

UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE

Guide to Public Participation under the Protocol on Water and Health

Protocol on Water and Health to the Convention on
the Protection and Use of Transboundary Watercourses
and International Lakes



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FOREWORD

The aim of the Protocol on Water and Health is to improve access to drinking water and sanitation and to protect human health through better water management and protection of ecosystems. As these issues are important to the public because they affect their everyday lives, the public must be included in the processes that lead to decision-making, planning and implementation of policies and programmes related to the Protocol.

However, planning, carrying out and taking into account the outcomes of the process of public participation are major challenges for most Parties to the Protocol. Who is responsible for organizing the process? What section(s) of the public should be targeted? What tools and techniques should we select and when should the consultation take place? How can the public truly influence the decision?

This *Guide* is designed especially for government officials and agencies who manage the process of public participation. They should find it useful for identifying some of the best practices for planning, skills and behaviours, which they can use to design and put in place a meaningful public-participation process, based on examples from the pan-European region.

The *Guide* also aims to help the public understand the process, so that people can better participate in the decision-making, from setting the targets to reporting the progress made.

We hope that the *Guide* will foster a wide consultation of the public in the Protocol's implementation, ensure better decision-making, and thus facilitate the implementation of measures to improve water management, thus leading to a reduction in water-related diseases.



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PREFACE

The Protocol on Water and Health puts great emphasis on access to information and public participation, recognizing public involvement as vital for its successful implementation. In the experience of the different Parties implementing the Protocol, ensuring public participation was usually challenging. This was mostly because the public did not fully understand the process.

The programme of work for 2011-2013¹ of the Protocol on Water and Health foresaw to “develop mechanism/ manual/ recommendations for involving the public in consultations and decision-making processes under the Protocol”.

The *Guide to Public Participation under the Protocol on Water and Health* is based on experience and good practices in the pan-European region. It clarifies the obligations related to public participation, and presents case studies from different Parties, as well as from other regional instruments. It should help improve the planning and carrying out of the public participation process under the Protocol as well as encourage the taking into account of its outcomes, an important next step being the practical action that will follow.

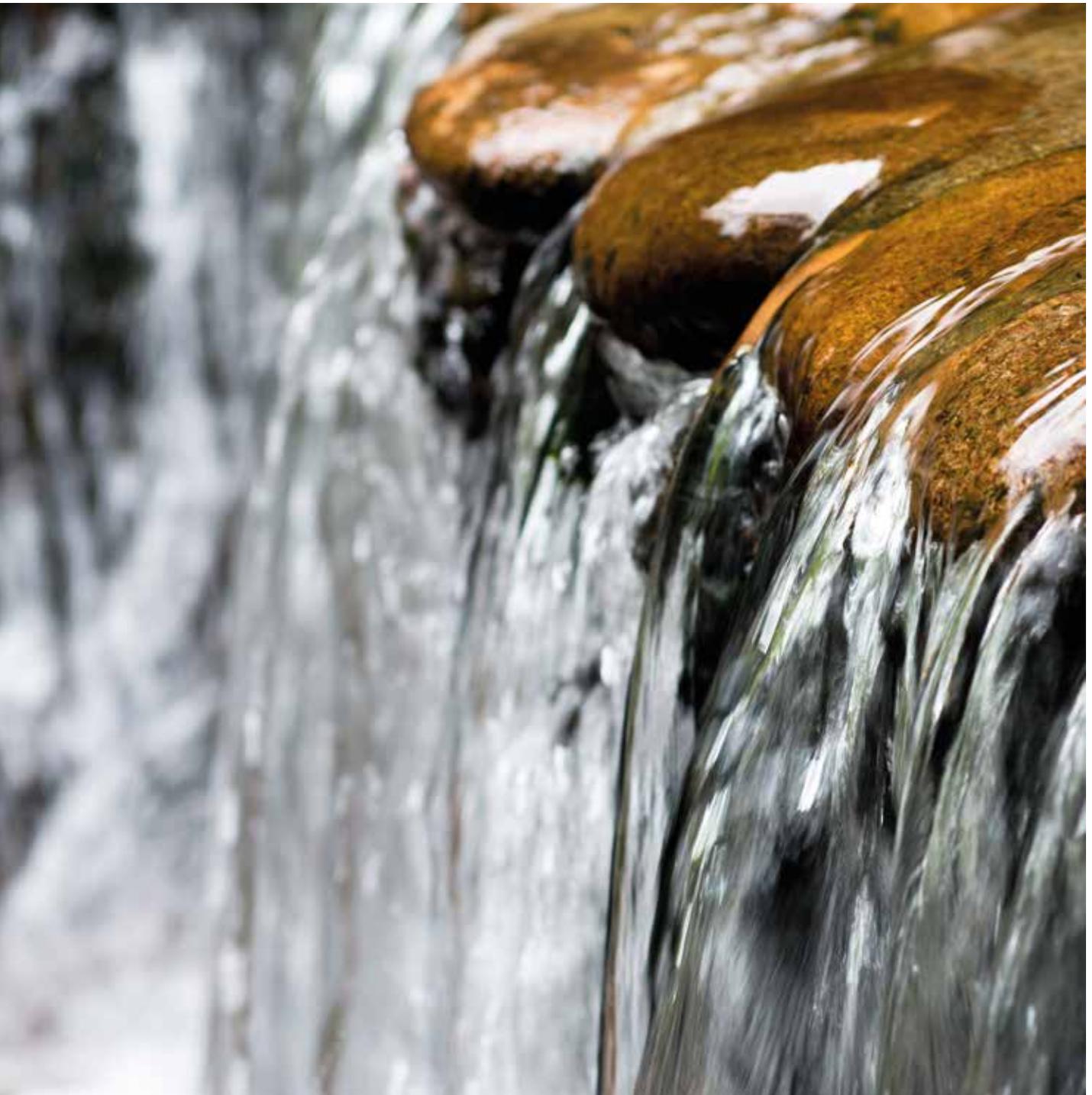
The *Guide* was developed thanks to the consistent assistance of Romania, the continuous work of the non-governmental organization Women in Europe for a Common Future (WECF), and the financial support of Norway. It has benefited immeasurably from the work of a drafting group composed of representatives of national and local authorities, NGOs and international organizations. It also includes many of the comments made by representatives of countries and academia.

The cooperation between the Task Force on Public Participation in Decision-making of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), the Protocol on Water and Health, Romania and WECF proved to be crucial for developing the *Guide*. A joint event² on issues related to public participation in environmental decision-making, organized in June 2012, initiated the preparation of this *Guide*, in which the event’s main outcomes are also reflected.

The *Guide* should support Parties and members of the public to better understand their rights and obligations in organizing or taking part in the public participation process.

¹ Programme of work for 2011-2013 of the Protocol on Water and Health, available at: http://www.unece.org/env/water/whmop2_documents.html

² Meeting on public participation in environmental decision making: Focus on water and health (6-8 June 2012): www.unece.org/env/pp/meetings/ffpdm2_pwh.html



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The joint secretariat would also like to thank the members of the Drafting Group on Public Participation under the Protocol on Water and Health for their active participation throughout the year-long process of developing the *Guide* and for their many contributions through case studies and comments, as well as ideas to improve the publication:

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LIST OF ABBREVIATIONS

EU	European Union
ICPDR	International Commission for the Protection of the Danube River
NGO	Non-governmental organization
OSCE	Organization for Security and Co-operation in Europe
RBMP	River Basin Management Plan
UNECE	United Nations Economic Commission for Europe
WECF	Women in Europe for a Common Future
WFD	Water Framework Directive
WHO	World Health Organization

GLOSSARY³

The public

One or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups.

Public authority

- (a) Government at national, regional and other levels;
- (b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment, public health, sanitation, water management or water supply;
- (c) Any other natural or legal persons having public responsibilities or functions, or providing public services, under the protocol of a body or person falling within subparagraphs (a) or (b) above;
- (d) The institutions of any regional economic-integration organization referred to in article 21 which is a Party.

(This definition does not include bodies or institutions acting in a judicial or legislative capacity)

Local

All relevant levels of territorial unit below the level of the State.

Water-management plan

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.

Transboundary waters

Any surface or ground waters that mark, cross or are located on boundaries between two or more States; wherever transboundary waters flow directly into the sea, these transboundary waters end at a straight line across their respective mouths between points on the low-water line of their banks.

³ The terms are used as defined in article 2 of the Protocol.



EXECUTIVE SUMMARY

The public have both a right and an obligation to participate in the implementation of the key provisions of the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International lakes. They should be involved in setting targets and target dates, in drawing up water-management plans and in the reporting exercise.

