

Fostering a Culture through Greater Pu



of Environmental Compliance blic Involvement

by Ruth Greenspan Bell, Jane Bloom Stewart,
and Magda Toth Nagy

*In conjunction with
the goals of the
Aarhus Convention,
a pilot project in
Hungary and Slovenia
aimed to improve
access to information
to reduce pollution in
the Danube River.*

Although the Blue Danube may conjure images of a scenic river sweeping through Europe, these days the Danube River is severely polluted. Raw sewage from major Central and Eastern European cities, many years of untreated industrial waste, agricultural runoff, the results of the Balkan war, and mining accidents such as the Baja Mare incident in Romania all contribute to pollution, which then finds its way to the Black Sea and contaminates it as well. This widespread problem and the various sources of pollution have led

many reformers to conclude that enhanced public participation in environmental decisionmaking and problem-solving is one of the keys to reducing pollution in the Danube basin and other areas with similar problems.

A convention that entered into force in 2001—the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, popularly known as the Aarhus Convention—helps provide a framework for reaching that goal. The convention was adopted in 1998 in Aarhus, Denmark, and signed by 29 countries and the European Union (EU). The convention entered into force on 30 October 2001 after ratification by the first 16 countries. Since then, 6 more have ratified, most recently France on 8 July 2002.

Unlike traditional agreements that are designed to solve specific environmental problems, the Aarhus Convention pursues a less tangible but potentially more promising goal: to invite diverse voices into environmental decisionmaking. Under the convention, signatory countries—including many that historically have excluded the public from the decisionmaking process—have pledged to share documents that might provide detailed, timely, and accurate information about environmental quality, enforcement, and the data that governments use to make environmental policy. The information obtained as a result increases the power of nongovernmental organizations (NGOs) and ordinary citizens, who can use it to lobby, conduct information campaigns, and influence public policy in many other ways.¹

Many countries are accustomed to signing international environmental agreements and doing little about them, despite being pushed toward implementation by NGOs and others. Because so many international environmental agreements have failed to live up to their promise in achieving on-the-ground improvements, the crucial issue is how to make Aarhus more than a paper commitment.



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Traditional ribbon agriculture is used in Aggtelek National Park, Hungary. Pollution in the Danube River originates from many sources, including agricultural runoff.

UN Secretary-General Kofi A. Annan has called the Aarhus Convention a “giant step forward” and an “ambitious venture in the area of ‘environmental democracy.’”² The Aarhus Convention grew out of the process of European and global international environmental law drafting, which has included the notions of environmental democracy, transparency, and public participation increasingly since the early 1990s. The convention includes three “pillars”—in addition to access to environmental information, Aarhus contains provisions about public participation and so-called access to justice, or mechanisms to safeguard the explicit rights afforded under the first two pillars and under national environmental law.

The convention’s requirements for public access to environmental information were influenced by the 1969 U.S. Freedom of Information Act (FOIA) and by experience gained during implementation of the 1990 EU Directive on Freedom of Access to Information on the Environment.³ In the United States, which has neither participated in the Aarhus negotiations nor signed or ratified the agreement, FOIA is a vibrant but relatively recent step in an uneven 200-year process of opening the government to public scrutiny. In Western Europe, only a handful of countries—including Fin-

land, the Netherlands, Norway, and Sweden—offer these opportunities to their citizens at the same level.⁴ The United Kingdom’s FOIA was written with a built-in lag period, so that it did not begin to come into effect until April 2002, although it was enacted earlier. As a result, experience in the United Kingdom is quite limited.⁵ Information access is a novel concept in many Central and Eastern European countries that are currently in economic and political transition from state socialism to democracy and market economies. In these countries, the process of opening government to public view began in the early 1990s.

Central and Eastern European countries have several incentives to turn history around. In addition to their commitment to democratization, many of them aspire to EU membership and must demonstrate “approximation” of their laws with EU legislation. The body of EU law soon will include a new directive on freedom of access to environmental information with requirements similar to those of the Aarhus Convention. Also, some signatory Central and Eastern European countries, including Hungary and Slovenia, participate in other pan-European environmental efforts in which public engagement is a central component. Hungary ratified the

Aarhus Convention on 3 July 2001, and Slovenia is poised to do so in the future because of its plans to enter the EU.

