**First Draft**

**Guidelines on Public Participation under the Protocol on Water and Health**

**(October 2012)**

(according to the first draft outline as agreed at the first meeting of the drafting group

on 8 June 2012)

1. **Executive Summary/Key Messages**

***(2 pages)***

1. **Introduction**

***(??, 2 pages)***

(i) Background

*Brief outline of the different roles and responsibilities regarding public participation under the Protocol on Water and Health (PWH) of the authorities / NGOs (to authorities and to Protocol bodies) / Bodies under the Protocol (including Compliance Committee)*

(ii) Main challenges for public participation in the water and health sector and under the Protocol on Water and Health

*Reference to key coordination gaps in water policy (as identified by OECD[[1]](#footnote-1))*

*Summary of challenges identified during the reporting exercise under the PWH[[2]](#footnote-2), as well as those mentioned during the “joint event on Public participation in environmental decision making: focus on Water and Health” (6-8 June 2012)[[3]](#footnote-3) regarding access to information, notification of the public, gathering of the public’s views, and taking the outcomes of public participation into account*

*Challenge of securing funds for organizing public participation procedure*

(iii) Objective and Scope of the Guidelines/Manual

*Assist Parties to the Protocol to comply with their obligations related to ensuring public participation in the implementation of the Protocol, in particular to establish targets and target dates in accordance with article 6, develop programmes of measures, and assess progress in accordance with article 7. The guidelines/manual also guides Parties in the implementation of articles 9 and 10 of the Protocol to raise awareness and ensure public information.*

*The guidelines/manual is also of use to members of the public, NGOs and representatives of the civil society in exercising their rights and obligations related to public participation in the implementation of the Protocol.*

Definition of effective PP

What are the criteria of the effective public participation process? It depends on the relevant and adequate application of the tools in public participation process. The PP started from public informing and awareness rising on the subject, public consultations to support the decision making process and public monitoring and participation in decision implementation.

(iv) Target Groups /Audience

*Primary audience: Public authorities*

*Secondary audience: To be understandable by general public and usable by all stakeholders involved in public participation.*

1. **Principles of public participation**

***(Serhiy Vykhryst, 4 to 5 pages)***

(i) Historical background and development of the principles of public participation

*International legal commitments on public participation*

*See extensive part developed by Serhiy. Which international commitments are key and need to be focused on in the framework of our guidelines?*

(ii) Principle for public participation under the Aarhus Convention

The Aarhus Convention stands on three "pillars": access to information, public participation and access to justice, provided for under its articles 4 to 9. The three pillars depend on each other for full implementation of the Convention's objectives.

The second pillar of the Aarhus Convention is the public participation pillar. It relies upon the other two pillars for its effectiveness—the information pillar to ensure that the public can participate in an informed fashion, and the access to justice pillar to ensure that participation happens in reality and not just on paper.

The public participation pillar is divided into three parts. The first part concerns the participation of the public that may be affected by or is otherwise interested in deci­sion-making on a specific activity, and is covered by article 6. The second part con­cerns the participation of the public in the development of plans, programmes and policies relating to the environment, and is covered by article 7. Finally, article 8 cov­ers participation of the public in the preparation of laws, rules and legally binding norms.

The Protocol was the first international instrument to take the provisions of the Aarhus Convention into account.

(iii) Key obligations of public participation under the Protocol

Different obligations and opportunities derive from the Protocol for different levels and phases of decision-making for the Parties and other stakeholders, such as the private and voluntary sector. Article 5 (i) of the Protocol establishes the principle of public participation in its application. The scope of requirements for public participation provided for by the Protocol encompasses different degrees of intensity. It goes from creating a “legal, administrative and economic framework… [for] contribution” (article 4.5) to making “appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and … [ensuring] that due account is taken of the outcome of the public participation” (article 6.2).

Parties committed themselves under the Protocol to the **setting of targets and target dates** and their regular revision. When doing so they “shall make appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation” (article 6.2).

The same approach shall be followed when **developing water-management plans** (article 6.5). In addition, “such plans may be incorporated in other relevant plans, programmes or documents which are being drawn up … provided that they enable the public to see clearly the proposals for achieving the targets … and the respective target dates”.

Parties shall make sure that the public is aware of the related issues by taking “steps to enhance the **awareness** of all sectors of the public regarding the importance of … water management and public health (and) the rights and entitlements to water and corresponding obligations” (article 9.1).

Pursuant to article 6 of the Protocol the public has the right to participate in the target setting process and its revision, as well as in the development of water management plans. Furthermore, the Protocol reminds the public of the corresponding obligations that go hand in hand with its rights and entitlements to water: “their moral obligations to contribute to the protection of the water environment and the conservation of water resources” (article 9.1 (b)).

Parties also agreed to publish the results of **evaluations on progress made** (article 7) and to make other **information** needed for the implementation of the Protocol **available** **to the public** (article 8. 1 (a) (iii), and article 10). Apart from the obligation to publish specific information, article 10 foresees that Parties “shall take steps … to make available to the public such information as is held by public authorities and is reasonably needed to inform public discussion of: (a) the establishment of targets and of target dates … and the development of water-management plans …; (b) the establishment, improvement or maintenance of surveillance and early-warning systems and contingency plans …; (c) the promotion of public awareness, education, training, research, development and information.”

Also, article 15 of the Protocol on compliance contains a requirement for appropriate public involvement through the right of the public to make **communications to the Compliance Committee.**

1. **Public participation in decision making processes under the Protocol on Water and Health: Steps and tools**

(i) National obligations (incl. national, regional and local)

a. Establishment of a national framework for public participation (art 4.5)

***(1 page, Serhiy Vykhryst)***

*General part (can recall art 6 and 7 of Aarhus) = “Rules for rules”*

*Define that legal, administrative and procedural framework should be set in a way that public should be heard about how the procedures (rules for public participation) are set*

*Access to justice*

Pursuant to article 4.5 of the Protocol “The Parties shall take all appropriate action to create legal, administrative and economic frameworks which are stable and enabling and within which the public, private and voluntary sectors can each make its contribution to improving water management for the purpose of preventing, controlling and reducing water-related disease.”

The public shall be aware of its opportunities for participation and the applicable rules and procedures must be stable and enabling. The language of article 4.5 makes it clear that a mere declaration by the Party that the Protocol is directly applicable is not enough to meet the obligation to create stable and enabling legal, administrative and economic frameworks to implement public participation provisions of the Protocol. Likewise, the fact that a Party’s Constitution declares international agreements to have direct applicability and to be superior to national law does not relieve that Party from taking appropriate action to ensure the effective implementation of the Protocol.

Rather, it is incumbent upon Parties to develop implementing legislation, executive regulations and take other appropriate action to create and maintain stable and enabling legal and administrative frameworks. Possible other appropriate action might include strategies, codes of conduct, and good practice recommendations. Courts and other review bodies must also ensure that legal and administrative frameworks are stable and enabling by, *inter alia*, apply the law in a clear and consistent manner. As well as ensuring that all relevant legal and administrative frameworks are stable and enabling, the inconsistent application of laws and regulations by public authorities, or inconsistent decisions by judicial or administrative bodies, will require the Party concerned to take measures to ensure that such bodies interpret and apply the relevant legislation in a clear and consistent manner.

Any time relevant new legislation is adopted, care must be taken to ensure that it is consistent with public participation requirements of the Protocol and that the legal and administrative framework already in place at the national level to implement the Protocol.

It should be emphasised, however, that the frameworks to be created should not be limited to legal and administrative only; economic frameworks should also be put in place.

b. Public participation in the target setting process (art 6.2)

***(5 to 6 pages, Diana Celac and Tatiana Sinaeva, Moldova. Gia Abramia to review)***

*Step by step model (there are different approaches, we can not limit to “Aarhus model”) starting from a baseline analysis*

*Refer to the recommendations in the “guidelines on target setting and reporting[[4]](#footnote-4)” and incorporate some recommendations from the guidelines on public participation developed under Aarhus Convention[[5]](#footnote-5).*

*Call for good practices at national level and review the reports of the different countries at the meetings of Task Force on Target Setting and Reporting to compare, analyze and synthetize the main trends of public participation in the target setting process.*

*Draw on examples from Moldova[[6]](#footnote-6) and Ukraine[[7]](#footnote-7)*

*Take the case of Norway organizing a 3rd round of public hearings*

*Use the case of Hungary for the review of the targets*

*Highlight the need to secure resources for public participation (human resources, time, money); an early reflection to valuate costing of public participation activities is required.*

In order to achieve the objective of the Protocol, Parties shall establish, publish and periodically revise national and/or local targets and target dates to reach the standards and levels of performance that need to be achieved or maintained for a high level of protection against water-related disease.