Public participation, however, can be hard to achieve due to the lack of awareness of the public's rights and of the public authorities' obligations, as well as the lack of national legal frameworks and cross-sectoral cooperation. There may also be political reluctance to engage the public, lack of access to information, and budgetary constraints to running public-participation processes.

To be successful, a public-participation process requires specific institutional arrangements:

- Establishing an enabling national framework
- Raising awareness of water, environmental and health issues
- Identifying a broad group of stakeholders
- Setting up a balanced coordination mechanism
- Taking into account provisions such as costs, time and human resources.

Different steps are required to run the public participation process under selected key provisions of the Protocol, such as setting targets and target dates and drawing up water-management plans.

The first step—analysing the country situation and collecting key information to identify the priority issues—must be open to the public. The authorities have the obligation not only to *notify* the public about the process, but also to *inform* them about *how* to participate. NGOs can play an important role in transferring information at this stage.

Questions of how and when to make information available—at no charge for inspection and in a barrier-free environment—are decisive for a successful outcome of the process.

Time frames should be set in a flexible way, as the nature and complexity of the issue at stake might influence the time required for the process.

Without taking into account the views and outcomes of the process, the effort of running a public participation process could be futile. Therefore, all inputs must be evaluated carefully and reflected in a transparent and traceable way in the final decision.

Participatory elements related to the reporting of Parties, international cooperation on on transboundary waters and the communication to the Compliance Committee should also been taken into account.

Various tools can be used for public participation, according to the purpose: to identify stakeholders; to notify; to inform; to consult; and to take into due account. The selection of the appropriate tools depends on the specific context and the objectives.



INTRODUCTION

The *Guide to Public Participation under the Protocol on Water and Health* is designed to help Parties to the Protocol⁴ comply with their obligation to ensure public participation in implementing the Protocol. The primary aim of the *Guide* is to support public authorities in exercising these obligations, in particular when setting targets and target dates and developing programmes of measures in accordance with article 6 of the Protocol and reviewing and assessing progress in accordance with article 7.

The *Guide* offers advice on public awareness (article 9) and public information (article 10) and helps Signatories and non-Parties raise awareness about the Protocol and ensure public information. It also addresses members of the public, including non-governmental organizations, representatives of civil society, individuals and riparian communities. It provides them with the means and the knowledge to exercise their rights and obligations.

It recommends steps to be taken to comply with the provisions of the Protocol, and suggests tools to go even further than the required standards.

Wherever possible, it refers to existing documents and guidance materials, in particular to those published under the Aarhus Convention.

⁴ List of Parties to the Protocol, available at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-5-a&chapter=27&lang=en



Photograph: WECF

Chapter I.

THE CORNERSTONES OF PUBLIC PARTICIPATION

1. WHY PUBLIC PARTICIPATION?

In 1992, 178 Governments adopted the Rio Declaration on Environment and Development.⁵ In Principle 10, the Declaration states as follows:

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level.”

And one of the main United Nations human rights treaties,⁶ the International Covenant on Civil and Political Rights, affirms the “freedom to seek, receive and impart information” (article 19).

After the fall of the Iron Curtain, Governments in the pan-European region⁷ identified public participation as one of seven key elements for the long-term environmental programme for Europe.⁸ A milestone in the development of the concept of public participation was the adoption of the Aarhus Convention in 1998—in particular for Eastern Europe, the Caucasus and Central Asia.

As well as reflecting the needs of the public, public participation enhances the bidirectional flow of information between civil society and the authorities and ensures greater accountability.

2. CORE PRINCIPLES OF PUBLIC PARTICIPATION

In the pan-European region, the Aarhus Convention is the main international agreement promoting the principle of public participation in environmental matters.⁹ It grants rights to the public and imposes obligations on Governments and public authorities.

The rights and obligations concern:

- Public participation
- Access to information
- Access to justice.

These are often referred to as the “three pillars.” To be effective, public participation relies upon the other two pillars: access to information, to ensure that the public can participate in an informed fashion; and access to justice, to ensure that participation happens in reality and not just on paper.

Parties to the Aarhus Convention must ensure early and effective public participation when they are making decisions to permit certain types of activities and when they are preparing plans, programmes and policies relating to the environment.

⁵ Text of the Rio Declaration, available at: www.un.org/documents/ga/conf151/aconf15126-1annex1.htm

⁶ United Nations International Covenant on Civil and Political Rights, 1966, article 19 (see: http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en)

⁷ For the purpose of this publication, pan-Europe is understood to include the 56 States members of the United Nations Economic Commission for Europe and the 53 States in the WHO European region.

⁸ At the Second Ministerial Conference “Environment for Europe” in Lucerne, Switzerland, in April 1993 (see: www.unep.org/env/efe/historyofefe/history.en2011_2.html)

⁹ List of Parties to the Aarhus Convention available at: http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=XXVII-13&chapter=27&lang=en

They must do this while all options are open and before making any final decisions. Parties to the Convention also have to *promote* effective public participation when they are preparing executive regulations and other generally applicable legally binding rules.

The Chisinau Declaration,¹⁰ “Rio plus Aarhus — 20 years on: Bearing fruit and looking forward”, adopted at the fourth session of the Meeting of the Parties to the Aarhus Convention in 2011, cites openness, transparency, a wide participatory approach and accountability as key principles and objectives of the Convention. This corresponds to the principles for public participation identified by stakeholders under the Protocol on Water and Health.¹¹

The following are the key principles relating to public participation:

Equity and inclusiveness: reaching out to all stakeholders and offering them equal opportunities to participate.

Accountability and transparency: employing transparent and democratic mechanisms, publishing results in an understandable and traceable way, and providing recourse mechanisms.

Flexibility: keeping the approach flexible by taking into account different issues, participants, value diversity, linkages into decision-making and time frames.

Effectiveness and speed: organizing the process so that competences, roles and time frames are clearly and realistically defined.

Responsiveness: the process has to follow stakeholder needs and requirements and must take their input into account.

3. AN ENABLING ENVIRONMENT

The Government and the public authorities, including governmental bodies from all sectors, have an obligation to ensure the public’s right to participate in decision-making on issues related to water and health. The Government must provide the necessary stimulus, tools, information and assistance to enable transparent public participation.

It must also build the legal, administrative and economic framework and educate and inform the public about their rights¹², and about their responsibility and moral obligation to participate. This requires transparent and accountable institutions, and a suitable legal, regulatory and policy framework.

Political, sociocultural and economic factors inevitably shape this environment. The different historical backgrounds of the States within the pan-European region mean that there are a variety of legal, political and economic traditions.¹³

¹⁰ ECE/MP/PP/2011/CRP4/rev.1 para. 3, available at: www.unece.org/fileadmin/DAM/env/pp/mop4/Documents/ece_mp_pp_2011_CRP_4_rev_1_Declaration_e.pdf

¹¹ UNECE-WHO/Europe, Concept Note on Access to Information and Public Participation under the Protocol on Water and Health, ECE/MB.WH/2010/4-EUDHP/1003944/4/1/10, 2010, p.6 (see: www.unece.org/fileadmin/DAM/env/documents/2010/wat/MP_WH/wh/ece_mp_wh_2010_4_E.pdf)

¹² In articles 4.5 and 9.1 (b) of the Protocol.

¹³ See Water Governance in OECD Countries – A Multi-Level Approach, 2011, p. 20 (Multi-level governance “gaps”), available at: www.oecd.org/regional/regional-policy/48918283.pdf



Photograph: OCHA

Chapter II.

PUBLIC PARTICIPATION UNDER THE PROTOCOL— GENERAL ASPECTS

1. CHALLENGES

For effective public participation at all levels of decision-making, the following are needed:¹⁴

- (a) **Awareness of the public's rights and the authorities' obligations.** The benefits are often not clearly understood by the authorities. And the public is often not aware of an ongoing public-participation procedure or may not be motivated to participate in a public discussion. This could be due to a lack of time, to language or literacy issues, or to limited access to communication tools. It could also be due to discrimination based on gender or ethnicity.
- (b) **Appropriate regulatory framework or short time frames.** The lack of a general legal framework providing for effective public participation might be an obstacle. In particular, deadlines for examining documents and for submitting opinions and comments may often be too short.
- (c) **Access to information related to the decision-making process.** Irrelevant or incorrect information, or withholding of information due to its supposed confidentiality, sometimes keeps the public from engaging.
- (d) **Political will.** The authorities often regard public participation as a complicated and time-consuming process.
- (e) **Cross-sectoral cooperation.** Cooperation between different ministries and institutions can be difficult. And it is often exacerbated by high turnover rates of staff.
- (f) **Funding.** The potentially high cost of running complex or extensive public-participation procedures can be an obstacle.