The Case for Public Involvement

There are several reasons to believe that, in the long run, genuine public participation in Central and Eastern European countries will enhance environmental regulation and speed the way toward a cleaner Danube River. One reason is that environmental laws are more likely to be effective when the people who must obey the laws have respect and confidence in the decisionmaking system. Environmental laws typically require a high level of public engagement and mutual responsibility if they are to be effective.

Information flow to and from government can enhance the quality of environmental rules and help develop a belief that laws fairly represent shared concerns. When lawmakers and environmental protection officials obtain data, lessons from experience, and opinions from the affected public, NGOs, and industry, they can write more realistic and achievable requirements. But to engage in this dialog, the government must be willing to communicate its decisionmaking process, the data it relies on, and its goals—and it must be willing to listen to those who express concern or bring forward data. The process should focus not only on writing achievable requirements but also on respecting the rights of citizens to live in a healthy environment, and it should take into account how they are affected by the policies and programs that result.

Because environmental decisions involve a great deal more than good science, it is not enough simply to engage experts in this interactive process. Families concerned about their drinking water or about their asthmatic children breathing polluted air contribute important insights about the human context and tolerance for

risk.⁶ Even technical tools for environmental decisionmaking such as risk assessment and cost-benefit analysis include significant subjective judgments that are most appropriately made with explicit attention to public values.⁷

The public, writ large, must be an active part of ongoing environmental protection implementation activities. For example, many people throughout society—not just a small number of large-scale dischargers—contribute to poor water quality. Therefore, cleanup must engage the cooperation of numerous factory owners and employees, farmers, gardeners, and urban residents. Attacking more diffuse nonpoint sources (or point sources that have long-lasting effects on a whole river basin)—as Danube cleanup efforts seek to do—requires widespread knowledge, commitment, and mobilization.

Public involvement and open processes build public trust in the legitimacy of the decisionmaking process. In each case, after disputes on policy and science have been resolved, there inevitably will be compromises, if not outright winners and losers. But even those who disagree with the final result should be persuaded to work together on implementation, not to ignore or sabotage the

outcome. Some U.S. studies suggest that people who disagree with the final decision may agree to go along with it if they feel that the process itself has been fair and their views have been heard. According to Tom Tyler, professor of psychology at New York University, “When legitimacy diminishes, so does the ability of legal and political authorities to influence public behavior and function effectively.”⁸ The history of mandated laws may be one reason that environmental laws written by previous regimes in Central and Eastern European countries simply rested on the books without significant genuine practice.⁹

Challenges to Progress

To be sure that requests for information will be honored, each country implementing public-access measures—whether motivated by the Aarhus Convention or other factors—must make significant operational changes. In addition to writing appropriate laws to provide a legal basis for information access, each country must build government infrastructure, systems of records, ways to track and respond to requests from citizens, and methods to ensure that gov-



A small boat navigates the Danube Delta in Romania. Because the river flows through many countries, efforts to protect it require the cooperation of multiple jurisdictions and stakeholders.

However, even after considerable effort, there is no guarantee that this investment in government infrastructure and human resources will immediately lead to demonstrably improved environmental quality. It would be difficult to show a one-for-one correlation between a single FOIA request or particular lobbying campaign in the United States and improved environmental protection. No human enterprise, particularly one as complex as improving the environment, moves in such a predictable pattern. It is probably for this reason that funders of international environmental assistance have preferred to finance the installation of technology and the creation of planning documents rather than to support more qualitative efforts. The "bean counting" of the installation of tangible technology and the return for donor in-

For example, some projects financed through international financial institutions and development banks in China have been built with state-of-the-art pollution control, specific to the donors' requirements. However, when a plant is turned over, managers may save operating costs by turning on the pollution-control equipment only when an inspector is about to arrive, for example, or during the day but not during night production. The donors can say they have supported environmental protection, but because they have disregarded the culture in which the plants operate, their efforts result in little environmental progress. The same can occur in efforts to retrofit plants with pollution-control technology.

