

Meaningful and early public participation (art 6,7,8 of the AC)

Good practice of early public participation in Greece

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Policy-makers and legislators should know that progress can only be achieved only if laws and political decisions are discussed in public, criticized and exposed to broad considerations of their advantages and disadvantages. This has as a consequence that citizens need to develop critical thinking; however, this also implies that the laws and decisions are allowed to be discussed in public. Administrations therefore shall open up, favor and promote the dialogue with civil society and try to promote the public discussion as far as any possible. The more discussions on law and policy in a society are open, critical and controversial and take place with the participation of citizens, the more that society may be considered an "open society".

And the more decisions are taken away from public discussion, in confidential meetings and decided by the - administrative, political or other - experts, the more a society is closed.

It becomes clear that the closed society-concept is not compatible with democracy, with rights of individuals and with transparent decision-making procedures.

The EU General Court has underlined that "Openness [in legislative procedures] contributes to strengthening democracy by enabling citizens to scrutinize all the information which has formed the basis for a legislative act. The possibility for citizens to find out the considerations underpinning legislative action is a precondition for the effective exercise of their democratic rights"¹.

Consequently, the public participation procedure for a decision should be open enough and seen by all parties as a prerequisite of effective action and an opportunity for real influence, not merely as a formal procedural requirement.

In Greece, there are three ways of public participation:

I. The OpenGov system

Since 2009, citizens are able to be informed on the legislative initiatives of the Ministries – including the Ministry of Environment and Energy- and able to participate in public consultation through the website ‘Open Governance’.

¹ General Court, case T-233/09, Access Info Europe v. Council, ECR 2010, p.II-1073.

In order to ensure the diffusion of information and to involve all citizens and stakeholders in the decision making mechanism, a website has been created, giving the opportunity for participation on the consultation of draft laws, ministerial decisions etc.

The Opengov.gr has been designed to serve the principles of transparency, deliberation, collaboration and accountability. Since October 2009 almost every piece of draft legislation, or even policy initiative by the government, are being posted in opengov.gr, open to public consultation.

Furthermore, a Special Permanent Committee on Environmental Protection has been established at the onset of each regular session of the Parliament and contributes in the consideration and debating of environmental issues.

According to article 6 of the law 4048/2012 on *Regulatory Governance: Principles, Procedures and Means for Better Regulation*:

“Consultation achieved with the publication, by appropriate means of the proposed regulation, in order to provide timely information and participation of civil, social and all concerned actors. The Minister having the legislative initiative is responsible to initiate the consultation process.

Consultation on the draft legislation is made through the website **www.opengov.gr** and is completed in two phases, which may occur simultaneously:

- a) The first phase of the consultation lasts at least two (2) weeks. Purpose of the consultation is to inform and provide opportunities to comment on the purpose and the intended effect of the proposed regulation, the alternatives, costs, benefits and risks that may arise from this.
- b) The second phase lasts at least three (3) weeks. During the second phase of consultation the draft provisions are being posted on the website where all interested actors can put comments article by article.

Although the *opengov* system operates continuously since 2009, practices that undermine this regulation such as the violation of the rule of three-week consultation and consultation in two phases, the lack of documentation for integrating or not certain comments - even the suppression of different views in the consultation report (i.e. draft law on the urban environment), the identification of the consultation period with the main holiday month in August may occur.

However, the consultation process seems to be a practice.

II. Provisions through specific legislation on Environmental permitting and waste management

Recent Laws 4014/2011 on environmental permitting process of projects and activities and 4042/2012 on the protection of the environment through criminal law and the restructuring of the national system for waste management, considerably contribute to the implementation of the article 6 objectives.

Law 4014/2011 -in the articles 3, 4- defines the procedure of public consultation for environmental impact assessment studies. Possible delays may occur during the procedure of making the EIA studies public. In these cases, public consultation takes part at a local/regional level.

More specifically, Law 4014/2011 aims at accelerating environmental permitting and licensing procedures, decentralizing competencies for environmental licensing, reducing bureaucratic and administrative burdens, enhancing transparency and promoting stakeholder participation in decision making.

Law 4042/2012 -according to the provisions of the Directive 2008/99 / EC - Framework for waste generation and management- makes a reference to public participation and access to public to all waste management plans.

However, these laws do not include an exhaustive process of public participation and consultation.

III. Public Participation process for strategic management plans

Good practice example

A quite good example of early public participation constitutes the consultation process announced by the Ministry of Environment for the Management plan of the river basin water districts of Greece in the framework of Directive 2000/60/EU on water management (Presidential Decree 51/2007). This process was not only typically correct, but it was also essentially successful.

Article 15 of the presidential decree 51/2007 provides an outline of the public participation procedure.

In this case, in the process of consultation, multiple information activities (conferences, seminars, publications, questionnaires) have been organized and through the Internet, stakeholders, and active citizens were invited to participate in the debate on topics such as:

- The quality and quantity of water resources (rivers - lakes, groundwater and coastal waters), today and in the future, and the pressures on them,

- Availability of water resources, drought and water scarcity in the context of climate change,
- Programming consumption and water uses and the programs of measures for the protection of water resources,
- Economic analysis of water use.

Decision-making bodies having responsibility in decision-making on water management, experts or specialists, scientists, consultants representing educational institutions, NGOs or agencies from the wider public sector, water users – consumers, farmers or active citizens, representatives of industry, business and the wider general public using water services, national and local administrators were invited and asked to provide their comments.

The Ministry invited all stakeholders to a public and transparent dialogue through an interactive website. They could comment, check already registered comments and send all their views and supportive of those views texts. They organized workshops and seminars for information and discussion in each water district of the country, open to all stakeholders and the general public.

Assessment of the consultations were published in the relevant website and comments, views, material of the questionnaires and of all meetings were studied in order to find a common sense and adopted accordingly.

After this experience, the Ministry created a strategy involving early the public in all stages.

Since end of last year the Ministry of Environment started -with the same systematic way- the new cycle of public consultation program for the 1rst Review of the Water Management Plans according to the Directive 2000/60/EU on water management.

In concluding, it is important that authorities prepare a clear strategy. In order to get people involved, authorities need to get them interested. They also need to help them understand how they can get involved and what the advantages might be for them. The public is more likely to stay interested in an issue if it really has an active role. The best strategy uses a mixture of methods to help people understand the issues and actively participate.

- a. Clarity of purpose. Both the competent public authorities and the public should understand the goal of the procedure;
- b. Sufficient time frames for all stages of the public participation procedure, including for taking due account of the outcomes of the public participation;
- c. Public authorities and public should know the roles of the different bodies involved in the decision making.