2. PROVISIONS ON PUBLIC PARTICIPATION

Different obligations and opportunities for public participation in decision-making derive from the Protocol. They address the Parties, as well as other stakeholders, in particular the private and the public sectors.

Article 5 (i) of the Protocol establishes the principle of public participation in the application of the Protocol:

“Access to information and public participation in decision-making concerning water and health are needed, inter alia, in order to enhance the quality and the implementation of the decisions, to build public awareness of issues, to give the public the opportunity to express its concerns and to enable public authorities to take due account of such concerns”.

The Protocol's general provisions (article 4.5) require Parties to:

“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”.

¹⁴ See for example UNECE, Report of the Task Force Meeting on Public Participation in Decision-making on Its Second Meeting, June 2012, ECE/MPPP/WG.1/2012/4, 2012, para. 13 and para. 14, available at: www.unece.org/fileadmin/DAM/env/pp/wgp/WGP-15/ECE.MPPP.WG.1.2012.4.aec.pdf

Parties commit themselves to setting targets and target dates and revising them regularly. In doing so, they must:

“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 is to be followed when developing water-management plans. 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” (article 6.5).

Parties must ensure that the public is aware of the issues addressed by the Protocol 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).

The Protocol also reminds the public of their “moral obligation” that goes hand in hand with their 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 must publish and make available to the public the results of the evaluation of progress made (article 7).

They must also make available to the public other information concerning the water and health situation and the Protocol’s implementation. Apart from the obligation to publish specific information related to imminent threat to public health from water-related disease (article 8. 1 (a) (iii)), the Protocol foresees that the Parties 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....” (article 10).

The public must also be notified of and involved in international cooperation on transboundary waters and the development of commonly agreed targets and joint water-management plans (articles 11 to 14).

Article 15 contains a requirement for “appropriate public involvement” through the right of the public to make communications to the Compliance Committee.

Parties are also required to send to the secretariat and to the Meeting of the Parties regular summary reports on the data they have collected and on the progress they have made towards reaching the targets, in accordance with the *Guidelines for summary reports*.¹⁵ The *Guidelines* require the public and other stakeholders to be involved in preparing these reports (article 7.5).

¹⁵ Guidelines for summary reports in accordance with article 7 of the Protocol on Water and Health, adopted by the Meeting of the Parties at its second session (Bucharest, 23-25 November 2010), available at: www.unece.org/fileadmin/DAM/env/water/Protocol_on_W_H/2nd_reporting_exercise/Guidelines_for_summary_reports_under_the_Protocol_ENG.pdf

3. THE PROTOCOL ON WATER AND HEALTH AND OTHER RELEVANT INTERNATIONAL AND REGIONAL INSTRUMENTS

The Protocol is probably the first international instrument to take the provisions of the Aarhus Convention explicitly into account.

In the pan-European region, the 1991 UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) incorporates the principle of public participation (article 2.2).

Internationally, the Rio+20 outcome document "*The Future We Want*"¹⁶ (2012) reaffirms the significance of public participation and its related principles for promoting sustainable development (access to information and judicial and administrative proceedings).

Water Framework Directive

In the European Union, one of the main water-related instruments is the Water Framework Directive. The Directive¹⁷ has a participatory approach similar to that of the Protocol. For instance, its article 14 on public information and consultation, foresees the "active involvement of all interested parties in the implementation of this Directive". It has an influence on the implementation of the Protocol's public participation provisions in the EU countries that are Parties to the Protocol.

Guidance developed under the Directive may also be a helpful reference when implementing the Protocol. For example, the "Guidance Document No. 8"¹⁸ offers a theoretical interpretation of article 14 of the Directive, while the "HarmoniCOP"¹⁹ provides practical solutions to enhance public involvement.

4. WHAT A COUNTRY NEEDS FOR PUBLIC PARTICIPATION

(a) National legislation

A mere declaration by the Party that the Protocol is directly applicable is not enough to create the required stable and enabling legal, administrative and economic frameworks. Equally, the fact that a country's Constitution declares international legal instruments to have direct applicability and to be superior to national law does not relieve that Party from taking appropriate action to ensure that the Protocol is implemented effectively.

Parties are required to draw up implementing legislation and executive regulations and take other "appropriate action" to create and maintain adequate legal and administrative frameworks. Possible other actions might include strategies, codes of conduct, and good practice recommendations.

Courts and other review bodies must ensure that legal and administrative frameworks are "stable and enabling"; for instance, by applying the law in a clear and consistent manner. Whenever relevant new legislation is adopted, care must be taken to ensure that it is consistent with the public-participation requirements of the Protocol and with the national legal and administrative framework in place to implement the Protocol.

The frameworks to be created should not, however, be limited to legal and administrative only; economic frameworks should also be put in place. Countries are in addition encouraged to consider having recourse to an independent authority or agency (e.g. an ombudsman) with the right and mandate to oversee the real practice of public participation, as well as other issues relating to the rights of the public.

¹⁶ Available at: www.uncsd2012.org/content/documents/727The%20Future%20We%20Want%2019%20June%201230pm.pdf (see para. 43)

¹⁷ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, also called EU Water Framework Directive, available at: eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:327:0001:0072:EN:PDF

¹⁸ European Commission, Common Implementation Strategy for the Water Framework Directive (2000/60/EC), Guidance Document No.8, Public Participation in Relation to the Water Framework Directive, 2003 (see: circabc.europa.eu/sd/d/0fc804ff-5fe6-4874-8e0d-de3e47637a63/Guidance%20No%208%20-%20Public%20participation%20%28WG%202.9%29.pdf)

¹⁹ Harmonising Collaborative Planning, Learning Together to Manage Together – Improving Participation in Water Management, 2005 (see: www.harmonicop.uni-osnabrueck.de/HarmoniCOPHandbook.pdf)

(b) Awareness-raising

Awareness of the Protocol and its participatory approach is a prerequisite to guaranteeing effective participation of the public in the different steps of the Protocol's implementation and a better acceptance of the definition and adoption of targets and measures, as well as of the implementation and evaluation of progress.

A good example of raising public awareness is the campaign organized by Serbia in the lead-up to its accession to the Protocol.

Case study 1 Campaign to raise awareness (Serbia)



During the eight months leading up to its accession to the Protocol, Serbia organized an awareness-raising campaign about the Protocol's importance and benefits.

The Ministry of Natural Resources, Mining and Spatial Planning invited government officials, local authorities, experts, educational institutions, NGOs and the media to take part in various events at the regional and local levels. The events included workshops, round tables and focus-group discussions. It was intended that those taking part

would in turn inform the public and raise wider awareness about the importance of water management, in particular in relation to health.

NGOs were an important link between the authorities and the public and their participation in these meetings was vital to the success of the campaign. Thanks to their work, the public was more willing to participate in implementing the Protocol.

All relevant information was available on the Ministry's website. Personal contact between stakeholders and the staff of the Ministry's focal point for the Protocol was made by e-mail.

The involvement of stakeholders from different sectors, such as health, environment, agriculture and forestry helped to draw up a plan for promoting the Protocol at the national level, including a detailed time schedule and a list of activities.

The main problems encountered were the difficulties in overcoming the different viewpoints of the various sectors working on water management and the lack of communication between them.

(c) Identifying stakeholders and setting up coordination mechanisms

The main **stakeholders** may include:²⁰

- Public authorities at national, regional and local (urban and rural) levels, especially those responsible for water, environment, agriculture, health, finance, tourism, economy and foreign affairs (to receive strong political support, it is crucial to involve as many ministries as possible).
- Different institutions, committees and working groups dealing with the environment, water resources and health.
- Academia and research institutions.
- Private associations, such as service providers for water supply and sanitation and water users' associations.

²⁰ See also: UNECE-WHO/Europe, Guidelines on the Setting of Targets, Evaluation of Progress and Reporting, 2010, p.7/8, available at: www.unece.org/fileadmin/DAM/env/water/publications/documents/guidelines_target_setting.pdf

- Civil society, such as environmental and health NGOs.
- The public who may be affected by or who may have an interest in the decision.
- Marginalized groups, which are not easy to approach or where organizational structures are not known.

It is important to carefully identify the public, including NGOs, to involve in the decision-making. One must include stakeholders who understand the situation well and are working on water-resource management and/or monitoring of water, water supply and sanitation issues as well as on environmental issues and healthcare. Reaching out to marginalized groups may require involving specialized NGOs or civil society groups.