The authors recently worked with Hungarian and Slovenian NGO experts and governmental officials from environment, water management, and other bodies to build understanding and infrastructure in support of information access. This project, which began in the spring of 2000 and ended in early 2002, was called "Building Environmental Citizenship to Support Transboundary Pollution Reduction in the Danube River: A Pilot Project in Hungary and Slovenia." It was a collaborative effort of the Regional Environmental Center for Central and Eastern Europe, in Szentendre, near Budapest; Resources for the Future, in Washington, D.C.; and New York University School of Law and was funded by the Global Environment Facility (GEF). The project serves as a

Hungary and Slovenia have different histories and politics, but they face common challenges. Since the fall of communism in the region, these two countries have made greater progress toward democratization and the development of a market economy than many of their neighbors have, but both are still emerging from political and legal cultures dominated since the end of World War II by the Marxist-socialist legal system. Under the communist regimes, impressive laws and constitutions formally provided for public participation in government decisionmaking—but in fact, the Communist Party maintained absolute control over every aspect of society, including the creation of laws.¹⁰ The legacy of



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government secrecy persists today in many respects, but it is balanced by efforts to build a more open society.

In addition to Hungary's and Slovenia's part in the Aarhus Convention and their interest in joining the EU, the two countries are part of a GEF-supported process to clean the Danube River.¹¹ International organizations including the UN Development Programme, GEF, and the EU's Phare and Tacis programs have worked since 1991 with Danube River basin countries—including Austria, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Germany, Hungary, Moldova, Romania, Slovakia, Slovenia, Ukraine, and Yugoslavia—to develop successive programs to improve the Danube. The Convention on Cooperation for the Protection and Sustainable Use of the River Danube and the Strategic Action Plan for the Danube Basin, for example, develop regional water-management cooperation to halt the deterioration of water quality in the Danube basin and to begin the process of making improvements. Although the Aarhus Convention is separate from these programs, the Danube efforts also include a public outreach component, and Danube participants have expressed strong interest in the implications of the Aarhus Convention for achieving goals for the Danube.

Project Approach

The assistance project in Hungary and Slovenia fit into numerous other pan-European efforts to raise consciousness of the Aarhus Convention. The project focused mainly on information access. However, because that pillar of Aarhus can lead to stronger public participation, the project also helped mobilize people.

Effective assistance is a balancing act between identifying the needs and facilitating the objectives of the partners and helping them gain deeper insights into how to achieve their goals. Although this balancing act required complex interactions among many different ideas and participants, the basic structure of this process was relatively simple. Project activities first included a needs assessment and then—to build skills—six



In Hungary's Bukk National Park, wood is made into charcoal. In other areas, logging is illegal; improved relations between a nongovernmental organization and a government agency led to a prompt resolution in one instance of illegal logging in the Danube valley.

regional meetings over the course of 18 months, a study tour to Western Europe and the United States, and the creation of models and guides for participants to use in generating their own solutions.¹² Throughout the project, participants were provided with technical assistance through consultations, conference calls, and e-mails.

Consistent with what has become cliché in the assistance world but is rarely actually followed, the project's approach was "bottom-up," practical, and country-driven. It emphasized working in a participatory fashion with people on the front lines of environmental information access. These were government personnel—mostly mid- and lower-level water and environment ministry officials and experts at the national, regional, and local levels—rather than exclusively high-level policy makers. These personnel receive and are responsible for responding to information requests from the public. NGOs also played a significant role, as they did in the Aarhus negotiations, by advising on country conditions, preparing the initial needs-assessment research, participating in all meetings and in the study tour, and taking the lead in preparing the various project outputs. The NGO

and government participants were not Aarhus novices—some of them were recognized experts and had experience with the Aarhus negotiations as well as in-country efforts related to the convention.

Practical problems—such as a government official who is uncertain about how to handle a particular request or the difficult logistics of tracking an information request from its receipt to a final response—often are the greatest barriers to implementation of public-access legislation. This project focused on helping people overcome these often mundane problems.

The country-driven approach raises complex issues about the nature of assistance efforts. Assistance has the best chance of succeeding if the proposed activities and goals are tailored to meet the particular circumstances and needs of each country's participants and if there is demand—in the form of real interest—on the part of country participants. But at the same time, the purpose of the assistance is to provide the in-region experts with a wider perspective to help them achieve their goals. Although it is relatively easy to provide information about how some Americans and Europeans manage particular envi-

ronmental or information-access problems, the result must be solutions that are viable in Hungary and Slovenia.¹³ “Paper” solutions that do not work in practice often are the outcome when approaches from more mature environmental regimes are replicated rather than carefully adapted.¹⁴

Each of the project leaders had something different to contribute. The Regional Environmental Center has deep roots in the region—it was intensely involved in the Aarhus negotiations and has long spearheaded regional efforts to increase public participation in environmental decisionmaking. The U.S. partners emphasized their varied experience implementing FOIA from the perspective of government, NGOs, and the private sector. The EU expertise of several Hungarian and Slovenian participants was reinforced by that of an expert on EU environmental directives and the accession process.