Targets should be set for:

(a) The quality of the drinking water supplied

(b) The reduction of the scale of outbreaks and incidents of water-related disease

(c) and (d) The area of territory, or the population sizes or proportions, which should be served by collective systems for the supply of drinking water / sanitation or where the supply of drinking water / sanitation by other means should be improved

(e) The levels of performance to be achieved by such collective systems and by such other means of water supply and sanitation, respectively

(f ) The application of recognized good practice to the management of water supply and sanitation, including the protection of waters used as sources for drinking water

(g) The occurrence of discharges of untreated wastewater and untreated storm water from wastewater collection systems to waters within the scope of the Protocol

(h) The quality of discharges of wastewater from wastewater treatment installations to waters within the scope of the Protocol

(i) The disposal or reuse of sewage sludge from collective systems of sanitation or other sanitation installations and the quality of wastewater used for irrigation purposes

(j) The quality of waters which are used as sources for drinking water, which are generally used for bathing or which are used for aquaculture or for the production or harvesting of shellfish

(k) The application of recognized good practice to the management of enclosed waters generally available for bathing

(l) The identification and remediation of particularly contaminated sites which adversely affect waters within the scope of the Protocol or are likely to do so and which thus threaten to give rise to water-related disease

(m) The effectiveness of systems for the management, development, protection and use of water resources, including the application of recognized good practice to the control of pollution from sources of all kinds

(n) The frequency of the publication of information on the quality of the drinking water supplied and of other waters relevant to the targets set out in paragraph 6 of the Protocol in the intervals between the publications of information as set out under article 7, paragraph 2 of the Protocol

The target-setting process offers a framework to analyze the national situation and to streamline and harmonize responsibilities and commitments in the areas of water and health. Based on this analysis, a realistic plan for improvement with prioritized time-bound targets adapted to the national situation can be elaborated[[8]](#footnote-8).

The setting of targets needs close cooperation among various authorities at the policy as well as the management levels. Responses need to be tailored to country-specific problems by bringing together different stakeholders (such as government and NGOs, the scientific community, the private sector and the general public). [[9]](#footnote-9)

The process of target setting should be led by the main competent authority (ies) (e.g., depending on national setting, the Ministry of Health and/or Environment), in close cooperation with other concerned stakeholders responsible for the overall implementation of the Protocol.

The chapeau paragraph of article 6.2 of the Protocol provides that in, Parties shall make appropriate practical and/or other provisions for public participation, “within a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation”.

This provision shows, in the wording of its core obligations, namely “*shall make appropriate practical and/or other provisions* [for public participation] *within a transparent and fair framework*”, that it most likely draws inspiration from article 7 of the Aarhus Convention, which has an identical wording. The direct link of article 7 of the Aarhus Convention with relevant provisions of the Protocol’s article 6 stemming from the *et seq.* wording of the earlier may lead to the conclusion that the complementarity of public participation provisions of article 6 of the Aarhus transposed as the most appropriate method of implementation of the Protocol provisions related to public participation.

**Public participation: step-by-step approach**

Aarhus step-by-step model [[10]](#footnote-10)

1. Adequate notice --> 2. Reasonable time-frames --> 3. All relevant information --> 4. Public entitled to comment/be heard --> 5. Due account taken of public participation --> 6. Prompt notice of decision--> 7. If updating, repeat as appropriate.

Shall we develop the Aarhus step-by-step model as a methodology to follow to ensure effective public participation under the Protocol? We need to explain why and how this model can be applied in the framework of the PWH. It should indicate it advisory nature.

**Baseline Study and awarness raising**

One aim of a baseline study is to assess the situation in the respective society and determine the spheres, where there is a need for capacity building and where is relevant knowledge on the issues of the Protocol. It is important to attract experts and concerned people for discussion and the decision-making process. Social questioning can be a useful tool to evaluate public awareness.

Raising public awareness about the Protocol as well as the related questions is of crucial importance.

Should we add more information here about the “preliminary steps” of public participation (problem identification…)? Are baseline study and awareness raising different processes? Should it be in the same paragraph?

A good example of raising public awareness on the issues of the Protocol is the campaign organised by Serbia during the ratification process of the Protocol:

*Case Study Serbia:*

Since the PWH is in the ratification process in the Republic of Serbia, we tried to organize the process of its promotion/presentation, for the purpose of raising awareness about the benefits of ratification of this important international document for Serbia.

Through several workshops and round tables on regional/local level, we tried to gather the main government officials, stakeholders, NGO’s and mass media in campaigns where we wanted to better inform the general public and raise awareness on the importance of water management and its reflection to human health.

Since the non-governmental organizations (NGOs) are an important link between the public and the authorities, we involved them in mentioned raising awareness campaigns on local/regional level. The rights of the public can be put into practice by the NGOs through providing information and through lobby work, what we achieved through these activities and events. Cooperation between authorities and the public through those events provided a good potential for the further promotional campaigns.

The situation of decision making for the future activities on issues related to water management and other priorities that are aimed in the Protocol, was presented and put into place, especially after warnings on protecting public health from water borne diseases and the priority need to prevent them by creating new Laws and Decisions in water, environment and health sector, that are harmonize with the EU Directives and standards.

The workshops were designed in negotiations held between all sectors involved (health, environment, agriculture, forestry, public health…), where a Plan for promotions of PWH on National level was created, with an exact time frame and list of activities/promotional presentations.

The OEBS Mission in Belgrade accepted to support and organizes 3 workshops, with responsible Ministries, considering Municipalities and compatible institutions in Aarchus centers in Serbia: ( Sombor, Subotica and Belgrade in the following period, until December 2012).

Each of these workshops held in local communities: Bratunac, Ljubovija, Aleksinac, Novi Pazar, Mali Zvornik… included four gradual levels of participation, from least to most participative: Information; consultation; dialogue and partnership.

We are in the initial stage of INFORMING the general public about the importance of the Protocol on Water and Health and its future implementation on National Level.

All of the workshops and roundtables were designed with an aim on raising awareness of total public of this problem and active participation in all levels for solving this problem.

We understand that access to information is the basis for all subsequent steps in the involvement of local authorities, stakeholders and NGO’s in the political decision making process. Consultations are provided through local citizen representatives, by direct contact with responsible government officials that participate in decision making and creating of laws and regulations.

We are presently creating the information update that will be available on the web site of the Ministries responsible for water protection and management of water resources, since the responsibilities of the previous Ministry of Environment, Mining and Spatial Planning were divided into two Ministries: Ministry of Energy, Development and Environmental Protection and the Ministry of Nature Recourses, Mining and Spatial Planning.

**Results achieved**

* After the promotional workshops/roundtables and presentations (that will be continuing after the new Government appointments of responsible officials from different sectors, until the end of 2012) we expect that the total public will be much more aware about our activities on all levels and the benefits of the ratification of the PWH, what will lead to better implementation activities on all levels.
* We expect to share lessons learnt from European/regional countries with the participants concerning the Protocol
* We plan to discuss the actual problems related to public health problems arising from inadequate water recourses
* To discuss with participants the possible next steps and activities for better implementation of the Protocol
* Try to activate consultation processes, through local citizen representatives, by direct contact with responsible government officials that participate in decision making and creating of laws and regulations.

The main problems we discovered from the following workshops were:

* the total dissynchronisation of all actors that are working on the problems of water management,
* lack of cooperation between sectors
* no solution for waste treatment
* minimizing pollution problems
* abuse of nature recourses in the purpose of private enterprises.

Should we shorten and target more specifically the case studies to deal only with the previously mentioned item, and to clearly define the message to be delivered through the case studies?

**Identification of Stakeholders and Set-up of a Coordination Mechanism**

The main stakeholders concerned with the implementation of the Protocol should be identified, including those from the public. Amongst others, main stakeholders are:

* Different ministries and agencies, especially the ministries of finances, of economy, and of foreign affairs. It is important from the view of getting political support;
* Public authorities of different levels – national, regional, local. The last ones are well aware of the local situation and could better propose the optimal solutions;
* Academic and other research institutions;
* Business;
* Sectors of agriculture and tourism;
* Different profiled institutions, committees, working groups dealing with environment and water resources and health;
* State and private associations, services providers in field of water supply and sanitation. Water users associations;
* Public like environmental NGOs and consumers;
* Others which are not easily to approach or where organizational structures are not known.

The involved representatives of these sectors should be well informed about the Protocol.

It is important to also identify the interested NGOs and include them into the main activities. In this respect, it is better to attract the NGOs which are aware of the country situation and working in the sphere of water resources management or monitoring, water supply and sanitation issues as well as healthcare. This will built bridge between decision makers and the public, and this should improve the quality of the decision-making process as well as the sustainability of results.

The objective of the coordination mechanism is to unite the efforts of all interesting parties in developing targets and target dates in accordance with the Protocol. When setting up a coordination group, existing networks or working groups can be used, or new ones can be created. In any case the respective country’s specific institutional set-up has to be taken into consideration.