In identifying the public, one should:

- Ensure equal opportunities for all stakeholders to express their opinion and provide input, and ensure that nobody monopolizes the process, thereby preventing other voices from being heard.
- Find a balance between stakeholders: that is, between specialists and non-specialists.
- Plan to involve the public at different levels (local, regional and national), as well as cross-sectorally.
- Pay special attention to including minorities and marginalized groups, e.g. ethnic minorities, women and disabled persons.

Article 6.5 (a) of the Protocol requires that the Parties:

“establish national or local arrangements for coordination between the competent authorities”.

These **coordination mechanisms** are intended to unite the efforts of all interested parties in setting targets and target dates. When creating a coordination body, existing networks or working groups can be used or new ones can be formed. Each country's specific institutional set-up should be taken into account.

A well-functioning coordination mechanism can help advance the process of public participation. Effective public participation indeed requires a strong interdisciplinary and interdepartmental approach. And a balance of representatives from different stakeholder groups within a coordination mechanism provides a solid basis for a fair and effective process. A coordination body consisting of representatives of different sectors and groups has the advantage of encompassing a broad knowledge basis on the issue and on existing expertise and networks, as well as on where to find further relevant information/expertise. Including marginalized groups and securing the representativeness of participants is often complex.

To ensure that the coordination mechanism is sustainable and efficient, several criteria need to be applied. These are enumerated in the Protocol's *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting*. In particular, Governance and a fair and clear distribution of tasks and responsibilities within the coordination mechanism are important for the smooth running of the process.

Case study 2 Coordination mechanism (Hungary)

Hungary offers a good example of the cross-sectoral cooperation that is required for implementing the Protocol. The Government set up a technical committee²¹ to help the ministers to meet their commitments.

The committee included a wide pool of experts allowing it to cover all fields of the Protocol.²² Even though it was technical, the committee had a clear political mandate. Resources were secured for its work and it was linked to other governmental programmes and plans under the Protocol.

It was established as an official body with its own constitution and terms of reference, which were formally approved by the ministers concerned. It was also 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).

²¹ Special Committee on water and health under the auspices of the Inter-ministerial Committee on Public Health

²² 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 of the Prime Minister's office, of the regions and municipalities, of relevant associations of waterworks, sewerage works, pools and spas, of tourism, of environmental NGOs and other interest groups.

Case study 3 **Coordination mechanism (Ukraine)**

In 2006 the Ministry of Ecology and Natural Resources established an Inter-agency Working Group to implement the Protocol. The Working Group consists of representatives of ministries and State committees, NGOs, research organizations and river-basin management authorities.

NGOs have equal standing with the other members of the Working Group. They participate in the discussion, express their views and have the right to vote within this body.

(d) Cost, time and human resources

A well-planned public-participation process offers the authorities more advantages than disadvantages. Even if it is difficult to determine the exact cost-benefit ratio of citizen participation, failure to involve the public in decision-making might have a considerable opportunity cost.²³

Engaging the public in environmental decision-making, however, does have a cost. This includes the costs of human resources to design and run the public-participation procedure, whether the responsible public authority conducts the procedure itself or entrusts it to an agency.

It can be helpful to seek external funding to provide financial support for certain of these costs. An appropriate budget, adapted to the object and the scope of the consultation, may include:

- Hiring a consultation-process expert
- Placing a first notice through the media (radio, TV, press)
- Paying the travel costs for participants
- Providing all relevant information: research and collecting of data/information, drafting, editing, publishing, disseminating, technical means and interpretation/translation
- Providing all means necessary for consultation: e.g. housing for the public hearings, meals, financial compensation for experts
- Reviewing all comments, information, analyses, opinions, etc. received and taking due account of the outcomes of the public participation in the final decision
- Publishing the final decision
- Possibly reviewing or challenging the decision.

²³ Access to information, participation and justice in environmental matters in Latin America and the Caribbean: situation, outlook and examples of good practice (see www.cepal.org/rio20/noticias/paginas/4/49604/2013-247-PR10-Access_to_information.pdf (page 4))

Case study 4 **Costs of public participation (Ukraine)**



Environmental NGOs organized the public participation process around the target-setting process.²⁴ The National Environmental NGO “MAMA-86” financially supported by the Women for Water Partnership and the Water Supply and Sanitation Collaborative Council initiated this activity.

In 2009, four regional seminars and conferences were held with the participation of about 250 persons. Once a first set of draft targets had been developed in 2010, public consultations, including hearings, were organized to involve the public on the draft national targets.

The draft document was disseminated electronically, together with a notification on the consultation process. Around 300 copies were distributed, at conferences as well as by mail. Later, a two-day hearing, open to the public, took place in Kiev, with about 40 representatives of stakeholders from all parts of Ukraine. The total cost of the process was about €10,000.

Case Study 5 **Costs of public participation (Republic of Moldova)**

During the target-setting process,²⁵ the Ministry of Environment together with the Ministry of Health established a working group (coordination mechanism), which was set up as an open body. In parallel to the meetings of the working group, three local hearings were held with NGOs and other stakeholders in different parts of the country (central, north and south). The process was funded by the Swiss Agency for Development and Cooperation, as well as by UNECE.

Approximately 120 participants attended the hearings, including scientists, teachers, physicians, individuals and the media. The agenda was set according to the respective local situation and related problems. The cost of each of the three hearings was less than \$1,500. In the follow-up, comments submitted orally or by e-mail were collected and fed into the process.

Case study 6 **Costs of public participation (France)**

In 2009, the city of Paris launched a two-day consensus conference on the topic of the future of the raw water network (for further details, see case study 11). The consultation was planned with sufficient time and an adequate budget; it took six months and cost around €10,000 to plan and implement the conference.

Organizing and implementing a public consultation might be a long process. It should be carefully planned in advance, considering all relevant steps, to ensure reaching the expected outcomes.

²⁴ National targets of Ukraine to the Protocol on Water and Health, 2011, available at: http://www.unece.org/fileadmin/DAM/env/water/Protocol_on_W_H/Target_set_by_parties/Ukraine_indicators_publication.pdf

²⁵ Setting targets and target dates under the Protocol on Water and Health in the Republic of Moldova, UNECE and SDC, 2011, available at: www.unece.org/fileadmin/DAM/env/water/publications/documents/guidelines_E/W_H-book-MD-En-2011.pdf

Case study 7 Time needed for involving the public (Hungary)



In 2006/2007, Hungary devised a strategy for public participation, which it applied when preparing the first River Basin Management Plan within the framework of the Water Framework Directive.

Four major interest groups were defined:

- Central and local governments
- NGOs
- Water users
- Professionals.

All were represented in water-management councils with the mandate to supervise the planning process. In 2009, written and verbal consultations were held on the draft Plan. An official website (www.vizeink.hu) allowed for submitting written comments. Some 3,800 comments were submitted, considered and documented in the final Plan.

The process took three years and was an unprecedented exercise for Hungary, resulting in an improved plan and increased awareness among the stakeholders.

Key issues

The main challenges to ensuring public participation are:

- Lack of awareness of authorities' obligations and the public's rights
- Lack of national legal frameworks
- Lack of access to information on the decision-making process
- Lack of political will
- Lack of cross-sectoral cooperation
- Lack of funding.

Public participation has to be ensured when implementing the Protocol's main provisions:

- Setting targets and target dates (article 6.2)
- Developing water-management plans (article 6.5)
- Ensuring international cooperation (articles 11 to 14)
- Reporting (article 7.5).

Striking the balance between specialists and non-specialists, between stakeholders coming from different levels and from different sectors is essential when establishing the coordination mechanism.



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Chapter III.

PUBLIC PARTICIPATION UNDER SPECIFIC PROVISIONS OF THE PROTOCOL

1. TARGET SETTING (ARTICLE 6.2) AND WATER-MANAGEMENT PLAN DEVELOPMENT (ARTICLE 6.5)

Target-setting and action plan

According to article 6.2, in order to achieve the objectives of the Protocol, Parties must:

“establish and publish national and/or local targets for the standards and levels of performance that need to be achieved or maintained for a high level of protection against water-related disease”

Targets must be set for a number of areas, e.g. the quality of drinking water supplied (see list of areas concerned under article 6.2 (a) – (n)).

For implementing the targets, an action plan should be prepared.

Water-management plans

Article 6.5 (b) of the Protocol stipulates that:

“In order to promote the achievement of the targets (...), the Parties shall each develop water-management plans in transboundary, national and/or local contexts”.

Such plans can be independent documents, but can also be part of other documents. The development of any other type of document for implementing the Protocol, e.g. the action plan for the targets, should follow the same public participation procedure.

The procedures for the setting of targets and of the related action plan as well as for the development of the water-management plan should follow the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting*.

