

Appendix 10

Balance of Power: Principles and Good Practices for Local Stakeholders to Influence National Decision-Making Processes

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Introduction

Our basic position is that the outcomes of policy-making in radioactive waste management (RWM) should be driven by the will of the people through democratic processes. Achieving this inclusiveness requires good practices to increase local influence on what is essentially a national policy process. However inclusiveness poses significant practical problems; can society afford lengthy and costly consultation processes, often perceived as inefficient and ineffective? Local stakeholders and national actors need to learn how to achieve this inclusiveness so that both groups feel committed to the outcomes of the policy process. This document offers two lists, one of *principles* and the other of *good practices* for local stakeholders to influence RWM policy-making. A driving concern in structuring these lists is the balance of power between local and national concerns. This paper offers only a first introduction to this discussion; much more work is necessary about this balance. Overall for an effective local influence it is necessary to *engage and involve* stakeholders in fair and ethical national decisions processes.

Beyond dialogues and consultations there are a variety of possible communication channels linking national actors and local stakeholders. Good practices emerge from the need and desire to make these channels effective. In this context, anything that

improves their performance and quality for the purpose of an inclusive and ethical RWM policy process is considered a good practice.

Inclusive policy-making processes require *relevant institutions* that provide stakeholders and actors with *leverage mechanisms* to exercise a balanced influence on the policy outcomes. Thus from the perspective of local stakeholders key issues are the *creation of organisations for participation*, the *strengthening of local participation in policy processes*, the *articulation of local-national communications* and criteria to have a reasonable *balance of power* between local and global interests. These themes are used to structure the list of *good practices*, which is not exhaustive and is offered only as another step to furthering work within WP2.

Balance of Power between Local and National Levels

The purpose of this work is to support an inclusive and coherent formulation, regulation and implementation of RWM policy. These are policies that will take place over long periods of time and will encompass decommissioning activities and radioactive waste management. Though there are some milestones that need to be achieved in the short and medium terms such as deciding what to do with intermediate and high level, long lived, radioactive waste, solutions of RWM problems will require on going decisions over long periods of time and therefore the challenge is to work out good practices today for long-term governance. Local influence in these processes needs to consider a balance between local and national power. Anything that gives national actors an unchecked control over RWM decisions is likely to back fire in the long run. Equally, anything that gives local stakeholders the chance to block decisions that are necessary in the national interest, without offering reasonable alternatives, cannot be accepted; this situation would hold the nation to ransom.

Good practices for local influence on national decision-making processes need to consider local-national balance of power. This requires on the one hand understanding the sources of national and local power and on the other clarifying what can be considered a proper balance of power between them.

In a democratic society, sources of national power are:

- The people, who bestow on elected representatives powers to make decisions on their behalf,
- The multiple institutions supporting these decision processes whether in the form of legislation or structures to make things happen, including finance, information and expert resources,
- The national overview of, and responsibility for, national interests in the international and global contexts

In a democratic society, sources of local power are:

- Local institutions
- Selection and election of their representatives
- Knowledge of the local context
- Experience dealing with local concerns in a holistic fashion as opposed to the functional overview of local issues at the national level,
- Capacity to enable or obstruct programme implementation at the local level

For any particular policy issue there is the risk of a significant imbalance of power between the national and local levels. The national level may make functional decisions in policy areas of their responsibility without considering the multi dimensional (a-dimensional) aspects of the local context. An institutionally legitimate, but fragmented national system, supported by resources and the media, may take, and enforce, unchecked decisions, which can have far reaching consequences. Its legitimacy has to go beyond the institutional powers bestowed on national policy-makers. It has to emerge from both the best use of available resources and the operational inclusion of all those affected by their decisions (including the ecosystem). The best use of available resources suggests legitimacy grounded on effective organisation and accountability. Inclusion, on the other hand, suggests legitimacy grounded on respecting the views of stakeholders and politicians and the experts' ethical behaviour. The focus of WP2 is on the inclusion of local stakeholders and therefore the discussion of good practices emphasises local influence rather than effective organisation. Issues such as how to improve the quality of organisational processes will not be touched, though it is apparent that an increased local influence on a weak policy process may reinforce attention on poorly structured options.