To ensure the sustainability and efficiency of the coordination mechanism, it is necessary:

* To attract the expertise – the necessary amount and quality of experts;
* Financial and human resources;
* Clear mandate of the coordination mechanism, including terms of references and distribution of responsibilities;
* Duties’ sharing among the members. In this body could be established the sub-groups, formal and informal ones to solve concrete issues. For example, on the issues of bathing water, waste water, financial issues etc.;
* Sustainable institutional support, clear program of activity with the timetable. Awareness on importance of continuous support – long process; human and financial resources are important;
* Institutional capacity-building.

**Case Study Hungary**[[11]](#footnote-11)

The Hungarian case presents a good example of cross-sectoral cooperation which was required for the implementation of the Protocol. The Government established a technical committee to assist the ministers in meeting their commitments. The committee included a wide pool of experts allowing it to cover all fields of the Protocol (e.g., from ministries and Government agencies for public health, environment and water management, local and regional development, economy and transport, agriculture, industry and national development, as well as a representative from the Prime Minister’s office, regions and municipalities, relevant associations of waterworks, sewerage works, pools and spas, tourism, environmental NGOs and other interest groups). Even if of a technical nature, the committee had a clear political mandate. Resources were secured for its functioning and it was linked with other governmental programmes and plans relevant to the Protocol. It was a formal body with its own

constitution and terms of reference that were formally approved by the responsible minister. However, it was flexible enough to make use of external experts and to exchange information with other bodies (e.g., scientific committees whose work was relevant for setting and implementing targets under the Protocol.

**Case Study Moldova**[[12]](#footnote-12)

The steering committee includes representatives and experts from the ministries, science and NGO.

The key interesting parties for establishing of target dates for the Protocol were identified during consultations organized by the Ministry of Environment and the Ministry of Healthcare and its sub-ordinated structures as well as Eco-TIRAS NGO and the Swiss Agency for Development and Cooperation (office in Moldova).

The deputy ministers of these two ministries, heads of departments, and representatives of sub-ordonated agencies (Water Agency, Centre of Prevention Medicine) as a first step have met within the SDC and UNECE to create a steering committee to supervise the implementation of the Protocol in September 2009. The steering Committee was established by the joint order of the Minister of Environment and Minister of Healthcare No.11/75 from February 19, 2010.

The representatives of the basic ministries and other governmental agencies composed the Steering Committee as well as NGO representative with consultative status. This public involvement ensures more close and effective contacts with civil society, to get real picture as well as to receive comments and proposals from representatives of NGOs, teachers, doctors, scientists, etc.

**Relevant Information**

The target dates and time schedule should be shared among the public, professional associations and other interesting groups as widely as possible. Use should be made of existing groups and networks. The public should be informed in time about options, procedures, time schedules and criteria of comments’ presentation on the documents and target dates. The information should be available for the public – free of charge - and could be shared via websites of Protocol-related agencies, mass-media and during seminars. Registers of interesting persons – the most efficient instrument, where could be included NGOs, institutions and other interesting persons. Also seminars, on-line consultations as well as public hearings are useful (please refer to the tool box). The shared information should be clear, well-prepared and available for understanding.

The documents gathering targets and target dates should be corrected and updated based on public proposals. The target dates and time schedules should then be published and shared with interested persons on national, regional and local levels. The Internet, register of interested persons, NGO networks and mass-media should be used as tools for distribution of information.

Special care should be taken that outreach to the public in general, and marginalised groups and individuals in particular, are ensured.

In **Finland[[13]](#footnote-13)**, information is easily available for public in different ways such as leaflets, newspapers and Internet. Severe problems and waterborne outbreaks are duly informed in the media. Public have opportunity to make proposals and comments on the implementation of the bathing water legislation and especially on the list of bathing areas.

In order to enhance the knowledge on private water supply systems and water quality in wells numerous guidebooks, leaflets, brochures and websites have been published.

**The Involvement of the Public**

Shall we add a paragraph to remind the obligation of the government vs the NGOs to organize PP?

The partnership with NGOs could be a good tool in organization of meetings with civil society. Why?

* NGOs are well informed about the situation in the NGO sector
* NGOs are respected by the population and they could form the public opinion because they are closer to the people.
* The staff in NGOs is usually more stable than of the state agencies and due to that it saving the institutional memory of the processes. It is especially characteristic for the EECCA region.
* By involvement of NGOs into decision making process the state authorities share the responsibility on adoption of the decisions.

It is important to treat NGOs as partners, taking into account their professional experience, education and knowledge.

It has to be noted that the interest of the public to take part to the public participation process is diverse.

The result of consultations with the public depends on several factors:

* How much the public is satisfied with the quality of information presented;
* The readiness of the decision makers to accept the knowledge of public, based on their observations and experiences such information in future could be a source of actions for planning under the Protocol.

Indeed, it is important not only to determine the opinions of the public and stakeholders, but also to take them into consideration in the process of elaboration and improvement / revision of target dates.

Should we include an extra paragraph to add more information about each individual steps: information on the process, timing, economic analysis etc.?

In **Armenia[[14]](#footnote-14),** the water resources management is regulated on Water Code (*adopted by the National Assembly of the RA on June 4th, 2002*) of the Republic of Armenia and by other interrelated legal acts. The main responsible bodies in water management field are the Water Resources Management Agency under the Ministry of Nature Protection responsible for water resources (*ground water and surface water*), State Committee for Water Management under the Ministry of Territorial Administration (responsible for water systems: organization of water supply and wastewater services, as well as water relationship, water resources and water system), Public Services Regulatory Commission of the Republic of Armenia: independent commission that determines tariff policy in water relations and issues water systems use permits and the National Water Council – the highest advisory body in the area of water resources management.

Public notice is a necessary condition for all types of water use permits (for drinking, for irrigation, for industry and for building hydropower stations) according to the RA Government decree: - 07 March 2003, 217-N - On approval public notice and publicity order by developed of the Water Resources Management and Protection body. The public notice is a document which includes information of stakeholders about impact of proposed activity, which shall be published in a printing source having at least 1000 printings. The notice shall include the introduction of a decision on the proposed activity or the issue and a brief description of their possible effect: the location, where information on proposed activity or decision can be obtained: written comments on proposed activity or decision, the location, where the notices can be submitted and realistic terms of their submission, as well as the dates and places of public hearings of notices.

In **Czech Republic[[15]](#footnote-15)** press addressed the professional public with request for national targets suggestions. However, interest of public was very low. Only one NGO (Water Protection) expressed interest to participate. On the basis of received suggestions and its own proposals the Task Group developed the Document on current state of work in this area, existing political, strategic and legal instruments and proposals for national targets according to the Protocol.

Afterwards the draft Document was several times subject of comments of all interested sectors and stakeholders (including regional authorities). On the basis of received comments and several meetings has been settled few different opinions and positions.

Republic of **Hungary[[16]](#footnote-16)** has an obligation to ensure public participation in environmental matters, and, in a broader interpretation, in the majority of the issues listed in the Protocol on Water and Health, including the target-setting related to these. The current situation in the area of public involvement significantly differs by target area, depending also on the extent to which substantial and comprehensive information has been made available on the relevant issues and problems.

The river basin planning and the related public participation process have been realized on different levels in Hungary:

* on the national level: one national river-basin management plan;
* on the level of regional sub-basin: Danube, Tisza, Dráva, Balaton level (4 regional sub-basin plans);
* on the level of planning sub-units (altogether 42 sub-unit plans);
* on the level of water bodies: (869 river section, 213 standing water bodies, 185 ground water bodies);

Shall we add updated information from the review of targets in Hungary? Are all other case studies relevant?

**Republic of Moldova** ratified the Water and Health Protocol in 2005. The Parliament nominated the Ministry of Healthcare and Ministry of Environment as two governmental agencies responsible for its implementation. By the joint Order of two responsible ministries it was established a Committee on Protocol implementation, whose scopes were to develop national targets and target dates as well as measures for their further implementation. It was composed from representatives of governmental agencies, but the Eco-TIRAS NGO representative was also included to cover the public information and participation issues which permitted to organize the consultations even on initial stage in accordance with the Aarhus Convention requirements.

The NGO involved ensured:

- Participation in the Committee activities on establishing of targets and target dates and their realization;

- Identification and familiarization of stakeholders with the Protocol, as well as the with the goals and objectives of the project;

- Organization of consultations on correspondence of targets and target dates to the visions of civil society on national and local levels;

- Analysis and formulation of proposals on targets, target dates and necessary measures to reach them;

- Participation in discussion of the project’ report;

- Data availability for NGOs and mass-media;

- Information in mass-media about the targets-establishing process.