(a) Baseline analysis

Baseline analysis aims to assess the situation (legal framework and status of water, health and environment related issues) in a country and to determine the spheres where knowledge about the issues of the Protocol is or is not available, and where there is a need for training.

Being a snapshot of the situation at a specific moment, the analysis offers information for further planning, for designing a programme or project and for setting targets according to the priorities. It is therefore a prerequisite for identifying problems and issues as well as for raising awareness among experts and the public so that they can join the discussion and the decision-making process.

Useful participatory tools can be public hearings, public opinion surveys, expert panels, interviews with key persons of a community, workshops, round tables and focus groups (see tool box in Chapter IV).

An interesting experience on a baseline analysis and the identification of stakeholders is a case from France.

Case study 8 Situation analysis (France)



In 2011, the city of Paris organized several workshops enabling citizens to participate in the formulation of the city's water policy.

Participants in these working groups were volunteers. They formed the "Parisian Observatory for Water" (Observatoire parisien de l'eau), a body created by the city as a citizens' observatory, composed of consumers and environmental NGOs, local committees, social landlords, business, elected local representatives, experts and organizations involved in the

governance of water. Its aim was to provide information on water issues and to organize public consultations in order to achieve a more equitable and transparent water management.

The workshops were divided into three sessions. At the first session, participants received information on the governance of water. They were later invited to identify which subjects were the most important according to them, and which they wanted to work on.

One weakness of this initiative was that the members of the Observatory did not include representatives of all groups of the local population. Participants volunteered to take part in the Observatory because of their strong prior interest in the subject, and since they had already received information through the Observatory meetings.

Input from marginalized groups could not be obtained since it was difficult for them to get involved on a voluntary basis. Nevertheless, through this initiative, the most pressing issues could be identified and it was ensured that the water policies presented in the final outcome document responded to the needs of parts of the local population. This was possible because the public was able to choose the subjects they were interested in and had a platform to voice them.

(b) Notification and sharing relevant information about the process, the drafting of the targets and the development of the water-management plans

Access to "all relevant information" is a prerequisite of effective public participation. According to article 10.1 (a) of the Protocol, access to information has to be provided within the process of setting targets and target dates and of developing water-management plans. Article 10.3 stipulates that information provision is necessary for the process of reviewing the targets and the progress made in achieving them.

"All relevant information" means both all relevant information on the process of participation (notification) as well as all information necessary for the participation. The notification should include a description of the public participation

procedure, with time frames and contact details of the responsible body. It should also specify how to submit the comments on the documents regarding the target-setting and the water-management plans, e.g. through written proposals, orally or electronically etc. The information should be clear, well prepared and easy to understand²⁶.

Case study 9 Notifying the public (Armenia)

Public notice is a necessary condition for all types of water-use permits (regarding drinking water, irrigation, industrial use and for the construction of hydropower stations) according to the Republic of Armenia governmental decree 217 – N dated 7.3.2003.

The public notice developed by the authority responsible for water-resource management and protection is a document that includes information for stakeholders about the impact of the proposed activity. At least 1,000 printed copies of the public notice have to be published and disseminated to physical and legal persons.

The public notice must include an introduction about the decision regarding the proposed activity and a brief description of its possible effects. Furthermore, it must clarify where information about the proposed activity can be consulted, where written comments can be submitted as well as how they should be drafted.

Dates and locations of public hearings must also be published in the public notice.

It is the responsibility of the public authorities to provide the information. However, NGOs can be of assistance in transferring information (see case study 4). They can also make available innovative tools in providing information and in assessing how the authorities share the information with the public (see case study 10).

Case study 10 Questionnaire on information sharing (Republic of Moldova)



Before the target-setting process was started, Eco-Tiras, an NGO, started an information campaign in 2008/2009 by sending out a questionnaire to members of the public (about 45 NGOs) to analyse the extent of the public's knowledge of the Protocol.

Results were collected and provided to the public authorities, who decided accordingly to share information on the Protocol when planning public hearings, etc.

The conclusion was drawn that a clearing-house mechanism was needed to efficiently cooperate with the public. The clearing house will be created by the National Centre of Public Health.

The questionnaire contained the following questions:

1. Are you familiar with the Protocol on Water and Health?
2. If yes, where did you receive information on the Protocol from? (Health institutions, Ministry of the Environment, the media, NGOs, international organizations, others)
3. How do you rate the level of information that you received from public authorities?
4. Would you like to know more about the Protocol and its promotion in Moldova?
5. Do you think that NGOs should be presented in the working group on setting targets within the framework of the Protocol?
6. Would you like to participate in informational hearings related to the implementation of the Protocol in Moldova?

²⁶ For issues of translation, see the Draft Recommendations on Public Participation in Decision-Making in Environmental Matters prepared by the UNECE Aarhus Convention's Task Force on Public Participation in Decision-Making, Third Draft March 2013, para. 53 (c), available at: www.unece.org/tfppdm4.html

Case study 10 Questionnaire on information sharing (Republic of Moldova) - cont.

7. What kind of information about the Protocol would you like to receive in such a hearing? (General information on the Protocol, information on the development of targets and target dates, information on the implementation process in Moldova, information on experiences of other countries, information on the participation of the public within the Protocol's implementation, information on access to information, other)

Applying the questionnaire resulted in:

1. Knowing about the awareness of the Protocol of NGOs and the public.
2. Priorities of the public and their inclusion into the agenda of future meetings/hearing with the public.
3. Showing the efficiency of the sharing of information by the ministries.
4. Determining the circle of interested and competent stakeholders.

Article 10.3 of the Protocol also provides guidance on *how* the sharing of information shall be organized:

“At all reasonable times for inspection free of charge”

A best practice is to provide the information so that it can always be accessed free of charge, e.g. through a website. However, not everybody has access to the Internet. It is often the people living in remote areas (e.g. in rural areas) and marginalized groups who lack access. Therefore, other means might have to be chosen as well to address specific groups, e.g. mass media, notice boards or public meetings (for more details see Tool box, Chapter IV). A good example was the organization of a consensus conference in France.

Case study 11 (see also case study 6) Consensus conference (France)

In 2009, the city of Paris launched a consensus conference on the topic of the future of the raw water network. The purpose of the conference was to determine the relevance of keeping a double water-supply network.

Paris had two different networks, one for the supply of drinking water and the second for the supply of (non-drinking) water for other purposes (e.g. cleaning of streets, watering of public gardens, and supplying rivers and lakes in public parks).

Although the issue was technical, economic, cultural and environmental dimensions were equally important for the decision-making. Therefore, the jury was composed of different members of the public, according to their interest in water issues and their professional backgrounds: e.g. journalists, architects, historians, representatives of business and environmental NGOs, members of local committees, city planners and students. The aim of the conference was to obtain recommendations on the city's policy.

Experts made presentations to the 14 members of the jury on issues such as techniques, sanitation, environment, economy, history and culture. A written summary of the research results was presented. An online discussion group was created, enabling jury members to post messages and ask questions, and to communicate with each other. The second day of the conference was dedicated to the jury's deliberations and the presentation of its recommendations. The debate was facilitated by a professional moderator.

Although the studies mainly advocated for the abolishment of the raw water network, because of a lack of investment in previous years and a decrease in the consumption of water, only a minority of the jury supported this opinion.

Case study 11 (see also case study 6) **Consensus conference (France) - cont.**

Most thought that a double water network was an opportunity to diversify water supplies and thus would benefit the water quality in a long term. They recommended that the city should maintain it and modernize the service by seeking new uses and new sources of non-drinking water (e.g. river water, rain and grey water).

Once economic and technical studies confirmed the possibility of keeping and modernizing the network, the municipal officials' votes followed the citizens' recommendation. The raw water network was maintained active.

Results and main challenges

1. This citizens' consultation raised the interest in the issue by engaging the public. The decision to keep the network was shared by most of the population. The integration of cultural, historical, social and environmental elements helped in finding a holistic solution.
2. The consultation gave stakeholders the opportunity to understand a technical subject, which up until then had been covered only by the city's engineers.
3. Information and training were essential in achieving the expected results.

Written information held by the public authorities

Information should be displayed at reasonable times and the inspection of the information in the public authorities' premises should be free of charge. The premises need to be open during the week beyond normal office hours to enable people who work during normal office hours to visit the premises.

Article 10.3 of the Protocol specifies that the public authority:

“shall provide members of the public with reasonable facilities for obtaining from the Parties, on payment of reasonable charges, copies of such information.”

The information must be made available for the public in a barrier-free environment and the public needs to have the possibility to make copies of the information for a reasonable charge. Any new information coming up during the process has to be made available.