The issue is how can local stakeholders influence existing decision processes. Which are the points of leverage for this influence? Within the framework of national interest, how can a local community counteract national power in the benefit of its sustainable development? Acknowledging that politicians and experts at the national level may, perhaps inadvertently, use their power at the cost of local inclusion, how can local stakeholders counteract this exclusion? What is the nature of local-national relationships that local people need to consider to leverage their influence? Consultations and dialogues are desirable but not enough for local involvement in decision processes; local-national *relationships* emerge from the on-going communications between local stakeholders and national actors. This suggests the need to consider their moment-to-moment *interactions* throughout the RWM system. rather than just occasional consultations and dialogues.

Two key points for local communities to leverage their power are their routine communications with the industry and ad hoc communications with those involved in policy formulation. The first point can be structured through local committees and other forms of local participation, which are mechanisms for stakeholders to transmit their views and concerns to the industry. The influence that this 'local feedback' has on national decision-making processes depends on the quality of information flows within the industry. The other point of leverage is at the level of long-term management of RW. All communities, and not only those with nuclear installations, can exercise this influence on national actors. Indeed people of local communities can influence directly politicians who will be responsible for RWM decisions.

We start from basic principles relevant to these communications. They are followed by a proposal of good practices, most of them backed empirically by the WP2 case studies and also by other European experiences¹.

¹ Reported in the paper "Empirical review of the case studies and identification of key elements and practices for local influence on national and international decision-making processes in radioactive waste management" by Stéphane Baudé and Gilles Heriard Dubreuil, January 2006.

Principles²

Proposed principles for inclusive decision-making in a national policy process are:

1. Principle of purposeful intervention

Policy makers frame and define policies. Clarification of the purposes of these policies is necessary to identify relevant stakeholders.

2. Principle of self-organisation and social design

Communications between relevant participants in a policy issue will evolve one way or the other mainly as a result of processes of self-organisation and also of purposeful social design.

3. Principle of requisite complexity.

Stakeholders and actors need resources, channel capacity and capacity to decode meaningfully the information they receive. These needs will vary over time as the complexity of the policy issue varies. Only complexity absorbs complexity.

4. Principle of direct influence

Dialogue with national actors enables the direct influence of local stakeholders on decision-making processes. Dialogue is necessary to learn about each other.

5. Principle of indirect influence

Local stakeholders communicate with national actors not only through their own (local and national) representatives but also through a variety of local, regional and functional actors, who are responsible for the implementation, regulation and dissemination of aspects related to the policy issue. Equally national actors communicate with stakeholders not only directly but also through implementers, regulators and other actors operating locally.

6. Principle of social cohesion

In order to have a cohesive society the national interest should have the possibility to override local interests. However, any declaration of national interest requires the legitimacy of inclusive policy processes.

7. Principle of social inclusion

Local communities should have the right to challenge the legitimacy of a decision if there is evidence that it was the result of a fragmented non-inclusive policy process.

8. Principle of balance of power

Capacity building, distributed resources and fair institutions are necessary to balance local and national powers in relation to a particular policy process. Society needs democratic processes supported by enabling structures to uphold fairness and deal with conflict.

9. Principle of guardianship

The participation of an independent *guardian* of the decision processes (e.g. independent authority, court of justice,...) is necessary to uphold fairness and deal with conflicts.

