



# 23<sup>rd</sup> Meeting of the Working Group of the Parties to the Aarhus Convention

## Thematic Session on Public Participation in Environmental Decision- Making

**Public information and participation in environmental decision  
making regarding plans/programmes/strategic documents**

**Romania – Ministry of Environment**

**Palais des Nations, Geneva, 26-28 June 2019**



# Brief background information

In 2004, the Ministry of Environment launched a survey among the other ministries within the Romanian Government, asking which were the strategic documents (plans, programmes, strategies) for which they are responsible to develop and adopt.

- The inquiry was focused on the areas of interest promoted by the **Directive 2001/42/EC** on the assessment of the effects of certain plans and programmes on the environment: agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, regional development, town and country planning or land use.
- We compiled a list of cca. 70 strategic documents which could be subject to an SEA procedure, as required by the Directive.

# Approach to insure good practice and outcomes

The approach undertaken = develop national legislation to implement the requirements for public information and participation in environmental decision-making.

Article 7 of the Aarhus Convention requires that Parties make practical and/or other provisions for the public to participate during the preparations of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, art. 6, para 3, 4 and 8 shall be applied.

In Romania, the legal basis to take environmental considerations into account in plans and programmes is ensured by the environmental assessment procedure provided by *Governmental Decision 1076/2004 on the environmental assessment of plans and programmes* (transposition of the SEA Directive 2001/42/EC) and *by Law no. 349/2009 that ratifies the SEA Protocol*.

Note: the above mentioned procedure is applied to all plans/programmes/strategic documents that are subject to the SEA procedure.

- The **GD 1076/2004** provides for a special chapter dedicated to the information of the public and participation of the public in the SEA procedure, from the first version of the plan/program/strategic document under elaboration.
- The manual for the application of the environmental assessment procedure to plans and programmes was approved by **Ministerial Order no.117/2006** (Ministry of Environment and Water Management).
- The manual explained how every article of the legislation must be understood and interpreted.

**The presentation reflects Romania's response to a requirement of the Compliance Committee made in relation to a compliance case**

**The requirement is :**

- To demonstrate that Romania provided reasonable time frames, commensurate with the nature and complexity of the document, for the public to get acquainted with the draft strategic documents subject to the Convention and to submit their comments.
- We provided evidence that the competent environmental authorities respected/observed in detail all the requirements of the legislation in force on pp within the SEA procedure.
- This presentation is focused on “effective information, deadlines to ensure effective public participation and taking due account of public comments ” when performing the SEA procedures to complex strategic documents.

# Strategic documents subject to these requirements:

- The Large Infrastructure Operational Programme (LIOP)
- The General Transport Master Plan (GTMP)
- The Regional Operational Programme (ROP)
- The National Rural Development Programme for the 2014-2020 (NRDP)
- The Fisheries and Maritime Affairs Operational Programme (FMAOP)
- The National *Strategy on Climate Change* and growth based on low-carbon economy for the period 2016 – 2020 and the National Action Plan on Climate Change 2016-2020 (the NSCC Strategy and the NAPCC)
- The National Transition Plan for Large Combustion Plants (NTP)



The GD 1076/2004 provides for a special chapter dedicated to the public information and participation in the SEA procedure

## Screening stage

The public is informed by:

- the developer of the plan/programme/ strategic document on newspaper
- the competent authority – on its website
- the public announcement of the developer: first version of the plan, that the screening stage has been initiated, where and how the plan can be read, the deadline for the public comments =15 days; the final screening decision.
- The public announcement of the competent authority: the draft screening decision, 10 days for the public to contest the draft screening decision, the final screening decision is posted on the website of the CA.



## Scoping stage + ER elaboration

The WG is working for the finalization of the draft plan/programme/strategic document and the elaboration of the environmental report (ER)

The public is informed by:

- the developer of the plan/programme/strategic document
- the competent authority – on its website



in the newspaper

on its website



## What the info is about

the developer – availability of the plan/programme/strategic document, finalization of the ER, where these can be consulted and the deadline for written public comments = 45 days from the date of the last announcement. The public comments are expected to the competent authority as well as to the developer's address. The doc are posted on the website.