The draft targets and target dates or the draft water-management plan have to be regularly updated based on the public's comments and proposals and repeatedly provided (repeated information).

The information might be shared by different ways in order to reach the wider possible public (see case study 12).

Case study 12 **Means of sharing information (Finland)**

In Finland²⁷, the public had the opportunity to make proposals and comments on the implementation of the bathing water legislation and especially on the list of bathing areas. Information was easily available for the public in different ways, such as leaflets, newspapers and the Internet.

²⁷ Targets set by Finland under the Protocol on Water and Health (see: www.unece.org/fileadmin/DAM/env/water/Protocol_on_W_H/Target_set_by_parties/Finland_Targets_and_target_dates_15022008.pdf)

(c) Involvement of the public

Active involvement of the public starts with the notification about the process and the provision of the relevant information, i.e. the targets to be set and the water-management plan to be developed or revised (see (b) above).

Setting time frames should be done according to national legislation. However, a flexible approach is advantageously taking into consideration “factors such as the nature, complexity, size and potential environmental effects”²⁸ of the proposed targets and/or activities within a water-management plan.

Guidance from other areas

- A period of approximately six weeks for the public to inspect the documentation and prepare itself for the public inquiry and a further 45 days for the public to submit comments, information, analyses or opinions relevant to the proposed activity (construction of a waste incinerator) could be considered as reasonable time frame²⁹ under the principles of the Aarhus Convention.
- Time frames for consultation of the public on environmental reports under the proposed amendment of Directive 2011/92/EU are suggested to be not shorter than 30 days or not longer than 60 days (Article 6 (7)).³⁰

Different forms of consultation are possible (see Tool box Chapter IV). Common practices are public consultations (oral, written, or both), including online consultations. The case studies below give practical examples from several countries of how to organize a consultation.

²⁸ See footnote 26, para. 63.

²⁹ See footnote 26, box of para. 65 and its footnote 33 referring to Compliance with regard to France (Compliance Committee Case of the Aarhus Convention)

³⁰ Proposal for a Directive amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, COM (2012) 628 final, p. 17, available at: <http://ec.europa.eu/environment/eia/pdf/COM-2012-628.pdf>

Case study 13 Consultation on different levels (Hungary)



The Hungarian National River Basin Management Plan was approved on 5 May 2010. The process of involving the public began in 2006 with the creation of a strategy and methodology for public participation on local, regional and national levels (see also case study 7).

In the first phase, a consultation was held about the work programme of the water management planning process. Written contributions (62) were received from trade associations (e.g. water suppliers) and NGOs as well as individuals. A

Ministerial Decree was subsequently issued on the Water Management Councils (2007).

In the second phase, the public was invited to comment on the local water-management subunit levels and on a concept paper on the major issues of water management at the national river basin level, as well as on the four sub-catchment areas.

Around 60 written comments were submitted. At the same time, the public debate on the programme of measures proceeded.

Broad and easy access to information was provided via a dedicated website www.vizeink.hu (meaning “our waters”) where all materials relevant to each consultation phase and each planning unit (regional entities based on drainage areas) were posted. Also, an information campaign was organized via electronic and printed media, and national and regional press conferences were held.

Four main tools for the consultation

- Written consultations (posted on the website).
- Regional forums were held in all subunits inviting all relevant public authorities and the representatives of civil society organization (e.g. agriculture, forestry, municipality, fisheries, thermal waters).
- 25 consultations were arranged with the participation of more than 1,000 persons representing some 700 organizations. Over 1,500 notes or questions were submitted and replied to (orally or in writing).
- Water-management councils were established (on the national, sub-catchment and management subunit level) with the participation of most of the dedicated stakeholders.

All the commissions and councils met to discuss and approve the final plans. According to the provisions of the decree, the resolutions and proposals of these bodies were integrated and were codified.

Participation of the public has not been limited to the preparatory phase, but is also foreseen for the detailed planning, implementing the programme of measures and the six-yearly revisions.

Case study 14 Implementing the Water Framework Directive (Romania)

When the Water Framework Directive was implemented, the public was engaged at different levels through the 11 River Basin Committees (consultative bodies). The process was based on guidelines that had been developed at the national level following the Common Implementation Strategy of the Water Framework Directive and the Public Participation Strategy for the Danube River Basin District.

According to the International Commission for the Protection of the Danube River (ICPDR) Operational Plan (2005-2010), the Ministry of Environment and Forests and the National Administration "Apele Romane" organized public hearings (focusing on specific target groups of stakeholders) at national and at the respective river basin administrative levels. Information material such as leaflets, brochures, DVDs and questionnaires was disseminated to all participants.

At the national level, 70 meetings were organized to prepare River Basin Management Plans. About 2,400 stakeholder representatives participated; 1,819 questionnaires were distributed to the main stakeholders and water users, and around 550 were returned completed. Out of 270 proposals and comments received, around 200 were taken into consideration, leading to an improvement of the Plans.

Main lessons learned

1. Better results can be obtained if the number of interest groups is expanded according to the specific thematic problems.
2. The tools used need to be adequate in order to engage specific target groups.
3. Non-technical language must be used in addressing the public.
4. Close contact must be maintained between the decision-makers and key stakeholders, NGOs and the public during the entire cycle of the definition of the Plans.
5. Adequate financial resources must be secured for promoting the process via local/regional and national media.

The outcomes of this process were taken into account when defining the targets under the Protocol.

Potential challenges

The public may sometimes show little interest in participating. Or certain participants may attempt to hamper, disturb or delay the process. Such challenges may be due to a lack of trust in the public authorities or to social problems between different groups of stakeholders or, in isolated cases, due to a particular individual's own behaviour.

The HarmoniCOP provides useful guidance on how to deal with such problems arising during the public participation process.

(d) Taking the outcomes of public participation into due account and publishing the final documents

Authorities are legally bound to take into due account the outcomes of public participation in water and health-related decisions under the Protocol. They also have the duty to do so in a non-discriminatory and fair way.

Not taking into account the outcomes of the public participation in the decision-making process might lead to the disillusion of the public, prevent the effective implementation of the decision taken as well as prevent any future public consultation.

Some countries have developed guidance on what “taking into due account” means in practice. In Austria, for instance, in 2008, the Council of Ministers adopted Standards on Public Participation to assist government officials. The text states as follows:

“Take into account” means that you review the different arguments brought forward in the consultation from the technical point of view, if necessary discuss them with the participants, evaluate them in a traceable way, and then let them become part of the considerations on the drafting of your policy, your plan, your programme, or your legal instrument.”³¹

In Ukraine, the process of setting targets offers a good example of taking the outcomes of public participation into due account when defining the national targets (see case study 15).

Case study 15 Taking into due account (Ukraine)



In the second phase of the public consultation on the draft national targets, public hearings were held on 20 and 21 October 2010 in Kiev.

Representatives of the Ukrainian-Norwegian project, the Ministry of Ecology and Natural Resources, the Ministry of Health, other executive bodies and NGOs took part in the event, including 11 representatives of the authorities, 17 representatives of NGOs and media and representatives of 14 Ukrainian cities.

Different comments and amendments to the draft were presented and discussed during the event. Further consultations and the collection of comments were completed by 10 November 2010. As a result of this process, the environmental NGO “MAMA-86”³² received 23 written submissions with numerous comments and amendments from stakeholders, including responsible ministries and authorities at different levels, experts and NGOs.

“MAMA-86” prepared a comparative table for the draft document, including all comments, and provided it to the drafting group (the Inter-agency Working Group, cf. case study 3) responsible for finalizing the target-setting process. Most of the suggested amendments were taken into consideration during three meetings of the Inter-agency Working Group and included in the final version of the 15 national targets.

How to publish the set targets and the target dates or a water-management plan depends on the Parties and their national legislation. However, certain minimum requirements should be met. The Draft Aarhus Recommendations on Public Participation in Decision-Making foresee that

“the public is promptly informed of the decision and how they may access the text of the decision together with the reasons and considerations on which it is based”.

Parties usually publish them on an official website or in the official gazette. Sometimes, they use the print media to disseminate them. Or they could use a dedicated meeting (see case study 16).

³¹ Austrian Council of Ministers, Standards of Public Participation – Recommendations for Good Practice, 2008, p. 13, available at: www.unece.org/env/pp/ppeg/Austria_pp_standards.pdf

³² In charge of coordinating the public participation process under the Ukrainian-Norwegian project.

Case study 16 (see also case study 8 for background information) Oral information (France)

Case study 8 (France) highlighted the need to provide feedback to all the stakeholders. Therefore, after the Paris water policy had been drafted, a final meeting was set up to inform participants of those recommendations that had been taken into account, and the reasons why others had not been.