² Fundamental truths or laws which are used as the basis of reasoning or action

Good Practices

Organisations for participation

Stakeholder committees

- 1) It is good practice to form local committees (LCs) in communities affected by, or with, nuclear installations, to enable local participation. It is necessary to distinguish between local committees whose deliberations are about the ‘management of radioactive waste at particular nuclear sites’ from those whose deliberations are about the local impact on the ‘long-term management of radioactive waste in the country’³ (e.g. LCs in the UK appear to be focused on current activities of existing nuclear plants, while the Bure CLIS in France is an instrument of participative democracy vis-à-vis the development of a RWM national policy).
- 2) The purposes of local committees should be clearly defined at the time of their constitution. Among other purposes LCs may be established to articulate and promote local interests about the *development* of a RWM policy⁴ (i.e. The purpose of these ‘*development*’ LCs is stretching related national bodies). Or, they may be established to articulate the local interests and concerns about the *implementation* of a national policy⁵ (i.e. The purpose of these ‘*implementation*’ LCs would be solving local problems).
- 3) LCs are mechanisms for local participation and legitimacy derives from their constitution according to national norms and from achieving the balanced participation of all relevant stakeholders. For instance, if the purpose of a LC is *implementation*, it can be argued that it should include a balanced representation of local stakeholders from the affected industry, local government and civil society. On the other hand, if its purpose is *development* it can be argued that stakeholders should only be representatives of the local communities.
- 4) *Development* LCs need to be independent from the interests of the nuclear industry. Resources for their operation need to come from an independent source. They should be accountable to a body that protects this independence. Corollary: the chair of this type of LC should be an independent member of the community and not a manager of the affected industry or a political appointee.

Associations of local committees (LCs) and local authorities (LAs)

- 5) It is good practice to constitute *national* stakeholder committees, representing related local organisations, to support communications between local stakeholders and national actors. (e.g. ANCLI and NDA’s NSG)
- 6) It is good practice to form different associations of local authorities at different stages of the policy-process. These associations may become more restricted

³ Long-term national issues may become more significant for a local community as their members and representatives develop an appreciation of the implications of these issues for their long-term viability. This is an important aspect to take into account to define stakeholders; who has their long-term interest at heart?

⁴ For these committees local may mean department, region, county, autonomy, rather than localities or districts. See good practices for: What is *local* at different stages of policy process?

⁵ Local in this case are the communities directly affected by the activities of a nuclear installation.

as the policy process reduces the siting options. This is a means to maintain relevant local input at different stages of the policy-process.

NGOs

- 7) Active citizenship is enhanced by the organisation of citizens' activities in different forms of non-governmental organisations (NGOs). For a particular policy issue it is good practice for local and national authorities to enable the emergence of NGOs. Effective engagement of NGOs in RWM policy processes requires not only that they are well informed about the situation but also that they develop the ability to challenge (e.g. by using counter-expertise studies) the industry and relevant government agencies. This is necessary for the transparency of the policy process. Effective NGOs is a means to stretch the industry. The definition of NGOs should be interpreted widely to include Trade Unions and Civil Society groups.
- 8) It is good practice to strengthen the independence of NGOs, thus avoiding bringing their representatives too close to national policy bodies. The closer they are to these bodies the more likely it is that they become more detached from their own constituencies and reduce their legitimacy. Corollary: It is good practice to inform and support NGOs in ways that strengthen their autonomy.

Strengthening local participation in policy processes

What is *local* at different stages of policy process?

- 9) For RWM issues, it is necessary *to consult and engage the* affected local communities even if, in general, they will not be the decision makers. Radioactive waste management decisions need to take into account the issues and concerns of local stakeholders but are the responsibility of the industry and government. Therefore, local stakeholders may not have responsibility for making the decisions, but should be able to challenge them and make inputs into them. For this purpose communications should be developed with site operators, contractors and other organisations involved in these issues.
- 10) The local stakeholders that are relevant at different stages of the national decision-making process will vary. This suggests the need for different local representatives as the debate of the policy unfolds over time. The stages of policy framing and options selection may involve all the communities in the country, on the other hand, at the stage of siting selection local may only involve potential 'siting' communities. However, it may be sensible during the national debate when potential sites have not been identified to engage the communities who already host the waste and ensure that their concerns are taken into account
- 11) In setting up LCs and other forums about RWM it is necessary to consider the current stage of the 'stepwise' decision-making process in order to work out who are relevant participants, thus avoiding conflating stages of the process. Corollary: Each stage of the decision-making process may require the constitution and operation of different participatory and deliberative mechanisms. We may expect different stakeholders at different stages and therefore different needs for local consultation and local committees.