Initial Assessment

At the beginning of the project, local environmental law experts were commissioned to examine current laws, policies, and practices in Hungary and Slovenia. Their assessments showed that both countries have basic but often inadequate environmental information provision laws in place. Government officials need more specific guidance; without it, they are left to interpret laws in an ad hoc fashion.

The needs assessment revealed that without clear definitions, implementation rules, or guidelines, officials tend to err on the side of caution and withhold information. For example, although Hungarian law clearly states that no need must be proved to request environmental information, when the project tested the law, it found that Hungarian government officials often demand justification and deny access to those they deem not interested enough. The inconsistent manner in which government officials handle



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Industrial pollution—such as emissions from this power station in Romania—can contribute to far-reaching and long-lasting environmental effects in Central and Eastern Europe.

requests is even more problematic in Slovenia; the needs assessment identified major legislative gaps and institutional deficiencies. Whether information was provided often depended on whether the requester actually knew the official behind the government desk.

Most public officials in both countries are unaccustomed to sharing information with the public, especially those outside the environment sector. Some are apathetic and see little value in informing lay members of the public or incorporating their opinions. Typically, many officials still believe that the only “public” views that should be considered are those of scientists and experts.¹⁵

Even when officials want to comply with requests, inefficient record-keeping and information systems sometimes make it difficult for them to find appropriate information. On the demand side, although many NGOs skillfully pursue information, unaffiliated citizens often do not know their rights, how to frame requests, or what to do if they are denied information.

Identifying Objectives and Options

The series of in-region meetings began with a joint meeting of both countries to identify priority problems and practical means of addressing them within the 18-month time frame. This set the course for the project’s training sessions, subsequent meetings, and the documents and aids that each country team later produced. Public officials and NGO representatives from both countries agreed on the need for specific guidance. They wanted to spell out procedures and rules for government employees tasked to respond to public requests, and they wanted guidance to clarify laws or fill in gaps. NGOs in Hungary recommended that a citizen guide be created to remedy insufficient public know-how.

The first meeting also demonstrated that the two countries had slightly different objectives and that the project would need to be adjusted accordingly. The project leaders had planned to conduct all in-region meetings jointly and in English, the one common language between the

two groups. It soon became clear that complex issues could be discussed more fluidly and country-specific solutions better crafted with separate, national-language sessions. Consequently, the content, types of participants, and venues of the training sessions were modified.

The Slovenians' principal objective was to develop consensus among top-level officials about more appropriate interpretation and implementation of existing legislation and what amendments are necessary to fully incorporate the Aarhus Convention's access-to-information provisions. Most of the sessions were therefore held in the capital city, Ljubljana, with national ministry officials, agency experts, and national NGO representatives participating.

The Hungarians thought their basic information-access law was adequate but wanted to ensure that all levels of government would apply it more consistently and would do a better job of reconciling the various relevant laws. Meetings were therefore held with a diverse group of participants, principally outside Budapest in regions impacted by Danube water pollution: in Szolnok, a Tisza River city concerned that valuable tourist revenues might be lost after a devastating upstream cyanide leak, and in Dobogókő, another resort area that looks down on the Danube and across to the Slovak Republic. Each Hungarian meeting attracted more than 50 specialists—from regional environmental inspectorates, water directorates, municipalities, the Ministry of Environment, the Ministry of Transport and Water Management, local and national NGOs and businesses, the Office of the Ombudsman, and health, agricultural, and plant and soil protection authorities.

Two central tools were used to identify options. The project team wrote a "good practices" manual that offered concrete examples of how government officials in the mature regimes of the United States and Western Europe and the developing information-access systems in Central and Eastern Europe respond to public requests. The manual was distributed broadly via Internet and print media. A

study tour to the Netherlands and the United States also was organized for some of the key government and NGO experts.¹⁶ Tour participants met with officials in those countries who administered FOIAs, managed docket rooms, and conducted public outreach. They also heard from NGOs and citizen groups who used information to protect shared water bodies such as the Chesapeake Bay and the Hudson River. These two examples were used because Danube protection requires the close cooperation of multiple jurisdictions—the many countries through which the Danube flows—as well as the engagement of multiple stakeholders, some of which are located in the watershed but not along the river itself.