Three regional consultation meetings with NGOs and other local stakeholders were organized in the South, Centre and North Country development regions, in which participated about one hundred representatives. One of most valuable proposals of the public, and supported by the Committee, was the establishment of the Water and Health Clearing House for the Protocol in Moldova. It is evident that such full-scale public participation became possible mainly as a result of the project supported by UNECE and SDC. At the same time the Parties should ensure such public involvement. **[[17]](#footnote-17)**

In **Ukraine[[18]](#footnote-18)** public consultations on the draft national targets were carried out by the Environmental NGOs in 2010. This activity was organized by NGOs: “MAMA-86”, supported by the Women for Water Partnership (WfWP) and the Water Supply and Sanitation Collaborative Council (WSSCC). A draft of National Targets was distributed by e-mail to experts and networks, and other partner NGO networks; hard copies were posted to some experts and disseminated at various events, seminars and conferences.

On 20–21 October 2010, public hearings of the Draft of National Targets to the Protocol were held in Kiev. Comments and amendments to the Draft were presented and discussed during the event. Representatives from the Ukrainian-Norwegian project and the Ministry of Ecology and Natural Resources of Ukraine, Ministry of Health, other executive bodies and NGOs took part in the public hearings, including 11 representatives from the authorities, 17 representatives from NGOs and media from 14 cities of Ukraine. Consultations and collection of comments were completed by 10 November 2010. As a result of public consultations “MAMA-86” has received 23 written submissions with numerous comments and amendments from authorities of different levels. The target setting process was carried out according to the guidelines provided by the Protocol. A broad stakeholder group consisting of ministries and state committees, NGOs, research organizations and river basin organization was appointed by the Ministry of Ecology and Natural Resources of Ukraine. After series of further meetings, various comments and suggestions during the public consultation process was evaluated. The majority of the amendments made by the responsible ministries and authorities, experts and NGOs were taken into consideration and included in the final version of 15 National Targets.

*Norway*

*Third round of public hearings*

**Costs, Time and Human Resources**

Consulting the public in an environmental decision making process has a cost, in order to facilitate public participation and ensure an equal access to the information and the consultation. An appropriate budget, adapted to the object and the scope of the consultation, may include:

- hiring a consultation process expert if necessary;

- paying the travel costs for participants;

- notifying all relevant information;

- providing all means necessary: housing for the public hearings, meals, financial compensation for experts intervening, etc.

Public should not have to spend money to participate, otherwise it will be very difficult to achieve a satisfying level of participation.

All these elements should be taken into account, but a global cost-benefit analysis shows that a well planned public consultation have more advantages than it costs to the public authorities; among other benefits, it contributes to “*enhance the quality and the implementation of the decisions, build public awareness to issues, to give public the opportunity to express its concerns and to enable public authorities to take due account of such concerns*”(Protocol, article 5 (i)).

c. Public participation in the definition of the water and health action plan to implement the measures to reach the targets (art. 6.5)

***(5 pages, Diana Celac and Tatiana Sinaeva, Moldova. Gia Abramia to review)***

*Interpretation of article 6.5*

*Define plan of measures, water management plan: covering legal, institutional, and managerial and investment/infrastructure measures*

*Building of institutional capacities*

*Inter - institutional coordination mechanisms should be maintained (Ex.: Hungary)*

*Difficulty to set programmes of measures without confirmed funds*

*Implementation of target sets in Moldova in the new project could be an example*

Water management plans

The water related problems faced by many countries often derive from the lack of water resource management and a missing integrated approach. Therefore, a water management plan is important. According to Art. 2 (10) a water-management plan “means a plan for the development, management, protection and/or use of the water within a territorial area or groundwater aquifer, including the protection of the associated ecosystems”[[19]](#footnote-19). Article 6.5 of the Protocol on Water and Health provides that Parties shall develop water-management plans in transboundary, national and/or local contexts. Such plan could be an independent document, but could be also a part of another documents for implementation by the country.

For the promotion of the achievements of the targets, coordination mechanisms (6.5 (a))[[20]](#footnote-20) should be established between the competent national or local authorities.

Parties shall make “appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation” in the development of the water management plans.

So far, not many parties have experiences in developing water-management plans, therefore case studies are lacking and this section will only provide some recommendations.

The coordination mechanism established in the framework of the target setting process is a platform for discussion, uniting different sectors of economy, which should be used as communication channel from local to national level for the establishment of water management plans.

The joint activity of stakeholders can make possible the realization of a clear analysis of the country situation. This will facilitate the definition of a realistic plan of actions, allowing to reach the target dates and respect of the defined timetable.

Such plans should be shared with the public using transparent and just basis. The outcomes of the public participation process should be taken into consideration and shared among the public in accordance with Art. 7 of the Aarhus Convention[[21]](#footnote-21) .

Article 7 of the Aarhus Convention establishes a duty of the Parties to ensure public participation in drafting of plans and programs dealing with the environment with their provision with necessary information on principles of openness and justice.

Aarhus Convention provisions include:

[Art.6 , para 3]

* Necessity to establish concrete deadlines
* Necessity to provide the necessary period for information, preparation and effective public participation

[Art. 6, para 4]

* Ensures public participation from the earliest stage
* Open possibilities
* Public participation should not be formal

[Art. 6, para 8]

* Ensures the duty of the Parties to take the results of public participation in plans and programs into consideration

Should we detail more the Aarhus provisions to detail it in a more concrete way (covering legal, institutional and managerial and investment/infrastructure measures) and/or focus the links between the relevant provisions in the AC and the above PWH provisions in 6 (5)?

E**xample and experience of the Republic of Moldova[[22]](#footnote-22)**

A first set of measures for the implementation of the targets defining specific activities to be carried out to achieve the targets and target dates, including financial requirements (and the sources of finance) and human resources needed shall be incorporated in an Action Plan.

The Action Plan would also provide a framework for overseeing the progress towards the achievement of targets and for a continuous discussion on the consistency of policies, measures and interventions in the area of water and health in the country, in close cooperation with bilateral and multilateral donors.

In addition the Action Plan will specify:

- Actions which need to be taken and their respective timing, prioritizing actions and measures and defining associated costs.

- The resource mobilization strategy/plan to overcome uncertainties in the implementation of targets and the associated measures, including uncertainties that relate to the sources of finance.

- The most urgent needed ways and means to overcome the most prominent deficiencies in the work of service providers, namely inadequate professional skills of personnel and low service quality and performance level.

- Establishment of a new legislative basis for the construction, operation and maintenance of small systems for water supply and sanitation, applicable in schools and small rural communities.

- The Clearing House which is seen as a tool to respond to the obligations dealing with the Protocol. The Clearing House will have a much broader mandate, including the provision of information on laws and practices relevant to the right to access environmental information and participate in environmental decision-making. The Clearing House will also be able to best respond to the Protocol’s requirement that the “Parties shall promote:

Understanding of the public-health aspects of their work by those responsible for water management, water supply and sanitation; and

Understanding of the basic principles of water management, water supply and sanitation by those responsible for public health” (article 9, paragraph 2).

The Clearing House shall be set up in a way which allow expansion in the future with the addition of further information relevant to the public, e.g. by the Aarhus Convention.

Awareness raising that focuses on health and hygiene, a holistic approach shall be developed and applied that also includes water management issues and legislative aspects of better informing the urban and rural population (e.g. women, children and female staff in schools and similar institutions, people who are particularly vulnerable to water-related disease and those who suffer a disadvantage or social exclusion) about their rights to water and sanitation services as well as their obligations to protect the sources of water supply.

In the Republic of Moldova a first set of measures for the implementation of the targets, most of which are to be achieved by 2015 and 2020, has been proposed in frames of the 1st UNECE-SDC project.

The 2nd UNECE-SDC project is – as it was the case with the 1st project – directly linked to the Protocol on Water and Health and is also directly linked to the existing Moldovan policy frameworks, as represented by the Order No. 91/704 on the approval of the list of targets and target dates to implement the Protocol on Water and Health, signed by the Minister of Environment and the Minister of Healthcare.

Its scope is to strengthen the capacity of the Government of the Republic of Moldova to implement the targets and target dates established by Ministerial Order No. 91/704. One of the outputs of the project is to develop an Action plan for achieving the targets under the Protocol on Water and Health to be approved by Governmental Decision.

The Action Plan will:

- Be the legal basis for target implementation and regulate the use of funds from various sources;

- Establish priorities and integrate measures to comply with the provisions of the Protocol, respecting the national procedures for planning, implementation and financing measures on water supply, sanitation and other areas for which targets and target dates have been set and/or proposed measures developed;

- Determine costs for implementing targets;

- Provide the basis for continuous monitoring and evaluation of the country’s compliance with the Protocol on Water and Health;

- Provide the basis for a continuous national policy dialogue, for example, within the UNECE-led policy dialogue under the EU Water Initiative in the countries of Eastern Europe, Caucasus and Central Asia to sustain progress in the area of water and health;

- Be a tool to assure that actions lead to equitable access to water and sanitation, benefiting vulnerable and marginalized groups, such as persons living in rural areas as well as women and children;

- Monitor the implementation of the gender dimension of the project, i.e. the adequate representative of women in the different project activities and the inclusion of actions in the Action Plan which address women and other vulnerable groups.