Key issues

Assessing the country situation by collecting key information and identifying priority issues and the public to involve is a prerequisite for initializing a public-participation process.

1. The provision of information lies within the responsibility of the public authorities. However, NGOs can play an important role in transferring relevant information.
2. The provision of “all relevant information” includes the notification about the process of public participation, as well as all information necessary for the participation, including new information coming up during the process.
3. Information has to be available for inspection in a barrier-free environment, free of charge and at reasonable times.
4. The setting of time frames for the public involvement should be adapted to the specific context and complexity of the public-participation process.
5. Taking into due account the views and comments received from the stakeholders is a legal obligation in every public-participation process. This requires a transparent evaluation of all input received; and the outcome of the process has to be reflected within the final decision.

2. REPORTING

Article 16.3 (b) of the Protocol provides that the Meeting of the Parties 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”.

For that purpose, according to article 7.5:

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

When preparing the national summary reports, Parties shall hold inter-ministerial consultations as well as engage the public and other relevant stakeholders.

The same coordination mechanisms that are responsible for the target-setting process and the development of water-management plans should be responsible for reporting.

The *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting* recommend including in the consultation on the

draft summary report NGOs, the public, local communities, business and the media. They provide a possible time line of 30-60 days for this consultation.

NGOs can serve as useful sources of data, especially at local level³³. To give them sufficient time to provide their comments on the draft summary reports, countries should post their draft reports online as early as possible.

3. INTERNATIONAL COOPERATION—INTEGRATION OF THE TRANSBOUNDARY DIMENSION

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)”

This 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.”

The provisions of the Protocol require close cooperation between the Riparian Parties to the Protocol in achieving its objectives. Such cooperation should include entering into bilateral or multilateral agreements or other arrangements, or adapting existing ones, where necessary, to eliminate any contradictions with the basic principles of the Protocol and to define mutual relations and the conduct of the Riparian Parties.

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

Establishment of a joint body

The above agreements or other arrangements should provide for the establishment of a joint body. Where the Parties to the Protocol are also Parties to the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes and have established the required joint bodies, these could be used as an institutional framework to facilitate cooperation under the Protocol.

A joint body should be entrusted to perform tasks related to implementing the Protocol—setting joint targets and target dates, and developing joint water-management plans. Provisions should also be included to ensure public participation in the activities of the joint body.

³³ Mentioned at the second workshop on reporting under the Protocol in Geneva in February 2013 (cf. www.unece.org/env/water/meetings/second_reporting_workshop.html)

Case study 17 **Cooperation in the transboundary Dniester River basin**³⁴ (Republic of Moldova and Ukraine)



The Plenipotentiaries of the Republic of Moldova and Ukraine facilitated the implementation of the bilateral Agreement on Joint Use and Protection of Frontier Waters (1994). In 2007, they adopted a Regulation aimed at ensuring public participation in the activities of the joint body.

This was the first example of formalized rules for dissemination of information and public participation in the activities of joint bodies in the Eastern Europe, the Caucasus and Central Asia region.

The Regulation on Stakeholder Participation in the Activities of the Plenipotentiaries provides for the development of a register of stakeholders. Stakeholders are defined as any public authority, NGO and their associations, or legal persons with an interest in transboundary water management.

The Register is composed of a Moldovan part and a Ukrainian part. Each Plenipotentiary is responsible for maintaining their part of the Register. The Register is accessible on the Internet.

Thirty days before their ordinary meeting, the Plenipotentiaries inform stakeholders about all decisions made since the last meeting and about the work plans. Twenty days before a meeting, the Plenipotentiaries inform the stakeholders about the date, agenda and documents.

The Regulation provides for the rights of stakeholders to suggest issues to be discussed by the Plenipotentiaries and to submit written and/or oral comments concerning the draft documents, together with suggestions and amendments to the draft texts. Draft documents and invitations to submit comments are to be published on the Internet.

Comments made by the stakeholders are to be taken into account when making the final decision.

In December 2007, the Plenipotentiaries also agreed to maintain a joint website for the Dniester River basin (see www.dniester.org).

During 2005 - 2011 the project "Cooperation in the transboundary Dniester River basin" supported by UNECE and the Organization for Security and Co-operation in Europe (OSCE) was implemented in the Republic of Moldova and Ukraine. Its objective was to support regional cooperation between the two countries in the sustainable use of the Dniester River basin through drawing up an intergovernmental river basin agreement, which should help to involve all stakeholders in its management.

One of the project's tasks was to establish efficient cooperation models to consolidate efforts of the sanitary-epidemiological services of the region to establish joint monitoring of the water quality in order to avoid water-related diseases. A mixed working group composed of representatives of the sanitary-epidemiological services of both countries was created; an NGO representative was elected to coordinate the working group.

It was important to involve representatives of the Transnistria region of the Republic of Moldova in the working group's activities. The working group drew up and coordinated the joint Regulation on evaluating the sanitary-epidemiological quality of water, which became an annex to the Agreement between the Governments of the two countries on frontier waters and was based on Article 6 of the Agreement.

Some joint bodies established a working group for cooperation with NGOs and other stakeholders (see case study 17). For example, a Public Participation Expert Group acts in the framework of the International Commission for the Protection of the Danube River.

³⁴ Taken from the Guide to Implementing the Water Convention, available at: www.unece.org/fileadmin/DAM/env/documents/2009/Wat/mp_wat/ECE_mp.wat_2009_L2_%20E.pdf

Observers to the Commission have the following rights:

- The right to participate in its meetings, including those of expert groups, with the possibility of expressing their position and views
- The right to submit documents and proposals to the Commission
- The right to take part in the programmes and contribute to the projects initiated under the Danube River Protection Convention.³⁵
- Free access to its documents and those of its bodies.

Many joint bodies have developed websites with information about their activities. In Romania, all protocols of meetings of joint bodies on transboundary waters are published in the Official Journal, a periodical that publishes all the country's laws and regulations.

4. COMPLIANCE COMMITTEE

Article 15 of the Protocol provides that the:

“Parties shall review the compliance of the Parties with the provisions of this Protocol on the basis of the reviews and assessments referred to in article 7. Multilateral arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance shall be established by the Parties at their first meeting. These arrangements shall allow for appropriate public involvement”.

The compliance review mechanism³⁶ developed under the Protocol should provide an important stimulus for Parties to comply with their obligations. The ultimate goal is to facilitate and assist Parties in resolving problems. The mechanism itself and any measures undertaken in the course of or as a result of any compliance review are meant to be non-adversarial, non-confrontational, non-judicial and consultative.

Members of the Compliance Committee are not representatives of Governments; they work in their personal capacity, objectively and impartially. They are elected by the Meeting of the Parties to the Protocol from among candidates nominated by the Parties, taking into consideration any proposal for candidates made by NGOs.

One important feature of the compliance mechanism is that it provides for the possibility of one or more members of the public to submit communications to the Committee about cases of alleged non-compliance with the Protocol, which the Committee is then required to deal with.

(a) Communication from the public

A “communication from the public” is a documented assertion by a member of the public that a Party is not in compliance with the Protocol by failing to effectively transpose, implement or enforce its obligations under the Protocol. Guidelines are available on how to submit communications.³⁷

The following are some specific features relating to public participation:³⁸

- Any member of the public, or group of people, may submit a communication to the Compliance Committee.
- A member of the public does not need to be affected in order to submit a communication.
- It is not necessary for that person to be represented by a lawyer or to have the communication prepared with legal assistance.

³⁵ Text available at: www.icpdr.org/main/icpdr/danube-river-protection-convention

³⁶ Decision on review of compliance, ECE/MPWH/2/Add.3-EUR/06/5069385/1/Add.3, available at: www.unece.org/fileadmin/DAM/env/documents/2007/wat/wh/ece.mp.wh.2_add_3.e.pdf

³⁷ UNECE-WHO/Europe, Guidelines on Communications from the Public, available at: www.unece.org/fileadmin/DAM/env/water/meetings/CC/Guidelines_on_communication_revised_cleaned.pdf

³⁸ See also brochure on improving compliance with the Protocol on Water and Health: www.unece.org/fileadmin/DAM/env/water/documents/Protocol_on_Water_and_Health-English.pdf

- The communication can address a general or specific failure by a Party to take the necessary legislative, regulatory, institutional, administrative, operational, budgetary/financial, technical, infrastructural or other measure necessary to implement the Protocol. It can also be a specific event, act, omission or situation that demonstrates 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—this can include a failure to engage the public.