Demonstrating how mature, well-funded environmental information-access regimes work while emphasizing the low-cost, low-tech elements that can be more readily adapted in Central and Eastern European countries was a significant challenge. For example, at last count (in 1995), the U.S. Environmental Protection Agency's (EPA) general information-access system was funded at about \$3.5 million and had more than 25 full-time personnel in headquarters alone. The U.S. regime clearly cannot be transported wholesale to countries whose entire environment ministries run on far smaller budgets.

The project also attempted to show how Hungary and Slovenia could learn from U.S. mistakes. These include EPA's continuing lack of a centralized, agency-wide system of records and its initial track record of responding to requests with vague promises to "get back to you if or when we find something." The public's persistence, through complaints, appeals, and litigation, has helped to reform the agency system over time. Nonetheless, to date there is still no central filing office, and programs (and often sub-offices) maintain their own records. Some of EPA's programs, such as the Toxic Substances Control Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act, have learned lessons from the older programs—they plan in advance for the necessary filing systems and dockets.

Project Results

The project saw sustainable progress but very different results in each country. It is easy to identify tangible results—written products such as the good practices manual, Hungarian- and Slovenian-language documents, and models for writing Hungarian-language guidance documents for government employees and citizens. But equally impor-



A power plant in the Czech Republic dumps waste. International organizations have worked with the Czech Republic and other Danube basin countries to improve the Danube.

tant intangible results were achieved in the form of changes in officials' attitudes and strengthened cooperation and understanding. As expertise and commitment grew, the project leaders witnessed the formation of a Hungarian-Slovenian team and began to see how this team could share its experience with counterparts in other Central and Eastern European countries seeking to improve access to information.

The Slovenian participants produced guidance for public officials that clarifies ambiguities in the current Slovenian law—specifically, provisions within the Environmental Protection Act that are relevant to information access.¹⁷ With the support of the project, the Slovenian participants also provided recommendations for legislative amendments to Slovenia's current environmental protection law that, if and when they are enacted, will seal the major elements of the guidance (and thus the requirements of the Aarhus Convention) into binding legal requirements. In addition, the project enhanced the access and influence of the principal NGO expert, who had been part of all meetings and the study tour. As she participated in and helped prepare project workshops, she worked alongside official Slovenian law drafters who were shaping important principles

of the proposed revisions to the environmental law with respect to freedom of information. The extent of the expert's influence became evident at a post-project public hearing to introduce and discuss principles of the proposed new law, when a draft reflecting the NGO expert's input was presented.

The project's independent evaluator confirmed the project leaders' confidence that these Slovenian recommendations for amendments, combined with the strengthened NGO-government relationship and mutual respect forged through the project, have laid important groundwork for legislative reform. He noted momentum toward changed attitudes among Slovenian public officials: The number of officials who support public release of important water-quality data (such as crucial emissions data) has grown, and the opposition has become more isolated. The project also has helped build a more effective and united Slovenian constituency for ratification and implementation of the Aarhus Convention and has helped open government generally by spreading acceptance of the principle of transparency—a process that continues beyond the project.

Because Hungary could build on an established legal framework for public access to information, it was able to

achieve deeper change and ratified the Aarhus Convention in 2001. Two important products have been created as a result of the project. A detailed Hungarian-language guidance manual for public officials was released recently. Its very specific and practical guidance on public access to environmental information, public participation, and access to justice will increase the likelihood that requests will be responded to promptly and properly at all levels of Hungarian administration. Its chief author calls it a first edition, which will be revised as experience grows. Also, an empowering citizen guide prepared by NGOs has been disseminated across Hungary. It includes sample letters, practical instructions on how to submit requests, and advice on how to protest incomplete responses and how to find information on the Internet. One reviewer characterized the guide as “informal and helpful, and yet not insultingly simple—a hard balance to strike when one writes in Hungarian.”

The project also has helped Hungary open the water sector by building better cooperation between the Ministry of Environment and the Ministry of Transport and Water Management as well as between NGOs and the water ministry. Historically, the adversarial relationship between these ministries has thwarted cooperative actions for public access to information and for protection of the Danube River. Relations were improved largely through the inclusion of representatives from both of the ministries as well as NGOs in all project activities. These representatives had the opportunity to work collaboratively toward a common goal. One manifestation of this newfound cooperation came shortly after a joint workshop in an effort involving an NGO—the Clean Air Action group—and the Central Danube Valley Water Authority in Hungary. The level of trust between the NGO and the government agency led to an exceptionally prompt resolution to illegal logging in the Danube valley. These good relations will come in handy as Hungary undertakes the hard work of implement-



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It is hoped that increased public involvement in environmental decisionmaking will help address pollution, such as this toxic waste dump in the Czech Republic.

ing several water-related EU directives in the coming years.