The experience gained in the Republic of Moldova will be used in other countries that are currently in the process of setting targets under the Protocol (e.g. Armenia, Georgia, Kyrgyzstan).

## Target Groups

The Action Plan and the other four priority tasks will directly and positively affect the following target groups:

- Public authorities responsible for water management, safe drinking water supply and adequate sanitation (ministries, agencies, institutions, local governments);

- Water utilities’ and sanitation facilities’ operators and Water Associations;

- Environmental NGOs;

- Consumers and the population at large, including women, children as well as vulnerable and marginalized groups.

- All these groups should be fully involved into the drafting of the Action Plan.

d. Public participation in the evaluation of progress, assessment of progress and internal reporting (at national level)

***(Emma Anakasyan, 2 to 3 pages)***

*Build on national examples:*

*- Slovakia which revised its targets*

*- Hungary starting the revision of its targets might contribute*

Evaluation of the progress towards setting targets and target dates is essential if the political commitment of the national governments is to be maintained and put into practice.

This evaluation shall help to comprehend progress, success, and effectiveness of a project at the ground and national level and enable public representatives to provide suggestions/recommendations on further actions such as decision-making, strategic planning, reporting, or project modification[[23]](#footnote-23).

Good information is vital for effective public participation evaluation. The information should be **available** and effectively **accessible**. Participants/evaluators will need two types of information on: (1) the process and (2) the proposal to understand what the decision is about and what the possible outcomes might be.

Evaluation performed by public participants differs from traditional monitoring and evaluation methods because the process shall be designed and managed, data collected and analysed and indicators defined by the stakeholders[[24]](#footnote-24).

The effective evaluation of the project shall include the following steps:

* Creation of the evaluation plan of the project
* Implementation of the evaluation plan and collection of information
* Data analysis and interpretation of results
* Communication of the evaluation results.

An **effective evaluation plan** describes the major components of **implementation**. The evaluation plan shall include the purpose of the evaluation based on which the **type of the progress evaluation** (process or outcome/impact evaluation) shall be chosen. The project process evaluation shall focus on how well the program is operating and the impact evaluation shall concentrate on the results caused by the project. The design of the evaluation shall include the qualitative and/or quantitative measures of indicators.

Based on type of the progress evaluation appropriate **evaluation questions** shall be chosen. To answer evaluation questions **evaluation tools** (either one of them or a combined version) could be used. Evaluation tools include: interview of key informants and stakeholder, such as the representatives of the Ministry of Nature Protection and the Ministry of Health, agencies responsible for water and sanitation, representatives of NGOs, etc.; survey of general public/households; review of documentation; official websites, etc.

Public Participants shall collect and evaluate data on progress towards the achievement of the individual target set at local and/or national levels.

Based on the evaluation results recommendations and/or suggestions can be developed for the revision of the set targets and dates for submission to the corresponding body.

Public participants shall **communicate** the results of the evaluations to their external and internal stakeholders. The communication of the results can be in the form of production of an evaluation report, verbal presentation of the results, informational materials (newsletters, brochures, etc), media use, etc. The evaluation report can provide general information (local or national) related to the quality of water supplied, the scale and incidents of water-related diseases, access to water and sanitation and the effectiveness of the management and the protection and use of freshwater resources.

**Key Points**

* Information shall be accessible and available to ensure the active public participation
* Close cooperation between public participants and state authorities is vital
* Communication of the evaluation results to the stakeholders is an important and valuable input

Shall we include Slovak and Hungarian case studies?

(ii) International obligations related to public participation

1. Integration of the transboundary dimension (basin approach)

***(Serhiy Vykhryst, 3-4 pages)***

*PP should be established at the transboundary level. Riparian countries should establish joint bodies and joint targets for shared water source as the management of this shared water source has a transboundary impact on water and health*

*Refer to Article 13*

Pursuant to article 13.1 (b) of the Protocol “[W]here any Parties border the same transboundary waters, as a complement to their other obligations under articles 11 and 12 [of the Protocol], they shall … [E]ndeavour to establish with the other Parties bordering the same transboundary waters joint or coordinated water-management plans in accordance with article 6, paragraph 5 (b)”, which, as mentioned earlier, requires Parties “[I]n doing so … [to] make appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and … ensure that due account is taken of the outcome of the public participation.”

Pursuant to article 13.1 (c) of the Protocol the above Parties shall “[O]n the basis of equality and reciprocity, adapt their agreements and other arrangements regarding their transboundary waters in order to eliminate any contradictions with the basic principles of this Protocol and to define their mutual relations and conduct regarding the aims of this Protocol.”

Moreover, pursuant to article 13.2 “Where the Parties concerned are Parties to the [Water] Convention, the cooperation and assistance in respect of any transboundary effects of water-related disease which are transboundary impacts shall take place in accordance with the provisions of the Convention.”

The above provisions are construed to ensure closer cooperation between the Riparian Parties in achieving the objectives of the Protocol, as the management of shared water sources has a transboundary impact on water and health. Such a cooperation shall encompass entering into bilateral or multilateral agreements or other arrangements, where those do not yet exist, or adapt existing ones, where necessary, in order to eliminate any contradictions with the basic principles of this Protocol and to define mutual relations and conduct of the Riparian Parties regarding the aims of the Protocol.

The obligation to enter into agreements or other arrangements exists only for the Riparian Parties with respect to other Riparian Parties, i.e. the Protocol does not create such an obligation for the Riparian Parties with respect to States which are not Parties to it. Measures to adapt existing agreements or other arrangements may include amendments to the text of existing instruments or adoption of additional protocols, memoranda, etc. It is also possible for the Riparian Parties which already have a transboundary water agreement to enter into a new agreement, for instance in cases where adaptation of the existing one would prove a more complicated process than preparing a brand new one.

The Riparian Parties should consider granting access to the text of draft agreements or of other arrangements to the public and to provide for public participation, including NGOs, in their elaboration. NGOs should be invited to participate in intergovernmental negotiation meetings and to comment on draft agreements.

While drafting and negotiating new agreements or other arrangements, the Riparian Parties have to ensure that the agreements provide for the establishment of a joint body. The definition of “joint body” is to be found in article 1.5 of the Water Convention. Pursuant to it, “joint body” means any bilateral or multilateral commission or other appropriate arrangements for cooperation between the Riparian Parties”. The joint body shall be entrusted to perform, at least, the set of tasks listed in the Water Convention. If existing agreements or other arrangements do not provide for the establishment of joint bodies, the Riparian Parties shall take steps to adjust such instruments accordingly. The Riparian Parties may adopt a gradual approach in the definition of the tasks for the joint bodies they establish, with a view to eventually cover all the tasks listed in the Water Convention.

There are some features that are generally essential for the efficiency of joint bodies. These include: wide competence and representation of different authorities and agencies, which would allow for implementation of integrated water resources management; clearly defined powers; an organizational structure that allows developing and adopting decisions, as well as implementing them. Such principles also encompass effective mechanisms for cooperation of a joint body with national authorities, clear reporting mechanisms, availability of financial means for implementation of joint programmes and for support of organizational structure, ensuring mechanisms for public participation and stakeholder involvement in the activity of a joint body. Provisions to ensure public participation should also be provided.

*Case studies:*

* *Public participation in ICPDR*
* *Moldova: Example of implementation of Art. 13 in the Dniester River transboundary basin: elaboration of an effective model of transboundary cooperation of Moldovan and Ukrainian sanitary-epidemiological services* ***(Tatiana Sinaeva, Moldova)***

**Realization of Article 13 of the Protocol on Water and Health in the Dniester River basin**.

**Moldova and Ukraine** are both Parties to the Protocol on Water and Health, and share the transboundary Dniester River. The Dniester has a length of 1380 km, it is a main water source for many localities of Moldova and Ukraine. The Dniester River basin covers seven Ukrainian oblasts and a major part (59%) of the Republic Moldova with the density of population 110 persons per sq. km and of more than 7 mln people. In the period 2005 - 2011 in Moldova and Ukraine was realized a project “Cooperation in the transboundary Dniester River basin” supported by UNECE and OSCE Kiev. The project scope was to support the regional cooperation between Moldova and Ukraine in sustainable use of the Dniester River basin via creation of the inter-governmental agreement on the river basin, which should help to involve all stakeholders to its management. One of project spheres is the unification of efforts of the sanitary-epidemiological services of the region to establish joint water quality monitoring to avoid water-related diseases by creation and implementation of the efficient cooperation model. Such big cities like Chisinau and Odessa are supplied with the Dniester water for potable scopes.

In the project beginning the water and health component was not taken into consideration, but NGOs, involved to the project, insisted that such component is important and should exist.

With the scope of its implementation it was created a mixed working group composed from representatives of the sanitary-epidemiological services of Moldova and Ukraine which cover the Dniester River basin, but the representative of NGO was nominated as the WG coordinator. It is important that the Transdniester region of the Republic of Moldova was also presented in the WG. The WG elaborated and coordinated the joint Regulation on evaluation of sanitary-epidemiological quality of water which became an annex to the existing boundary waters agreement between the governments of Moldova and Ukraine and based on the Art. 6 of this agreement.

