

**Name of Exercise:** Public consultation on location of shopping centre

**Location:** Decin, Czech Republic

**Participation Exercise under which Article?** Article 6

**Purpose of Participation Exercise:**

*To obtain public comment and reaction regarding proposals to build a supermarket within a housing area.*

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**Background:**

A large sports centre was planned within Decin Old Town (Staré Město). The elected municipality representatives had approved these plans under the municipal law as part of the town development plan which is valid for 10-15 years. Since an investor was not available to build the sports centre, city representatives voted for a change in the local area plan to build a shopping centre instead. This is legally acceptable. However, the site for the development had previously been a waste disposal site for inert material.

**Participation Techniques Used:**

The public were encouraged to react in writing to investor plans within 30 days of publication. Responses could also be given during a public meeting and discussion organised by the investor. During this meeting, investor plans were presented to the public and their questions answered.

**Who participated?**

About 100 – 150 people participated in the public/discussion meeting. The chief of the town environment department mentioned the hall was “overflowing” with participants. Among those sectors represented were civic associations, the public, and NGOs. Generally only persons opposed to the plans attended the discussion.

**Stage(s) at which public participated in the process:**

Citizens could provide written comments and the suggestions of civic associations within 30 days of the release of the proposed investment plans. These comments included suggestions and comments concerning the environmental impact assessment documents.

The municipality received two written comments. However, both of these were received from civic associations which means that a number of signatures were represented. In one case, ten Children of Earth signatures were collected. In the second case, the Green party made a statement on behalf of all its members (the number of members is not known).

The investor also organised a public discussion concerning the proposed location of the supermarket. This took place in accordance with the law 244/92 Coll., where the investor, assessor and representatives of the municipality government responded to the questions of citizens. The investor introduced the full project idea and highlighted its advantages and benefits. Furthermore, the investor noted the site had been cleaned up of the previous damage which had occurred as a result of previous activities, including a slaughterhouse.

The municipal council also provided a statement regarding the activity, indicating that although a spatial building plan has already been developed for the proposed location (for a sports centre), it is possible to change this, based on the Law on Municipalities. The Municipality Council indicated its acceptance of the proposed construction plan, and added its own environmental conditions under which the construction should be allowed.

The citizens of the affected area within Decin spoke against the proposed construction since the location is near a residential zone. The citizens of local homes voiced their concern at the potentially huge numbers of vehicles passing through supplying the new shopping centre and parking within their residential area. The location in relation to the existing swimming pool and ways in which noise and dust will be eliminated were other issues. The meeting was also attended by citizens who examined the documentation but did not express their opinion about its intentions.

A citizen' group called "Cesk? domov" ("Czech Home") was established to lobby against the proposed investment. However, it was not registered quickly enough (under the Law No. 83/90 Sb. on Uniting Citizens), and therefore its comments were not accepted for the Environmental Impact Assessment.

The Citizens' branch of the green party also expressed their opinion regarding the investment and provided concrete comments on the documentation. Specifically they indicate the documentation was incomplete and that the discussion could not take place based on the available information.

#### **What information was made available?**

On 31 January 1997, the district authority requested the town authority to publicise a report summarising the influences of the construction of a shopping centre on the environment, as required under §7 Law No. 244/92 Sb., i.e. the influence of building the shopping centre – Decin III.

The public announcement was published in newspapers (local periodicals) some five times. Further more, printed posters were distributed within the affected locality (e.g. at supermarkets, medical centre etc.), and on the town's official notice board. Television was also interested in the problem and publicised the shopping centre model.

Much of the information made available was in the form of design plans with much official documentation as well as the environmental impact assessment paid for by the investor himself. Information concerning the results of the public meeting was also accompanied by commentaries and articles in the press. However, this does not appear to have impacted greatly upon the final result.

#### **What was the outcome of the public participation exercise?**

The town of Decin, under Law No. 244/92 Sb must state an expert opinion on the proposed investments within 44 days.

The town expressed their disapproval with the submitted documentation and plans, stating their comments and concerns should be resolved before construction. These comments concerned traffic, noise, protection of the river Ploucnice habitat corridor, connection to COV (the water treatment plant) and CZT (central heating supply). These comments were included within the documentation and sent to the Environmental section of the District Authority of Decin.

As a follow up, on 17.7.1997 a public meeting was held to deal with these issues, and was attended by the authors of the EIA documentation, state administration, the Environment Ministry, Czech Inspection of the Environment, district health officer, Citizens' branch of the CR green party, the town of Decin, investor and the responsible representative of the Environmental section of the District authority. It is interesting to note that the meeting was held in July or August, the holiday season, when many people were not able to attend.

The case was concluded by the District Authority who published out a report in which they stated their approval and recommended variants of the proposed plans for the phase of preparation. These conditions should have therefore been incorporated into the project documentation.

The citizens of Decin were represented by just three candidates, the reason for this being the residents envisaged their efforts to change the outcome or final decision would be useless. The end result was that nothing was changed.

#### **Comments of participants in the process:**

Decin's Environment department approached this participation exercise in co-operation with the City Council in Prague, because of Prague's environment department's experience in dealing with investments of this nature. Comments were also collected from them on the validity of the EIA.

It was also noted by the chief of the Environment Department of the Town Authority of Decin that the investor has fulfilled the conditions for construction to which he bound himself. The municipal council of Decin therefore considers the process to have been successful, given that the public's comments were considered and responded to.

The citizens of Decin and the affected location, however, feel their comments were not accepted and considered. The environment department mentioned public opinion could further be surveyed on the issue of the construction, but adds that according to the laws of CR, the decision of the Building Office is now final and binding.

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**REC view on participation exercise:**

The public participation exercise had many elements of good practice. However, the views of the authorities and of the public were very different at the end of the process indicating that the process did not build a consensus supporting the final decision. The members of the public who participated in the procedure appear to be dissatisfied, not with the outcome of the decision, but with the manner in which their comments were handled.

An atmosphere of distrust and suspicion seems to have developed during the proceedings. It is not clear whether the confrontational and uncompromising attitude originated from the authorities or from some members of the public. It is clear, however, that the refusal to accept the participation of an unregistered NGO contributed to the bad feeling. The fact that no action was taken in response to public's comments is very different to the Tychy and Gdansk cases (Poland) case studies and the Havlickuy Brod case (Czech Republic). In these cases, a few relatively inexpensive measures were made in response to the public's comments. These created good will in favour of the final decision.

**Significant omissions from requirements of Article 6:**

Most of the requirements of Article 6 were met in this case. However, the process appears to have been somewhat deficient. Based on the information above, this case highlights the need for authorities to be able to demonstrate how they have taken due account of the public's comments. To demonstrate transparency in decision-making, a response document, giving reasons for the decision, should be made public. This is a requirement of Article 6(9).

In addition, the failure to accept comments from the NGO "Český domov" ("Czech Home") due to the lateness of its registration may be contrary to the Convention. Whereas most provisions of Article 6 apply to the "public concerned," the whole public has the right to submit comments under Article 6(7). The definition of "public," moreover, together with Article 3(4) providing for appropriate recognition of associations, organisations or groups promoting environmental protection, indicates the intention to reduce technical obstacles to participation such as registration. In any case, the members of "Český domov" would have been able to submit their comments as individuals, so their effective exclusion would be contrary to Article 6(7) as well as the general provision in Article 3(2) requiring authorities to facilitate public participation.