Meetings of the Compliance Committee are usually open to the public.

(b) Observer status

Non-Parties, intergovernmental organizations and NGOs that have observer status with the Meeting of the Parties to the Protocol have observer status within the Compliance Committee. The Committee may also grant observer status on a case-by-case basis to other subjects, including NGOs or members of the public.

Observers are entitled to receive copies of publicly distributed documents, submit written documents and make oral statements at meetings of the Committee.



Chapter IV.

TOOL BOX

This section describes in detail the specific tools for the different steps of the public-participation process. Public participation is important not only in identifying stakeholders, setting targets and target dates and designing water-management plans, but also in designing the participation process itself and in the monitoring, reporting and implementation.

As decisions are made at different levels (international, national, federal, provincial and local), they require different tools for organizing the participation of the public. Even within one level, different designs of the process are possible.

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: for highly controversial issues or issues of high environmental significance, more formal and elaborate procedures may be most appropriate to ensure effective public participation (e.g. public inquiries or public debates or public hearings with submission of formal evidence).

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.³⁹

There is a wide spectrum of potential types of public participation—from no opportunity to influence (inform) to partial power to influence (passive consultation, “involvement) to total influence over the outcome (active consultation). The different levels of public participation play a key role in choosing the right tool.⁴⁰

Issues of language (e.g. translation, interpretation, illiteracy) and of timing (e.g. not during harvest time, schedule meetings that allow broad participation—e.g. respecting working hours, religious holidays and child-care provisions) should be taken into account when reaching out to rural people, marginalized groups and ethnic minorities.

This tool box presents a non-exhaustive list of tools that can be used to identify stakeholders, notify, inform, consult and take into due account. The tools are arranged by suggested level of relevance for each step of the public-participation process. However, this suggested order may not apply to all contexts and the tool(s) to be selected should be adapted to each specific case.

³⁹ See footnote 26.

⁴⁰ United States Environment Protection Agency, Public Participation Guide, available at www.epa.gov/international/public-participation-guide/Tools/index.html





Tools to identify stakeholders

Noticeboards

Websites

List servers and e-mails and other electronic communication tools, e.g. social networks

Media

Expert panels

Hot lines

Public hearings

Interviews

Citizens' juries

Written submissions

Public opinion surveys

Stakeholder analysis



Tools to notify

Notice boards

Websites

Printed public information material

List servers and e-mails and other electronic communication tools, e.g. social networks

Media

Field offices

Focus groups



Tools to inform

-
- Noticeboards
- Websites
- Printed public information material
- List servers and e-mails and other electronic communication tools, e.g. social networks
- Media
- Public hearings
- Expert panels
- Field offices
- Hotlines
- Citizens' juries
- Interviews
- Public opinion surveys
- Working groups/ workshops
- Focus groups
-



Tools to consult

-
- Written submissions
- Public hearings
- Public opinion surveys
- Working groups/workshops
- Round tables
- Group model building
- Focus groups
- River basin council/committee meetings
- Referendum
- Websites
-



List servers and e-mails and other electronic communication tools, e.g. social networks

Expert panels

Field offices

Hotlines

Interviews

Citizens' juries



Tools to take into due account

Public hearings

Websites

Expert panels

Citizens' juries

Written submissions

Public opinion surveys

Round tables

Group model building

River basin council/committee meeting

Matrix analysis

Description of the tools

TOOLS	DESCRIPTION ⁴²	Can be used to....				
		Identify	Notify	Inform	Consult	Take into account
CITIZENS' JURIES	Building a small group of ordinary citizens to learn about an issue, examine witnesses and make recommendations.	●		●	●	●
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.	●		●	●	●
FIELD OFFICES	Offices established with prescribed hours to distribute information and respond to inquiries.		●	●	●	
FOCUS GROUPS	Message testing forum with randomly selected members of target audience.		●	●	●	
GROUP MODEL BUILDING	An approach where a group of around 10 persons gathers in one or more sessions and is guided by a modelling team in constructing the model. The goal is to increase insight into the problem, create consensus and develop a common strategy. ⁴³				●	●
HOTLINES	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.	●		●	●	
INTERVIEWS	One-to-one meetings with stakeholders to gain information for developing or refining public involvement and consensus-building programmes.	●		●	●	
LIST SERVERS AND E-MAILS AND OTHER ELECTRONIC COMMUNICATION TOOLS, E.G. SOCIAL NETWORKS	Both list servers and e-mails are electronic mailing lists. Anyone can register on a list server to receive all messages sent to the list server. If using e-mail, someone needs to both create and maintain an updated electronic distribution list for the issue.	●	●	●	●	
MATRIX ANALYSIS	A methodology where all inputs and comments received are filled in a matrix according to the selected issues. Provides an overview of all inputs and shows clearly what has been taken into account in the decision-making process and what has not.					●
MEDIA	<ul style="list-style-type: none"> - Press releases, press-conferences, press-tours and other press-events - Print advertisements - TV spots - Articles - Documentaries 	●	●	●		
NOTICEBOARDS	Information can be published on official and other noticeboards (e.g. public authorities, community centres and parishes)	●	●	●		

⁴² Mostly based on: International Association Public Participation, Public Participation Toolbox, 2006, p. 9, available at www.healthissuescentre.org.au/documents/items/2010/05/318999-upload-00001.pdf

⁴³ Jac A.M. Vennix, Group Model-Building in System Dynamics, vol. 2, 1996, p.1.

PRINTED PUBLIC INFORMATION MATERIAL	<ul style="list-style-type: none"> - Fact sheets - Newsletters - Leaflets/brochures - Issue papers - Progress reports 		●	●		
PUBLIC HEARINGS	<p>A form of informative meeting at an early stage within the process. Public authorities invite the public (all stakeholders) informing them about a planned action and inviting them to express their views and concerns regarding these plans.</p> <p>It is the responsibility of public authorities to call for a public hearing, but civil society can also initiate the process.</p> <p>Authorities are required to consider the comments in their evaluation of the action being taken.⁴⁴</p>	●		●	●	●
PUBLIC OPINION SURVEYS	<p>The survey offers the possibility, at an early stage of the process, to query the public in order to collect data for the analysis of different aspects of the measure, programme or plan.</p> <p>It can take place in person, or via phone, Internet or e-mail.</p>	●		●	●	●
REFERENDUM	<p>A vote on a measure/project as submitted, e.g. passed on or proposed by a legislative body or by popular initiative.</p> <p>A referendum might be binding or non-binding depending on the constitution.</p>				●	
RIVER BASIN COUNCIL/ COMMITTEE MEETINGS	<p>In the Russian Federation, Ukraine, the Republic of Moldova and Romania River basin, councils/committees have the status of an advisory body. In France, the River Parliament represents the public.</p>				●	●
ROUNDTABLES	<p>A small-sized group (participants are invited) that starts with short presentations on the project and is followed by a longer discussion. Participants meet on equal terms. Ideal for receiving targeted input.</p>				●	●
STAKEHOLDERS' ANALYSIS	<p>A stakeholders' analysis provides an overview of existing stakeholders and examines relationships between them.⁴⁵</p>	●				
WEBSITES	<p>Websites can serve as an electronic noticeboard where information can be posted and comments received.</p>	●	●	●	●	●
WORKING GROUPS/ WORKSHOPS	<p>An informal public meeting that may include presentations and focuses on interactive working groups. Interactive groups are facilitated by trained persons.</p>			●	●	
WRITTEN SUBMISSIONS	<p>Submissions by the public on a specific project/ programme/action plan. The public is invited to submit input within a given time frame and is often asked to provide submissions in a special format (page limit, language, etc.).</p>	●		●	●	

⁴³ Webster's Online Dictionary and footnote 51, p.13.

⁴⁴ WWF, Cross-cutting Tool, Stakeholder Analysis, October 2005.



Guide to Public Participation under the Protocol on Water and Health

The Protocol on Water and Health stresses the importance of involving the public in decision-making concerning water and health.

Access to information and public participation are essential for building public awareness of issues, for giving the public the opportunity to express its concerns, for enabling public authorities to take due account of such concerns and for ensuring that the decisions are implemented in the fairest possible way.

The Guide to Public Participation offers explanations of legal obligations with regard to public participation and access to information under the Protocol and other international frameworks. It can be used as a tool to help improve the planning and carrying out of the public-participation process.

It encourages authorities to take into account the results of public participation at the different stages: in setting targets and target dates, in drawing up water-management plans and in doing the reporting.

It contains recommendations and examples that we hope will inspire Parties and members of the public to better assert their rights and fulfil their obligations in organizing or taking part in the important public-participation process.

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