The Regulation objective is the determination of main criteria of the Dniester transboundary waters quality to evaluate its sanitary-epidemiological status to get comparable approaches for the analytical services in both countries. The model of cooperation proposed provides the joint water sampling on chemical, bacteriological and virologic parameters, the operative exchange of information and fast reaction in cases of emergency to prevent the outbreaks of diseases. The proposed model became an effective instrument which permits to include the water and health issues into river basin management plans and to prevent water-related diseases, which is related to the scopes of the Protocol.

The provisions of the Regulation were tested in 2009-2011 during joint water sampling and the analysis data exchange. The joint work of the sanitary specialists of two riparian countries demonstrated the effectiveness of the transboundary cooperation model.

1. International obligations related to public participation, vis-a-vis the bodies of the Protocol

***(Csaba Kiss)***

* ***Reporting***

*Reporting by Parties to the Meeting of the Parties is an obligation every 3 years and should involve public in the preparation of the reports (cf. draft guidelines on reporting under the Protocol[[25]](#footnote-25))*

*Public has the right to write alternative reports*

* ***Communications to the Compliance Committee***

*Submission, referral or communication by Parties relating to specific issues of compliance*

*Possibility of communication from the public to the Compliance Committee (refer to the guidelines[[26]](#footnote-26) on communication from the public to the Compliance Committee, and to the implementation committee under the Water Convention)*

Reporting

Art. 16.3 (b) provides that the Parties at their meetings, shall “evaluate progress in implementing this Protocol on the basis of information provided by the Parties in accordance with guidelines established by the Meeting of the Parties“

[…]

(f) Establish the modalities for the participation of other competent international governmental and non-governmental bodies in all meetings and other activities pertinent to the achievement of the purposes of this Protocol;

So what has been said in relation to the Convention above regarding participation of civil society at a MOP is applicable respectively to the MOP of the Protocol as well.

Shall we add more on reporting and compliance (see docs under 6b and 6c here http://www.unece.org/env/water/whmop2\_documents.html)?

Each Party shall provide to the secretariat referred to in article 17, for circulation to the other Parties, a summary report of the data collected and evaluated and the assessment of the progress achieved.

In order to facilitate the reporting, the following documents were adopted:

* Guidelines on the Setting of Targets, Evaluation of Progress and Reporting[[27]](#footnote-27);
* Guidelines for Summary Reports in Accordance with Article 7 of the Protocol on Water and Health[[28]](#footnote-28);
* Format for Summary Reports under the Protocol on Water and Health[[29]](#footnote-29).

There are public participation opportunities in the reporting process as follows:

First of all, the Protocol ensures that the results of water and effluent sampling carried out for the purpose of collection of data are available to the public (Art. 7.3).

The Reporting Guidelines prescribes only a very general public participation requirement such as Parties are also encouraged to consider the participation of all relevant stakeholders in the preparation and use of summary report, including NGOs, civil society, local communities, business and the media, and therefore organize a broader consultation on the draft report.

The Summary Reporting Guidelines acknowledge that the preparation of summary reports is a cooperative exercise and entails joint responsibility of at least the ministry responsible for public health and the ministry responsible for water resources. It prescribes that

15. Parties are encouraged to consider the participation of all relevant stakeholders in the preparation and use of the summary reports, including non-governmental organizations (NGOs), civil society, local communities, the private sector and the media.

It is also highlighted in the outreach-related items of the Guidelines such as

17. The preparation of summary reports is an important opportunity for communicating the work achieved in meeting the Protocol’s objectives to the general public and other stakeholders, including the private sector, and involving them in national implementation. To this end, in addition to involving stakeholders in the preparation of summary reports, it is particularly important for Parties, after having submitted their summary reports, to communicate to the general public the positive outcomes identified in the reports and the obstacles and challenges that remain.

Summary Reporting Format

There is also a particular question in the Format (Provide information on the process by which this report has been prepared, including information on which public authorities had the main responsibilities, which other stakeholders were involved, etc.) that is supposed to guarantee that a) the public is involved and b) this action is properly reported.

All these are important because in case the reporting reveals that there was no sufficient public participation, it can give rise to a compliance procedure. As was demonstrated in real life, the first reporting exercise under the Protocol was conducted during autumn 2009/spring 2010. It showed that a number of Parties were facing difficulties in implementing the Protocol, in particular with its core obligation to set targets and target dates using public participation.

Compliance Committee

Moreover, there is an additional body that has significance in terms of public participation, and it is the Compliance Committee of the Protocol.

The text in the Protocol clearly relies on the similar text of Aarhus Convention, establishing a non-confrontational, non-judicial and consultative forum for discussing issues in order to facilitate, promote and aim to secure compliance by Parties with the Protocol.

The Compliance Committee under the PWH very much works like the Aarhus Convention Compliance Committee, except that this Compliance Committee is supposed to find solutions in relation to issues that stem from the implementation of the Water and Health Protocol. It addresses cases of non-compliance by Parties and provides advice or assistance to Parties, where appropriate.

The CC has not been set up as late as 2007 and to date had only seven meetings. Its members are not representatives of governments but they work in their personal capacity, objectively and impartially. Many (at least three) of its nine members are working for the NGO sector, therefore public involvement in this international body is again guaranteed.

There can be three ways to approach the Compliance Committee:

* by submissions that may be brought before the CC by one or more Parties that have reservations about another Party's compliance with its obligations under the Protocol;
* by referrals that may be brought before the CC by the secretariat after unsuccessful attempts to call upon a Party to meet the Protocol’s reporting requirements after noticing a possible non-compliance;
* by communications from the public that may be brought before the CC by one or more members of the public concerning that Party’s compliance with the Protocol.

Being the most relevant form of initiating a case, the MOP has adopted Guidelines on communications to the CC[[30]](#footnote-30).

Some of the items related to a communication to the CC summarized in the Guidelines are the following:

1. any member of the public, i.e. any natural or legal person, or group of people may submit a communication to the CC;
2. a member of the public does not need to be affected in order for him or her to submit a communication;
3. it is not necessary for the communicant to be represented by a lawyer or have the communication prepared with legal assistance;
4. a communication may address actions, omissions, events or situations not meeting obligations established by the Water and Health Protocol;
5. these can be a general or a specific failure by a Party to take the necessary legislative, regulatory, institutional, administrative, operational, budgetary/financial, technical, infrastructural, management, enforcement or other measures necessary to implement the Protocol, specific events, acts, omissions or situations which demonstrate a failure of the State authorities to comply with or enforce the Protocol and specific instances of violation of rights of individuals under the Protocol;

Shoud we shorten the section to concentrate on the fact that there are other procedures for the public to participate and how they can be used, how they have been used and what impact their use can have on the implementation of the PWH?

The Compliance Committee had no case whatsoever (either by submission, referral or communication) to date that had to be decided upon.

Should we add a paragraph on the consultation process?

**Tool box**

(Tools to be identified previously in the different processes of public participation and refer to the concept note on access information and public information prepared by WECF for the Second Meeting of the Parties[[31]](#footnote-31))

***Anke Stock, Anna Tsietkova, Ana Drapa***

In this section tools that have been identified previously in the different processes of public participation will be described in detail. Reference is made to the concept note on access information and public information prepared by WECF for the Second Meeting of the Parties[[32]](#footnote-32).

Decisions are taken at different levels (international, national, federal, provincial and local) and therefore require different tools. Even within one level, different designs of the process are possible, as there is not one method that fits all processes.

The selection of the most appropriate tools and techniques for public participation depends on the nature of the decision and its surrounding circumstances. For example:

* 1. For highly controversial issues or issues of high environmental significance, more formalised and elaborated procedures may be most appropriate to ensure effective public participation (for example public inquires or public debates or public hearings with submission of formal evidence and possibility for cross-examination).
  2. For less controversial activities or those with less potentially harmful effects access to all relevant information and the opportunity to submit written comments and have these taken into account may be sufficient.[[33]](#footnote-33)

Furthermore, there is a wide spectrum of potential public participation - from  “no” opportunity to influence (“inform”) to partial power to influence (“consult”, “involve”) to total influence over the outcome (“collaborate”, “empower”). The different levels of public participation play a key role in choosing the right tool[[34]](#footnote-34).

AT: who can initiate and carry out the public participation? According to the Ukrainian legislation, authorities (local or national), NGOs and local communities self-governance institutions can be as initiators as well as organizers or co-organizers of the public participation process. Public hearing in some countries this tool can be used by authorities only. Public or CBOs ,CSOs and NGOs can initiate the public hearings only and the local authorities can accept or not the initiative. Tools of public participation depends also on the stage of the decision –making or planning cycle processes and resources availability (human, time, money).