- the public is expected to comment on the draft plan/programme/strategic document, on the ER and consequently these documents can be subject to modifications/amendments

Note - The public has enough time = 45 days to get acquainted with the documents and transmit comments/proposals in writing

## The ER quality review stage

The public is informed by:

- the developer of the plan/programme/  
strategic document
- the competent authority – on its website



in the newspaper  
on its website



## What the info is about

- The organization of a public hearing on the draft plan/programme/strategic document + ER, the date and place of the public hearing, the hearing is open also for the likely affected states

When is published this announcement?

- 45/60 days before the public hearing
- 70 days before the public hearing an invitation is sent to the potentially affected states, by the competent authority of the state of origin

## The public hearing:

- Is moderated by the environmental competent authority
- The plan/programme/strategic document is presented by the developer
- The ER is presented by the expert/team of experts
- If transboundary effects are likely and potentially affected states are present, translation is ensured by both states (origin and affected)
- If transboundary effects are likely, the draft plan/programme/strategic document are sent to the potentially affected states translated in English(legislation requirement)
- Environmental and health authorities and public of the likely affected states are invited to the public hearing (modality preferred – comments and requests transmitted in writing)
- The minutes of the public hearing records all interventions from the public and answers delivered by the developer+experts
- Costs of the public hearing: by the developer+ copies of the public announcements are submitted to the env comp authorites



**Practical examples of the above mentioned legislative requirements  
SEA procedure done in a timely manner, early, from the beginning of the plan**

## **The Large Infrastructure Operational Programme (LIOP)**

The developer = the Ministry of European Funds (MEF).

- The first version of LIOP was posted on the Ministry of European Funds website along with the newspaper public notices on 28.01.2014 and on 31.01.2014, so the public had enough time to get acquainted with the content of LIOP.
- The Appropriate Assessment study for Natura 2000 sites was also posted on the Ministry of Environment web site for public consultation on 04.11.2014;
- The public had 50 days for getting acquainted and analyze the Environmental Report, the LIOP, and Appropriate Assessment study ( even more for this study) before the public hearing/public debate (date of the public announcement is 28.11.2014 and the date of the public hearing is 19.01.2015).
- The comments and observations received during the procedure and the public hearing were included in the Environmental Report;
- A transboundary procedure for LIOP was not conducted because all projects that could have a transboundary adverse impact on the environment belonged to the transport sector; the transport projects were previously evaluated within GTMP for which a transboundary environmental assessment procedure was carried on. A duplication of the assessment and of the procedure was not needed.

## The General Transport Master Plan (GTMP)

- The first version of GTMP was posted on the Ministry of Transport website on 23.10.2012 and on 30.10.2012 along with the newspaper public notices on 23.10.2012 and on 29.10.2012, so the public had enough time to get acquainted with the content of GTMP.
- On 21.10.2014, Ministry of Environment displayed on its website the Appropriate Assessment study for the GTMP for public consultation and the comments were received until the date of the public hearing
- In November 2014- the transboundary SEA procedure is initiated by notifying the following states: Bulgaria, Serbia, Ukraine and Hungary. Only Bulgaria and Hungary responded affirmatively -participation in the transboundary consultation. Ukraine did not respond, while Serbia requested information about General Transport Master Plan and the Environmental Report.
- On 10.11.2014 Ministry of Environment displays on its website, for public consultation, the final version of General Transport Master Plan, the Environmental Report, the annexes to the GTMP and the NTS of the GTMP.

## The General Transport Master Plan (GTMP)

- The public had 62 days until the date of the public hearing for getting acquainted with the GTMP & the Environmental Report before the public hearing (date of the public announcement is 10.11.2014 and the date of the public hearing is 12.01.2015).
- The following comments and observations received during the procedure and the public hearings were included in the Environmental Report:

- Chapter 6, page 269 regarding Appropriate Assessment conclusions;
- Chapter 10, page 276 and page 284, in table 10.1 regarding reformulation of Natura 2000 monitoring indicators;
- Chapter 12 regarding the Non-Technical Summary page 20, page 297 regarding transboundary effects;
- The Conclusions chapter at page 348.

During the transboundary procedure, the developer and the Ministry of Environment took into consideration the comments received from one notified state even if the answer to the notification was submitted after the deadline.

