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**Procedures for consultations with public
authorities and public participation**

Implementing the Espoo Convention and its Protocol
on SEA in national legislation in Azerbaijan

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Content

- Consultations with public authorities
 - Competent authority vs consulted authority
 - Consultations in EIA
 - Consultations in SEA
- Public participation
 - Role in EIA/SEA and relation to Aarhus
 - Public and public concerned
 - Public participation in EIA
 - Public participation in SEA

Competent authority vs consulted authority

- Competent authority – authority competent to take decision
 - In SEA – authority responsible for adopting strategic document (planning authority)
 - In EIA – authority competent to authorise the project (usually with general competence)
- Consulted authority
 - Types (Environmental authorities and Health authorities)
 - Fixed or consulted ad hoc
 - May have different roles in EIA and SEA!

Competent authority and EIA

- Competent authority responsible for conducting EIA procedure, including public participation
- Delegation of tasks
 - Specialised bodies
 - Local authorities
- Role of developers
- Compare General Guidance...

Consultations in EIA

- Place in EIA procedure
 - Screening
 - Scoping
 - Views regarding
 - Environmental acceptability of the project
 - quality of EIA Report
 - Post-project analysis
- Role
 - Decision-making vs co-decision-making vs consultative role

Consultation with environmental authorities – EIA Directive art.6.1

- Authorities likely to be concerned by reason of their specific environmental responsibilities or local and regional competences
- „are given an opportunity to express their opinion,, - thus not necessarily do have to express such an opinion
- Opinion on both
 - The project
 - EIA documentation
- Detailed arrangements to be made by Member States, including reasonable time-frames

Consultation with other authorities in SEA

- Environmental and health authorities clearly identified at each applicable stage (for example: Environment Ministry, Regional Sanitary Inspectorate etc)
- Decision-making vs co-decision-making vs consultative role
- Role in screening and scoping vs role in adopting the final strategic document
- Role of Foreign Ministry in case of transboundary procedure

Public participation in EIA/SEA

- Mandatory element in EIA/SEA
- Synergy with Aarhus Convention
 - EIA and art. 6
 - SEA and art.7
- Public participation and access to justice

Public and public concerned

- Definitions from Aarhus – now included to other conventions
- Public
 - One or more
 - Natural or legal persons
 - in accordance with national legislation or practice, their associations, organisations or groups
- Public concerned
 - Affected or likely to be affected, or
 - Having an interest
 - Including NGOs:
 - Promoting environmental protection
 - Meeting any requirements under national law

Public participation in EIA

- Meant to implement art.6 of the Aarhus Convention
- Relation with transboundary procedure in the context of non-discrimination clause in the Aarhus Convention (art.3.9)
- Elements of the procedure
 - Informing (notifying) the public
 - Making available relevant information
 - Possibility to submit comments and opinions
 - Taking into consideration the results of public participation
 - Informing the public on the decision and its availability (together with the reasons and considerations on which the decision is based)

Notifying the public in EIA Directive

- Form
 - public notices or by other appropriate means such as electronic media where available,
 - bill posting within a certain radius
 - publication in local newspapers
- Detailed content of the notification
- Relation to art. 6 Aarhus Convention
 - public vs public concerned
 - timely, effective and adequate manner of informing

Mandatory form of notifying the public in Poland and Estonia

- Public notice
 - webpage - (in Public Information Bulletin)
 - notice board in the seat of competent authority
 - notice in the vicinity of project (bus stop, church, local shop etc)
 - press (local or national)
- Individual notification (letter) - to immediate neighbours

General principles – early participation and reasonable timeframes

- Early participation –
 - when all options are open
 - before decision is taken
- Reasonable timeframes -change of approach
 - (original EIA Directive) „appropriate time limits for the various stages of the procedure in order to ensure that a **decision is taken within a reasonable period**”
 - (EIA Directive after Aarhus) „Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.
- Different phases

Public participation in SEA

- Mandatory element of SEA
- Public participation in SEA stages – experience in EU:
 - sometimes at screening
 - often in scoping (could be combined with commenting on outline/concept for strategic document)
 - always: commenting on SEA Report and the draft strategic document

Public participation – key elements

- Relation to article 7 of Aarhus Convention
- Requirement for “early in the decision-making when all options are possible”
- Public vs public concerned
- Identification of the public which should participate
- Key role of informing the public effectively (not only webpage!)
- Time-frames for public participation
 - Belgium and Italy - 60 days
 - Spain, the Netherlands and Latvia - 40-45 days
 - Other countries - usually 30 days