In both countries, government participants' attitudes have improved. At the beginning of the project, some officials used workload to excuse their failure to act on public requests for information. But they gradually gained interest, understanding, and respect for NGO objectives, and they demonstrated willingness to find systemic, workable solutions. Some officials began to re-evaluate their role in providing information. In the project's concluding meeting, a key participant explained how the project had significantly expanded her perception of how to be successful in her job, which was to collect and manage water-related data in Hungary. She no longer saw herself merely as a government data collector and manager; instead, she understood that she could help develop a broader constituency for Danube pollution reduction. Her views echoed a similar statement made at the end of the U.S. portion of the study tour by a senior water official from Slovenia.

Assessing Progress

The project leaders are confident that the officials involved in the project will be emissaries for their new viewpoints among their peers in government—and that similar efforts undertaken with a broader range of public officials can yield the same positive results. Nonetheless, a great deal of follow-up work will need to be conducted in both countries to ensure that these gains are sustained over the long term.

In Slovenia, a country of 2 million people, the project leaders initially got the attention of high-level officials through their compelling desire to do what it takes to join the EU. But Slovenia, like other countries hoping to accede, is engaged in a Herculean task—harmonizing domestic laws with about 200 environmental directives (and about 1,500 directives in other areas). This reality may have diminished the political will to press forward quickly to ratify the

Aarhus Convention and implement its requirements. Because the environment ministry apparently has postponed adoption of the project-developed guidelines until a new, general access-to-information law is adopted, proponents of improved information access must redouble their efforts to ensure that the recommended legislative amendments actually are enacted and the guidelines are used in the interim. The local Regional Environmental Center Country Office was able to obtain a U.K. grant for further capacity-building in cooperation with interested government and NGO experts.

Hungary has a larger population and more environmental NGOs than does Slovenia. Perhaps by virtue of democratization initiatives and donor attention in the early part of the transition—which produced Hungary's general access-to-information law—Hungary already had internalized many of the Aarhus concepts when the project began. Hungarian leaders and government officials were ready for the new guidance manual for public officials, and there is reason to believe that the citizen guide will be widely used. Additional capacity-building and training are likely to occur, and they will increase understanding and use of both documents.

In the final project meeting, government employees and NGOs from other Central and Eastern European countries were invited to hear what had been accomplished in Hungary and Slovenia and to discuss the relevance of this work for their own countries. They expressed a strong desire to engage in a similar process and a shared belief that they could benefit from Hungary's and Slovenia's experience. The challenge is to find adequate financial support for a broader effort while interest is strong and while there is a Hungarian-Slovenian team willing to cooperate in the effort.

Americans tend to assume that FOIA always has been a well-functioning feature of the U.S. landscape. It is important to remember that, in fact, it took many years of training, litigation, and learning to force U.S. government com-

pliance. This pilot project aimed to give participants a glimpse of how a relatively mature information-access system like FOIA responds to individual requests and also how it provides information to the public without specific requests (so-called "active" information provision, by which individuals can obtain vast quantities of information from a government office through its web site). The participants in the study tour to the United States were impressed by the way government-sponsored web sites reduce the burden on public officials to respond to individual requests for information. It became apparent, however, that the near-term prospect of using high-tech or resource-intensive active information provision in the countries of Central and Eastern Europe was not great. The immediate problem that some of these countries face is how to put basics into place.

The project generated a renewed respect for process. Big changes are difficult, and good ideas take a long time to settle into people's minds. Some early meetings in Hungary initially seemed unfocused or repetitious, but in time it became clear that these more broad-ranging discussions served to widen the circle of understanding in Hungary and produced the greatest successes of the project. In the end, a Hungarian consensus emerged that allowed significant progress.

A long-term issue that remains is how to acquire funding for projects like this that involve qualitative results and therefore are not very susceptible to bean counting. Despite widespread agreement about the importance of efforts to implement the Aarhus Convention, it took several years to find financial support to take on this challenge in Hungary and Slovenia. GEF envisioned that the project could be replicated in other Danube basin countries. However, the vicissitudes of the funding process have made it unclear whether support will be provided to tailor these ideas and to use the energy and expanded knowledge of the Hungarian and Slovenian participants for countries

such as Romania, Bulgaria, Ukraine, Moldova, and Croatia.