## The Regional Operational Programme (ROP)

- The first version of ROP was posted at the Ministry of Regional Development and Public Administration (MRDPA) headquarters along with the newspaper public notices on 18.02.2014 and on 21.02.2014, so the public had enough time to get acquainted with the content of ROP.
- The public had 45 days for getting acquainted and analyze the Environmental Report, the ROP, before the public hearing/public debate (date of the public announcements on 22.08.2014& 25.08.2014 and the date of the public hearing is 09.10.2014).
- During the procedure, the developer maintained a strong connection with the stakeholders and took into consideration their comments, proposals and observations which were included in the ROP.

## The National Rural Development Programme for the 2014-2020 (NRDP)

- The first version of NRDP was posted on the Ministry of Agriculture and Rural Development (MARD) website on 13.03.2014 along with the newspaper public notices on 14.03.2014 and on 17.03.2014, so the public had enough time to get acquainted with the content of NRDP.
- The public had 45 days for getting acquainted and analyze the Environmental Report, the NRDP, before the public hearing/public debate (dates of the public announcements are 15.08.2014 & 18.08.2014 and the date of the public hearing was 02.10.2014).
- The representatives of public institutions from the Working Group had the opportunity to express views at every meeting. They formulated comments concerning the Environmental Report which were taken into account and integrated in the final Environmental Report.
- The most significant comments referring to the Environmental Report referred to:

The monitoring programme of NRDP on effects on environment;

The effects of implementing the previous Programme on environmental factors.

## The Fisheries and Maritime Affairs Operational Programme (FMAOP)

- The first version of FMAOP was posted on the Ministry of Environment website on 09.03.2015 along with the newspaper public notices on 09.02.2015, so the public had enough time to get acquainted with the content of FMAOP.
- The public had 45 days for getting acquainted and analyze the Environmental Report, the FMAOP, before the public hearing/public debate (date of the public announcement was 21.09.2015 and the date of the public hearing was 05.11.2015).
- On 08.12.2015 there were published the comments and remarks of the public on the website of the Ministry of Environment, along with how these comments and remarks contributed to the modification of the environmental assessment report.

## The National Strategy on Climate Change and growth based on low-carbon economy for the period 2016 – 2020 and the National Action Plan on Climate Change 2016-2020 (the NSCC Strategy and the NAPCC)

- The first version of the NSCC and the NAPCC was posted on the Ministry of Environment website on 21.05.2015 along with the newspaper public notices on 22.05.2015 and on 25.05.2015, so the public had enough time to get acquainted with the content of the NSCC and the NAPCC.
- The public had 45 days for getting acquainted and analyze the Environmental Report, the NSCC and the NAPCC, before the public hearing/public debate (date of the last public announcement was 28.09.2015 and the date of the public hearing was 12.11.2015).
- Both the NSCC and the NAPCC were continuously improved during the environmental procedure based on active participation of the working group members and the public.

## **The National Transition Plan for Large Combustion Plants (NTP)**

The first version of the NTP was posted on the Ministry of Environment website on 20.11.2012 along with the newspaper public notices on 20.11.2012 and on 23.11.2012, so the public had enough time to get acquainted with the content of the NTP.

The public had 47 days for getting acquainted and analyze the Environmental Report, the NSCC and the NAPCC, before the public hearing/public debate (date of the last public announcement was 13.03.2015 and the date of the public hearing was 29.04.2015).

# Lessons learnt

- Always record the public comments made during the public hearing
- Always record the persons present at a public hearing & their contact data
- Give a written answer to the question that was left without an answer during the public hearing
- Provide sufficient information to the public on an initiated SEA procedure = task of the plan developer +Env Auth competent for SEA
- RO has always prolonged the deadline for receiving comments from potentially affected states, if required = an efficient public participation procedure
- Take care of the NGO that declared themselves “public concerned” and send them dedicated info letter/e-mail message at certain moments of the procedure
- regardless of the efforts of the environmental authority, a state may be declared in non-compliance by failure to comply with the Aarhus Convention by another national authority
- Keep a good file for every procedure, good evidence of the steps undertaken, you never know when you'll need it





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