



# CDE Programme

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## Public participation in developing national regulations on the environment in France and abroad. Requirement democratic legal necessity

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**Abstract:** The purpose of the research is to know why the participation of the public in the decrees development about environment is legally impossible in France but nevertheless practiced occasionally in a wild way, whereas this participation works in the other foreign countries and within the decision-making process of the European Commission ? On the basis of the paradoxical report according to which the participation of the public developed and was institutionalized within the framework of punctual and local public decisions, while it remains laborious and informal for the adoption of the national statutory decrees, we suggest looking for the reasons of this difference: Is it the absence of request of the public or the resistance of the administration facing an intrusion in the exercise of the decision-making power ? For that one will study the real functioning of the participation in the development of the national decrees as regards environment by comparing the French system with the situation in nearby countries (Belgium, Spain, and Hungary), in America (Canada, United-States, Peru, Costa Rica) and with the practice of the European Commission for the adoption of the directives and the regulations. One will be based each time on case studies accruing to the voting of certain general texts on environment. One will seek the reasons which have led for more than 50 years the United States and Canada to legally organize the participation of the public in the development of the general texts through the procedure known as of "notice and comment", by assessing the obstacles and the contemporary advantages of this procedure. On the basis of the investigations with the European Commission and in the foreign States one will seek the deep reasons of the French blocking which shelters behind the rule of the not communication of the decrees projects, which restricts not only the right to information, but prevents in fact any participation of the public. The examination of the legal and political reach (or range) of the art. 8 of the Aarhus convention and the art. 7 of the constitutional Charter of the environment will lead, at the same time as the proposals of group 5 "ecological democracy" of the Grenelle of the environment, to consider as operational proposal, the institutionalization in France of the power to take part in the development of the decrees on the environment. Such a reform would have the merit to dedicate the equality of all facing right to the participation, since this right would not be any more reserved for a small minority of experts or directly concerned persons. The legal and administrative clauses of the proposed reform will be presented as well as its forward-looking effects which join the realization of the "participative democracy" and should logically result in the obligation to justify the statutory

administrative acts. During case studies realized in France within the framework of the informal or "wild" participation, one will evaluate also the requests and the refusals expressed by the actors (environment administration and Prime Minister, companies, NGO, common actors) of the passage of the informal to the official one.