**Tools to Inform**

|  |  |
| --- | --- |
| **Public hearing/Public inquiry** | A formal gathering of officials and the public (all stakeholders) where the views and concerns of members of the public are verbally expressed regarding a planned action. The authority calling for a public hearing is required to consider the comments in its evaluation of the action being taken[[35]](#footnote-35). |
| **Expert panels** | Public meeting designed in a “Meet-the-Press” format. A panel interviews experts from different perspectives.  Can also be conducted with a neutral moderator asking questions to panel members[[36]](#footnote-36). |
| **Media** | E.g.:  a. Press releases, press-conferences, press-tours and other press-events;  b. Print advertisements;  c. TV spots;  d. Articles or documentaries. |
| **Printed public information material** | a. Fact sheets;  b. Newsletters;  c. Brochures;  d. Issue papers;  e. Progress reports. |
| **List servers and e-mails** | Both list serves and emails are electronic mailing lists. Anyone can register on a list serve to receive all messages sent to the respective list serve. Using e-mail: someone needs to create and maintain an electronic distribution list for the project. |
| **Field offices** | Offices established with prescribed hours to distribute information and respond to inquiries.[[37]](#footnote-37) |
| **Hot lines** | Identify a separate line for public access for pre-recorded project/programme information or to reach staff in person who can answer questions and/or obtain input[[38]](#footnote-38). |
| **Citizens’ juries** | Small group of ordinary citizens empanelled to learn about an issue, cross-examine witnesses, make recommendations[[39]](#footnote-39). |
| **Interviews** | One-to-one meetings with stakeholders to gain information for developing or refining public involvement and consensus-building programs[[40]](#footnote-40). |

There are tools of passive and active informing. One of the popular and formal tools of public informing is dissemination of the information via website and other Internet tools, including social networks and services.

Do we have a case study to illustrate?

**Tools to Consult**

|  |  |
| --- | --- |
| **Referendum** | A vote on a measure/project as submitted e.g. passed on or proposed by a legislative body or by popular initiative[[41]](#footnote-41). |
| **Public inquiry/Public hearing** | See above |
| **Public opinion surveys** | The survey offers the possibility to query the public in order to collect data for the analysis of different aspects of the measure/project/programme. It can take place in person, via phone, internet or by mail. |
| **Working groups/Workshops** | An informal public meeting that may include presentations and focuses on interactive working groups[[42]](#footnote-42). Interactive groups are facilitated by trained persons. |
| **Round tables** | A small sized group (participants are invited) that starts with presentations on the project/measure (maybe 15 min.) and is followed by a longer discussion. Participants meet on equal terms. It is ideal to receive targeted input. |
| **Group model building** | An approach where a group of around ten persons gathers in one or more sessions and is guided by a modelling team in the construction of the model. The goal is to increase insight into the problem, create alignment and develop a robust strategy to improve system performance[[43]](#footnote-43). |
| **Focus groups** | Message testing forum with randomly selected members of target audience[[44]](#footnote-44). |
| **River basin steering committee meeting** |  |
| **Written submissions** | Submissions by the public on a specific project/programme. The public is invited to submit input within a given timeframe and often asked to provide submissions in a special format (page limit, language etc.). |

Public consultation process as a part of public participation can include the public lobbying tools, which help to deliver and take into due account/incorporate the public opinion or proposals into the decision. Usually public lobbying tools are related to the multi-stakeholders consulting tools – participation representatives of public (persons, delegates, NGOs in the meetings of the River basin join bodies, expert/task force/working groups, national policy dialogues, interdepartmental implementation/coordination mechanisms, forums.

Public participation is important for the monitoring, reporting stage of the decision implementation process. Protocol on water and health promotes the public participation in targets setting as well as in reporting on progress on achievements of Protocol implementation. At this stage public participation can be based on participation in preparation and contribution into the preparation, discussion of the country Report on progress in Protocol implementation (preparation of a chapter on public participation in the Protocol implementation country report or the alternative/additional public Report on Protocol progress report).

Do we have an example of RB S Committee? In Russia, Ukraine, Moldova there are Rivers’ basin councils, which have the advisory body status only in compare with Join bodies of in which public has representatives. In Ukraine the portion of the public and joint bodies there is no RB SC, but the River basin council which have to be the river parliament, like in France

Public hearings ***(case study by Odile Nieuwyaer, Paris)***

*CASE STUDY France:*

Public hearings/consensus conference

*Summary: the City of Paris organized a consensus conference dealing with the future of the raw water network. The importance of information and training is stressed, as well as the jury composition and the questions asked.*

In 2009 the city of Paris launched a ***consensus conference*** dealing with the future of the raw water network. The purpose of the conference was to determine the relevance of keeping a double water supply network. Since the 19th century, there are indeed two different networks in Paris: the first one is dedicated to the drinking water supply whereas the second one carries raw water which is used for several goals (street cleaning, sewers cleaning, watering public gardens, supplying rivers and lakes in public parks).

The city expected the participants of the conference to express propositions and recommendations on the city policy. The questions asked to the jury were:

- What could be the uses and users of raw water in a short, mid- and long-term vision?

- What are the alternatives to the use of raw water?

- What uses of the network infrastructures could be imagined in a dense urban area as Paris?

- Which actions towards users/citizens could be imagined to follow these evolutions?

At first sight, such a technical topic might not concern the public. However, economical, cultural and environmental dimensions are equally important elements we had to integrate to the discussion. That is why the jury was not exactly composed of profane members, but they were chosen for their interest in water issues and their professional backgrounds: journalist, architect, historian, industrialist, environmental NGO, member of local democratic committee, professor, town planner, student, etc.

The 14 jury members auditioned a group of experts, who enlightened the debate with their contributions on technical, sanitary, environmental, economical, historical, and cultural dimensions. The city hired a professional to lead the debate and the auditions.

For several days the jury was first trained on the specific situation of water supply and raw water issues in Paris. A convention between the city and a research institute was signed in order to finance a research program on sustainability of raw water networks. A pedagogical document which sums up the results of this research was then given to the jury members. A specific website was created, enabling jury members to post messages and ask questions, and to communicate between them.

The conference lasted 2 days; the first one was devoted to experts’ presentations and debate whereas the last one was dedicated to the jury deliberation and the presentation of its propositions.

Finally the conclusions of those debates were more contrasted than the technical studies led by the city. Indeed studies have claimed mostly for the disappearance of raw water network, because of the lack of investment in previous years and decrease of water consumption. This solution was advocated by only a minority of participants. Most of them considered that, in a long term vision, a double water network is an opportunity to diversify water supplies and water qualities. They recommended the city should maintain it and modernise the service by seeking new uses and new origins for non drinking water (river water, but also rain, grey water, etc.). Once economical and technical studies confirmed the possibility to keep and modernise this network, the municipal officials’ vote followed the citizens’ recommendations in March 2012: the raw water network has been maintained active.

Such a citizen consultation has raised interest for this topic, making populations more involved in. When officials voted to keep the network, this decision was mainly shared by the population. Integration of cultural, historical, social and environmental elements has been definitely the real benefit of that experience, raising the debate on the place of water in the city.

The consultation gave stakeholders an opportunity to be formed and to understand a technical subject which was, until then, studied by the city engineers only.

As for the lessons, to foresee enough time and adequate budget for consultation in a project’s time schedule is very important; in this case, it took 6 months and around 10 000 € to develop the conference.

The type of tool depends on the subject and the question asked to the public. Here, the subject was complex and technical, therefore the citizens were chosen for their interest in water issues and their professional background. They managed to provide innovative visions of what the network could become, and which new uses can be found, thanks to that large composition.

Information and training are essential to achieve the results expected. Even if this citizen’s jury was not composed of profane citizens, a time for training is essential to fully understand the subject.

Working groups ***(case study by Odile Nieuwyaer, Paris)***

*Summary: the city of Paris organized workshops in order to make citizens participate to the definition of the city’s water policy.*

Case Study France

In 2011, the city of Paris organized **workshops** enabling citizens to participate to the definition of the city’s water policy.

Volunteers who took part at the working groups were members of the Parisian Observatory for Water (*Observatoire parisien de l’eau*). This authority was created by the City and is a citizens’ observatory, composed of consumers and environmental NGOs, local committees, social landlords, industrialists, local elected representatives, experts, and organizations involved in the governance of water. It aims to provide information on water issues, organize public consultations, to achieve a more equitable and transparent water management.

The workshops were divided in three sessions; during the first meeting the participants had presentations on the governance of water, then they were invited to identify which subjects were the most important according to them, and what they wanted to work on.

They studied five subjects:

- Raw water;

- Rain water;

- Public information on water issues;

- Equal access to water;

- Water quality and resource protection.

For each theme, documents (maps, legal frame…) were provided, and some questions were asked to frame the debate on what should be the City’s priorities in water management.

During the second and third sessions, the groups worked on the different topics, and shared their propositions. All of them were not taken into account in the final document but all have been written down and communicated to the Parisian Observatory for Water.