Sustainability of local communities

- 12) Decision-making processes of a local authority (LA) that *affect* the community's future need to be the outcome of debates that balance the

- community's current concerns about what is happening within it now with its long-term desires and concerns about external influences. This is particularly significant for communities with problems of a sustainable long-term development that host nuclear plants. Good practice requires avoiding fragmentation in policy deliberations e.g. unrelated deliberations of territorial planning and nuclear issues or of different sources of risk. In these cases it is good practice to join up RWM with other sources of territorial concerns.
- 13) Deliberations of a local authority on RWM issues need to be public; the local community should be kept *informed* and *engaged* in the related local political processes through e.g. use of media and participative methods.
 - 14) When two or more territorial/local authorities have functional responsibilities over the same territory with nuclear installations, such as local and county/regional authorities, it is good practice to coordinate their RWM deliberations to avoid fragmented and sometime incompatible decisions about this policy issue.
 - 15) National consultation processes should recognise that some communities may have more 'stakes' than others in particular aspects of the consultation. For these aspects the views of the more affected communities should have more weight than those of the less affected communities. Corollary: at each stage in the decision-making process the local representation in national committees needs to be sensitive to the differences between local communities.
 - 16) For issues of great long-term significance for a community, local people should have the right to express their will and therefore should be empowered to make RWM decisions. This could be achieved in different ways, such as local referenda, but the exact nature of the mechanism used will depend on the democratic processes and laws in each country. This consultation should include under restricted circumstances the possibility to veto a national decision. These circumstances need to be worked out in detail in individual countries and incorporated into the legislation surrounding radioactive waste management.
 - 17) LCs need to make all necessary efforts *to engage* silent stakeholders in their deliberations. This may be done through people of standing in the community (opinion formers) and the provision of resources to enable participation.
 - 18) National bodies as well as local authorities should disseminate information about national consultations in progress, such as surveys, in order to increase the opportunities for local participation on the policy process.

Capacity building and resources

- 19) It is necessary to empower local communities (e.g. through capacity building) to increase people's opportunities for participation and to make more effective local dialogues and deliberations.
- 20) LCs should have resources to maintain over time their engagement in local and /or national decision-making processes and means to assess the outcomes of their participation.
- 21) *Development* LCs need to have independent financial resources and, in some cases, access to technical resources (e.g. for counter-expertise studies), in order to make more effective their responsibility of stretching the industry and government bodies.
- 22) Local representatives in dialogues should have the resources and mechanisms to participate and also to inform, and engage, the local silent majority.

Articulation of local-national communications

Dialogues

- 23) Local-national dialogues need to take place in contexts where local stakeholders trust experts and politicians (cf. good practice 37). If the experience of local stakeholders is that nuclear operators are not transparent and that experts lack in authenticity (e.g. through their exchanges in *implementation* local committees) these facts are likely to have a much stronger impact on their views about the industry, and more specifically about the RWM policy process, than well-designed occasional dialogues.
- 24) As the RWM policy unfolds from the global to the local it is necessary to articulate different levels of dialogue. It is good practice to give appropriate resources to citizens and stakeholders at each stage of the policy process to support the development of their contributions
- 25) It is counterproductive to invite local stakeholders to a dialogue if afterwards they have no influence on the unfolding of events. Dialogues need to be part of a decision-making process in which stakeholders are fully engaged (even if they are not responsible for making the ultimate decisions). Equally, it may be counterproductive for national institutions to take premature decisions once they have started a consultation process.
- 26) In local-national dialogues about long-term RWM policies, it is good practice that the participation of national bodies reflects the diversity of future oriented expertise relevant to the policy-issue. This is necessary to increase the local influence over the spectrum of viewpoints that eventually will influence the policy outcomes.
- 27) Local people who are participants in on-going national dialogues and consultations, particularly if they are not members of local committees and/or local authorities, should be invited to contribute to the deliberations of these committees and authorities in order to strengthen local processes, thus helping to stretch national institutions.