Building on Success

The international environmental community increasingly emphasizes the importance of public participation, but there still is little understanding of how to make it work in practice. This pilot project took on the challenge to build infrastructure and comprehension that will facilitate information access and provide a basis for genuine public engagement in environmental decisionmaking.

The best outcomes from much hard work in this field—new attitudes and commitments to improved practices—are intangible but essential parts of achieving substantive environmental goals such as reducing Danube pollution. As a consequence of this project, two Danube basin countries have taken major strides toward making information access a working reality for their citizens. Hungary's and Slovenia's efforts can be models for their neighbors and for the international community struggling to make progress on global environmental problems of huge magnitude and seeming intractability. Environmental protection everywhere works at a seemingly glacial pace, but experience suggests that public involvement can help move the agenda forward. Ultimately, it is the responsibility of each country and the project participants to help build a culture of environmental compliance.

Ruth Greenspan Bell is director of International Institutional Development and Environmental Assistance at Resources for the Future (RFF) in Washington, D.C. Her work focuses on environmental institutions and tools for environmental compliance in the developing world and countries in transition, public participation as a means of facilitating or accelerating the process of environmental compliance, and implementation of international environmental agreements. Jane Bloom Stewart is an environmental lawyer and director of the International Environmental Legal Assistance Program at the New York University (NYU) Center on Environmental and Land Use Law. She served as pro bono legal counsel to the Regional Environmental Center for Central and Eastern Europe (REC) and has provided environmental law and policy advice to governments in the region since 1991. Magda Toth Nagy directs the Public Participation Program at REC, in Szentendre, Hungary. She was a key actor in developing the Aarhus Convention and is a member of the Aarhus Convention Advisory Board. She has been involved in managing and overseeing various projects related to the implementation of the convention and to the promotion of

good practices of public participation in Central and Eastern Europe. The authors were partners in a Global Environment Facility (GEF)-funded project conducted jointly by RFF, NYU School of Law, and REC.

The authors acknowledge the ideas and support of Marianna Bolshakova, Isaac Flattau, and Stephen Stec and thank Alfred Duda of GEF, Andrew Hudson of the United Nations Development Programme, and Richard Lanier of the Trust for Mutual Understanding for their support and encouragement. This article is dedicated to the memory of the authors' friend, Gabi Varga, of Tisza Klub of Hungary, a valued member of the project and study tour who was instrumental in drafting the citizen guide. She died of cancer at the age of 41, shortly after the project concluded. Bell may be contacted by e-mail at bell@rff.org, Stewart at jbs6@nyu.edu, and Nagy at tmagdi@rec.org.

NOTES

1. See, for example, S. Casey-Lefkowitz, "Global Trends in Public Participation," *Environmental Law Reporter International News & Analysis*, accessible via the Environmental Law Institute web site at <http://www.eli.org/elrinternationalna/elrinternationalna.htm> (this site is password-protected), accessed 22 July 2002; and E. Petkova with P. Veit, "Environmental Accountability beyond the Nation-State: The Implications of the Aarhus Convention," in *World Resources Institute Environmental Governance Notes* (April 2000), accessed via <http://www.wri.org/governance/publications.html> on 30 July 2002.

2. K. A. Annan, foreword to *The Aarhus Convention: An Implementation Guide*, by S. Stec and S. Casey-Lefkowitz with J. Jendroska (New York and Geneva: United Nations, 2000).

3. European Union (EU), Council Directive 90/313/EEC (7 June 1990).

4. Many commentators have noted the comparatively low levels of transparency, accountability, and public involvement in decisionmaking by EU institutions, including environmental policy. See, for example, E. Rehinder and R. Stewart, *Environmental Protection Policy* (Berlin: Walter de Gruyter & Co., 1988). A more recent paper stated, "The secrecy and lack of access to documentation relevant to the development of EU legislation has been subject to criticism and can be considered a major factor for the often-quoted 'democratic deficit' of the European Union. For example, even the European Parliament could not, for a long time, access certain documents used and developed by various committees which assist the Commission in discharging its responsibilities to developing implementing rules under various directives and regulations" (A. A. Halpaap, doctoral student paper, Yale University, New Haven, Conn., 8 January 2001. A copy of the paper is on file at Resources for the Future (RFF) in Washington, D.C.).