One weakness we could point out is the fact the Observatory members are not the most representative of the local population; they volunteered, which means they were already interested by the subject, and were trained by the Observatory information meetings. We did not hear more vulnerable groups which are hardly involved in these kinds of workshops.

However, this initiative permitted to ensure that the water policies presented in the final document respond to a need, and to identify which themes are more important. It worked because people could choose the subjects they were interested in and had something to say, but this was only possible because it was a very general document, embracing all aspects of water management in the city.

Feedback is very important to end properly this exercise. Therefore, after the city’s water policy has been written, a last meeting was set up to inform participants of which propositions were taken into account, and the reasons why others could not.

Written submission

Surveys ***(UKR)***

Round tables

Communication via media ***(Serbia)***

Group model building

1. Water Governance in OECD Countries: A Multi-level Approach (OECD, 2011), available at http://www.oecd.org/document/48/0,3746,en\_2649\_37465\_48896205\_1\_1\_1\_37465,00.html [↑](#footnote-ref-1)
2. Available at: <http://www.unece.org/fileadmin/DAM/env/documents/2010/wat/MP_WH/wh/ece_mp_wh_2010_2_E.pdf> paragraph 20-21 [↑](#footnote-ref-2)
3. Reference to the main outcomes of the workshop [↑](#footnote-ref-3)
4. http://www.unece.org/index.php?id=11644&L=0 [↑](#footnote-ref-4)
5. http://www.unece.org/tfppdm2&pwh [↑](#footnote-ref-5)
6. <http://www.unece.org/environmental-policy/treaties/water/envwaterpublicationspub/envwaterpublicationspub74/2011/setting-targets-and-target-dates-under-the-protocol-on-water-and-health-in-the-republic-of-moldova/docs.html> [↑](#footnote-ref-6)
7. http://www.unece.org/fileadmin/DAM/env/water/Protocol\_on\_W\_H/Target\_set\_by\_parties/Ukraine\_indicators\_publication.pdf [↑](#footnote-ref-7)
8. Public participation under the Aarhus Convention: A useful model for water and health? By Fiona Marshal- Arhus Convention Secretariat (www.unece.org/fileadmin/DAM/env/pp/ppdm/Presentations/4.Aarhus\_Convention\_-\_a\_useful\_model\_for\_WH.pdf) [↑](#footnote-ref-8)
9. Guidelines on the Setting of Targets, Evaluation of Progress and Reporting (www.unece.org/env/water/publications/documents/guidelines\_target\_setting.pdf) [↑](#footnote-ref-9)
10. Public participation under the Aarhus Convention: A useful model for water and health? By Fiona Marshal- Arhus Convention Secretariat (www.unece.org/fileadmin/DAM/env/pp/ppdm/Presentations/4.Aarhus\_Convention\_-\_a\_useful\_model\_for\_WH.pdf) [↑](#footnote-ref-10)
11. The “Guidelines on the setting of targets, evaluation of progress and reporting” (<http://www.unece.org/fileadmin/DAM/env/water/publications/documents/guidelines_target_setting.pdf>). [↑](#footnote-ref-11)
12. Setting targets and target dates under the Protocol on Water and health in the Republic of Moldova, Chisinau, 2011. (<http://www.eco-tiras.org/books/W&H-book-MD-En-2011.pdf>**)** [↑](#footnote-ref-12)
13. Targets set by Finland under the Protocol on Water and Health (http://www.unece.org/fileadmin/DAM/env/water/Protocol\_on\_W\_H/Target\_set\_by\_parties/Finland\_Targets.pdf) [↑](#footnote-ref-13)
14. Case study from Armenia. [↑](#footnote-ref-14)
15. Targets set by Parties under the Protocol on Water and Health (http://www.unece.org/fileadmin/DAM/env/water/Protocol\_on\_W\_H/Target\_set\_by\_parties/Czech\_republic\_\_targets.pdf) [↑](#footnote-ref-15)
16. Targets set by Parties under the Protocol on Water and Health (http://www.unece.org/fileadmin/DAM/env/water/Protocol\_on\_W\_H/Target\_set\_by\_parties/Hungary.pdf) [↑](#footnote-ref-16)
17. # Setting targets and target dates under the Protocol on Water and health in the Republic of Moldova, Chisinau, 2011. (<http://www.eco-tiras.org/books/W&H-book-MD-En-2011.pdf>)

    [↑](#footnote-ref-17)
18. Targets set by Parties under the Protocol on Water and Health (http://www.unece.org/fileadmin/DAM/env/water/Protocol\_on\_W\_H/Target\_set\_by\_parties/Ukraine\_indicators\_publication.pdf) [↑](#footnote-ref-18)
19. The Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes ([http://www.unece.org/fileadmin/DAM/env/ documents/2000/wat/mp.wat.2000.1.e.pdf](http://www.unece.org/fileadmin/DAM/env/%20documents/2000/wat/mp.wat.2000.1.e.pdf)). [↑](#footnote-ref-19)
20. The “Guidelines on the setting of targets, evaluation of progress and reporting” (<http://www.unece.org/fileadmin/DAM/env/water/publications/documents/guidelines_target_setting.pdf>). [↑](#footnote-ref-20)
21. UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. [↑](#footnote-ref-21)
22. 2nd UNECE-SDC project/2012. [↑](#footnote-ref-22)
23. Zarinpoush F. Project evaluation guide for non-profit organizations [↑](#footnote-ref-23)
24. Guidance document on Public Participation [↑](#footnote-ref-24)
25. Download at: [http://www.unece.org/fileadmin/DAM/env/water/meetings/TFIR/Third%20meeting/ guidelines\_for\_reporting\_english.pdf](http://www.unece.org/fileadmin/DAM/env/water/meetings/TFIR/Third%20meeting/%20guidelines_for_reporting_english.pdf) and refer to Part C. [↑](#footnote-ref-25)
26. http://www.unece.org/fileadmin/DAM/env/documents/2010/wat/MP\_WH/wh/ece\_mp\_wh\_2010\_4\_E.pdf [↑](#footnote-ref-26)
27. <http://www.unece.org/fileadmin/DAM/env/documents/2009/wh-wg/ece_mp_wh_wg_1_2009_4%20E.pdf> [↑](#footnote-ref-27)
28. <http://www.unece.org/fileadmin/DAM/env/water/meetings/TFIR/Third%20meeting/guidelines_for_reporting_english.pdf> [↑](#footnote-ref-28)
29. <http://www.unece.org/fileadmin/DAM/env/water/meetings/TFIR/Third%20meeting/template_reporting_english.doc> [↑](#footnote-ref-29)
30. <http://www.unece.org/fileadmin/DAM/env/water/meetings/CC/Guidlines_on_communication.doc> [↑](#footnote-ref-30)
31. http://www.unece.org/fileadmin/DAM/env/documents/2010/wat/MP\_WH/wh/ece\_mp\_wh\_2010\_4\_E.pdf [↑](#footnote-ref-31)
32. http://www.unece.org/fileadmin/DAM/env/documents/2010/wat/MP\_WH/wh/ece\_mp\_wh\_2010\_4\_E.pdf [↑](#footnote-ref-32)
33. Taken from the „Draft Recommendations“ prepared by the Task Force on Public Participation in Decision-making of the Aarhus Convention. [↑](#footnote-ref-33)
34. EPA, United States Environment Protection Agency, Public Participation Guide. See here: <http://www.epa.gov/international/public-participation-guide/Tools/index.html> (25.8.2012). [↑](#footnote-ref-34)
35. Webster’s Online Dictionary,

    <http://www.websters-online-dictionary.org/definitions/PUBLIC+HEARING?cx=partner-pub-0939450753529744%3Av0qd01-tdlq&cof=FORID%3A9&ie=UTF-8&q=PUBLIC+HEARING&sa=Search#906> (29.7. 2012). [↑](#footnote-ref-35)
36. International Association Public Participation, Public Participation Toolbox, p. 1. [↑](#footnote-ref-36)
37. International Association Public Participation, Public Participation Toolbox, p. 2. [↑](#footnote-ref-37)
38. International Association Public Participation, Public Participation Toolbox, p. 2. [↑](#footnote-ref-38)
39. International Association Public Participation, Public Participation Toolbox, p. 9. [↑](#footnote-ref-39)
40. International Association Public Participation, Public Participation Toolbox, p. 7. [↑](#footnote-ref-40)
41. Merriam-Webster Dictionary, <http://www.merriam-webster.com/dictionary/referendum> (29.7. 2012). [↑](#footnote-ref-41)
42. International Association Public Participation, Public Participation Toolbox, p. 15. [↑](#footnote-ref-42)
43. Jac A.M. Vennix, Group Model-Building, p.1. [↑](#footnote-ref-43)
44. International Association Public Participation, Public Participation Toolbox, p. 11. [↑](#footnote-ref-44)