Channels for local-national communications

- 28) It is good practice to enable *local* organisations of civil society to develop communications with relevant *national* NGOs and vice versa; this channel may be a means to give voice to the silent majority. The views of national and local NGOs may be different and therefore discussions between them should be beneficial to identify common ground.
- 29) National association of local authorities, such AMAC in Spain, or of local committees, such as ANCLI in France, should have the resources and competencies to coordinate and integrate the influence of local stakeholders on national decision-making processes.
- 30) The local Member of Parliament offers a natural communication channel for local people to influence national decision-making processes. Good practice implies structuring this communication taking into account the short and long-term concerns of the community. Local influence should be the outcome of local deliberations that avoid the unchallenged dominance of one viewpoint over the others. The dominance of strongly minded local pressure groups or the excessive influence of particular individuals may not only distort the

appreciation of politicians about local issues but also submit them to an illegitimate influence. The balanced selection of participants for LCs, working groups, round tables or other forums for collective participation could be an effective form to articulate this *lobbying*. It makes sense to extend this form of involvement to other politicians and national decision-makers in general.

The Balance of Power

- 31) LAs need to increase their capacity to influence national decision-making processes by coordinating their views about national reviews of their statutory planning responsibilities (e.g. local taxes, structural planning, EIA). This coordination may be achieved through representative associations such as AMAC in Spain or the Local Government Association's Special Interest Group on Nuclear Decommissioning and Radioactive Waste Management in the UK (cf. good practice 8).
- 32) Interim storage and decommissioning decisions should have an influence on RWM long-term deliberations and the other way round. If option selection is only influenced by a procedure focused on long-term RWM there is a risk that policy-makers will not take enough into account the views, decisions and realities of those managing RW now; those controlling the long-term procedure will hold an unchecked power on the policy-process.
- 33) It is good practice to have a body independent of the government and the nuclear industry to uphold the ethics, fairness, efficacy and effectiveness of the policy process. This is the '*guardian*' of the policy process.
- 34) In policy consultations, if national actors do not pay due regard to formally expressed local views, LAs and LCs should have the right and capacity to object to the *guardian* of the policy-process to ensure that their contributions are taken into account.
- 35) Before a minister calls-in for further inquiries a decision of a LA e.g. a rejected planning application, this authority should have the opportunity to uphold its autonomy by requesting an independent review of its decision. This is necessary to confirm whether or not the decision was made within the framework of an already accepted local policy, and therefore whether or not there are grounds for the decision's referral.
- 36) There should be an independent assessment of every consultation process, and the *guardian* of the policy-process should enable appeal channels for local stakeholders to complain whenever they think that their views have not been properly considered.
- 37) LCs need to have the right and capacity to audit sporadically the activities of the nuclear industry and government bodies that are relevant to their local concerns, in order to validate the information they receive from them in their deliberations and thus develop mutual trust.
- 38) Equally a mechanism should be set up for an independent and public audit of a LC's activities. This is necessary to confirm that the LC is operating to the best of its abilities.

Conclusion

WP2 stakeholders had the opportunity to discuss good practices in the Ljubljana SRG Meeting. Our aim is that they will continue this discussion with the benefit of further

developments of the French, Spanish and UK case studies, and also of any other relevant European experience. The proposed practices should be revised and further developed. Our expectation is that stakeholders will add new good practices. Indeed, other principles and good practices beyond the ones offered in this document are most likely to emerge in discussions. But, whatever the final list of good practices is, it should be a list owned by stakeholders that offers *heuristics for change* and not of *good wishes*. This is in line with the stakeholders' aspiration to influence real world policy processes rather than write procedural manuals.

Finally, *different countries have different democratic systems*, some of them centralised, relying on a prefectural system, others decentralised, relying to a larger degree on a representative local democracy. Participatory and deliberative communication mechanisms may compensate for the lack of representative democracy in centralised systems, thus suggesting that there are alternative forms to achieve inclusion and reduce the democratic deficit in different countries. Therefore, each country may require *different influence mechanisms* to increase the effectiveness of their unique balance of representative, participatory and deliberative democracies and therefore may need to recognise their own good practices. This contingent nature of practices anticipates that not all of them will be relevant to all countries at this point in time. Not only the countries being studied are at different stages of the RWM policy-process, but also they have different cultural, organisational and political traditions. Indeed, it will be necessary to take into account that the democratic deficit is different in each of them.