national policy. Implementation based as much as possible on established existing structures and decisions made within the normal regular framework in order to avoid any dispensation from the usual democratic decision-making processes is suggested. What structure is to be used and any need for special arrangements should be assessed early. Given the complexity of waste management issues there is however a call for flexible solutions and innovations within the existing framework. The particularity of waste management issues rests most of all on the unusual time-scope involved. The example of Environmental Impact Assessment (EIA) was cited which is used as a general EU policy tool for environmental issues. Even if the EIA may be appropriate for nuclear waste issues it may need to be expanded as a tool for increased participation by development of workable procedures throughout in particular during the siting phase.