5. The United Kingdom's Official Secrets Act has been considered a substantial barrier to opening up the closed nature of policymaking within the U.K. government. After considerable controversy, the Freedom of Information Act finally received Royal Assent on 30 November 2000 and is to be implemented in stages. See Her Majesty's Stationery Office, "Freedom of Information Act 2000," United Kingdom Legislation, accessible via <http://www.legislation.hmso.gov.uk/acts/acts2000/20000036.htm>. Countries with longstanding traditions of open government include Sweden (see *The Campaign for Freedom of Information*, "Open and Shut Case: Access to Information in Sweden and the E.U.," accessed via <http://www.cfoi.org.uk/sweden1.html> on 31 July 2002) and the Netherlands.

6. See, for example, D. J. Fiorino, "Technical and Democratic Values in Risk Analysis," *Risk Analysis* 9, no. 3 (1989).

7. *Ibid.*, page 295.

8. T. R. Tyler, *Why People Obey the Law* (New Haven, Conn.: Yale University Press, 1990), 161–62.

9. Public participation and increasing the flow of information do not guarantee either public acceptance of individual decisions or that such decisions will maximize social welfare. Nonetheless, an RFF analysis concluded: "[P]ublic involvement in the policymaking process is fundamental to the health and vitality of American democracy. Public involvement influences not only the success of a given program but also the public's perception of its success" (J. C. Davies and J. Mazurek, *Pollution Control in the United States: Evaluating the System* (Washington, D.C.: RFF, 1998), 152). A separate concern is whether the values embodied in the U.S. Freedom of Information Act are theories that uniquely explain Western countries with longstanding democratic traditions or whether they also apply to countries in transition to democracy.

10. See, for example, H. S. Brown, D. G. Angel, and P. Derr, *Effective Environmental Regulation: Learning from Poland's Experience* (Westport, Conn.: Praeger, 2000), 29, 37–39, which describes the 1980 Polish Environmental Protection and Development Act that explicitly granted nongovernmental organizations the right to file public-interest lawsuits and to access information about firms; and M. Schwarzschild, "Variations on an Enigma: Law in Practice and Law on the Books in the USSR," book review, *Harvard Law Review* 99 (1986): 685, 691.

11. Nongovernmental and international organizations played a major role in fashioning and drafting the Aarhus Convention, and it was conceived and negotiated in somewhat the same time period as the Danube efforts. Danube basin countries have worked with international organizations to develop programs for the Danube.

12. The documents created by the project may be downloaded through the Regional Environmental Center for Central and Eastern Europe web site at <http://www.rec.org/REC/Programs/PublicParticipation/DanubeInformation/Outputs.html>.

13. One example is the very different role courts play in enforcing government duties in civil law countries. See, for example, R. G. Bell and S. Bromm, "Lessons Learned in the Transfer of U.S.-Generated Environmental Compliance Tools: Compliance Schedules for Poland," *Environmental Law Reporter News & Analysis* 27, June 1997.

14. See, for example, R. G. Bell, "Are Market-Based Instruments the Right First Choice for Countries in Transition?" *Resources* 146 (2002), accessible via http://www.rff.org/resources_archive/pdf_files/146.pdf.

15. For a discussion of parallel attitudes in Poland, see Brown, Angel, and Derr, note 10 above, page 56, which states: "In practice, however, there are still serious obstacles to broad participation in policy making and implementation, especially by the general public. . . . [One is] the Bureaucracy's deeply entrenched administrative resistance to external scrutiny and its disdain for the value of lay persons' contribution to data analysis and policy making. . . . [Also] all parties are strongly influenced by the prevailing cultural mores, which, in Poland, favor delegating problems to experts who solve them in closed meetings." Brown and her colleagues also note that "the independent ecological organizations have no traditions of participative legal process and are too fragmented to mobilize their limited resources necessary for such participation" and that enterprises continue to be recipients of regulations rather than participants in their formulation. At the time she wrote, Brown noted that the situation was slowly changing.

16. Budgetary restrictions limited the study tour to four participants from each country.

17. Article 14 (1) and (2), Environmental Protection Act, framework environmental law (1993), published in *Official Gazette of the Republic of Slovenia*, nos. 32/93, 44/95, 1/96, 9/99, 56/99, and 22/00.