

GUIDELINES FOR EARLY AND
TRANSPARENT INCLUSION OF
INTERESTED PARTIES IN
ENVIRONMENTAL DECISION MAKING
(ETI MODEL)



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List of abbreviations and explanation of terms used in the ETI model

CSOs – Civil Society Organisations

EIA - Environmental Impact Assessment; a process of evaluating the likely environmental impacts of a proposed project or development, taking into account inter-related socio-economic, cultural and human-health impacts, both beneficial and adverse.¹

ETI - Model for early and transparent inclusion of interested parties in environmental decision making

SEA - Strategic Environmental Assessment; a formalized, systematic and comprehensive process of identifying and evaluating the environmental consequences of proposed policies, plans or programs to ensure that those environmental consequences are fully included and appropriately addressed at the earliest possible stage of decision-making on a par with economic and social considerations.²

AA – Appropriate Assessment (Screening)

PPP - public private partnership; a long-term contractual partner relationship between the public sector and the private sector. It may include financing, design, construction, operation and/or maintenance of infrastructure and/or provision of services by the private sector, which are usually procured and provided by the public sector.³

sHPP - small hydropower plant (hydropower plant with installed capacity between 10kW and 10MW e.g. in Republic of Croatia. Installed capacity differs from country to country).⁴

For the purpose of this document

1. *Public* refers to individual or legal person(s), and, in accordance with national legislation or practice, their associations, organizations or groups;
2. *Interested parties* refers to the stakeholders affected or likely to be affected by, or having an interest in the environmental decision making;
3. *Disadvantaged / vulnerable groups* refers to individuals or group of people with a social, economic or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the development processes;

¹ <https://www.cbd.int/impact/whatis.shtml>

² <https://www.cbd.int/impact/whatis.shtml>

³ <http://www.javnabava.hr/userdocsimages/userfiles/file/Razne%20publikacije/Step%20by%20step%20guide%20to%20PPP.pdf>

⁴ <http://www.haop.hr/sites/default/files/uploads/publications/2017-12/STRUCNE%20SMJERNICE%20-%20MALE%20HIDROELEKTRANE.pdf>

4. *Stakeholders* refers to all interested parties in a project – the entities who are affected by and can influence the project, a subject of environmental decision making, as well as those who will be impacted by it;
5. *Competent body/relevant authority* is a ministry or a governmental agency in charge of the development process; a decision making body;
6. *Public participation* refers to the process by which decision makers consult with interested or affected individuals, organizations and government entities before making a decision;
7. *Early and transparent inclusion - ETI* refers to the process by which an organization, public, local communities or any other interested party is included from early stages of development of an idea, planning and implementation of a project that is the subject of environmental decision making;
8. *Adria Region* in WWF terms refers to following countries: Albania, Bosnia and Herzegovina, Croatia, North Macedonia, Kosovo*, Montenegro, Serbia and Slovenia;
9. *Plan, programme, strategy development* refers to SEA procedure;
10. *Project development* refers to EIA procedure.

1. INTRODUCTION

Early and transparent inclusion in environmental decision making is not an isolated process specific only to environmental impact assessments (EIA) and strategic environmental assessments (SEA); rather it has wider importance for and influence on democratic decision making, participation and empowerment of the public, protection of natural resources and long-term environmental protection. Thus, the purpose of this document is to help civil society organisations (CSOs), government, business sector/investors, citizens' initiatives and the broader public (especially local communities and their vulnerable groups) to be a vital part of the process and to exercise their rights to participate. Early and transparent inclusion presents a model for the participatory decision-making process that can easily be applied to help the protection of natural resources in the Adria Region. If people understand their rights regarding participation, then they will exercise those rights, decision-making processes will overall be more transparent, and there will be fewer possibilities for corruption. Ultimately society will be made more open, and natural capital better managed.

Democratic and transparent environmental decision making can only be ensured when the general public and interested parties are involved in the process from early stages. Even though there are some principles/minimal standards each country should respect when deciding on development plans, projects, strategies, programmes or specific projects (e. g. industrial facilities, farms, installations for energy production etc)., the situation in the Adria Region is far from being transparent and inclusive. Lack of transparency in processes leads to disruptions in project development and implementation and investors hesitate to take concrete steps. To ensure that there is a positive and inclusive atmosphere in environmental decision making not only does the legislative basis have to change and be implemented in the appropriate manner, but there also needs to be an improvement in the general opinion and proactivity of the public and interested parties. The ETI model offers guidelines for early and transparent inclusion of all interested parties and provides step-by-step instructions regarding what transparent and early inclusion should look like, from the planning to the implementation phase. It serves in two ways. It is a useful tool both for decision makers and CSOs. Decision makers can use it as a step-by step guide to ensure an inclusive process when developing a plan, project, programme or strategy; CSOs can use the ETI model (in particular chapter 3, sub-chapter 3.1), to check whether all criteria for early and transparent inclusion have been met during planning and development of projects, programmes or strategies. Additionally, the ETI model provides the most important background information on legislation, stakeholders, processes of participation and best practices in the Adria Region.

2. GUIDELINES FOR EARLY AND TRANSPARENT INCLUSION OF INTERESTED PARTIES IN ENVIRONMENTAL DECISION MAKING

To ensure early and transparent inclusion of interested parties in environmental decision making, a set of guidelines was developed providing concrete steps that should be taken. The main idea of the ETI model is to present the complex right that CSOs and other interested parties may exercise to take an active part in decision-making processes. On the other hand, the authorities (competent bodies) are obliged to ensure respect of the right for potential interested parties to participate in a process of decision making. Competent bodies are involved in a process that may be long lasting, containing several steps and several decisions – from overall planning to very specific project approval. A description of the process aims to show how every single step is an opportunity for interested parties to take an active role in the creation of projects, plans, programmes and strategy development.

Even when the competent body has a good will to involve interested parties in the process, sometimes they fail at doing that. Reasons may be various, including lack of knowledge of competent body or limited technical and human capacities. These kinds of problems may be bridged by a partnership with CSOs. Namely, CSOs as legitimate promoters of public interest, may support the competent body in the decision-making procedure.

The early and transparent inclusion of interested parties in environmental decision making is both a demonstration of democratic mechanisms and a tool by which civil society can take responsibility, with an active and constructive role in the overall development of the community. Responsibility means that the active participation of CSOs must be motivated by a wish to improve a situation, not to obstruct a process. Public involvement can be seen as an additional burden to the process of decision making. The ETI model strives to present public involvement as positive, to support competent bodies and bring quality to decision making. The ideal situation is that a decision, at any stage, is made with the consensus of all parties involved. Such a decision would be legitimate, supported by all interested parties and easily implemented.

2.1. Model for early inclusion of interested parties in decision making (ETI model)

This chapter defines the concrete steps that need to be followed by decision makers (including investors) to ensure minimum public participation during the development of a project, plan, programme or strategy. It also serves as a guide for CSOs and other interested parties to more easily understand the steps to be undertaken in this respect. Implementing an ETI model will ensure minimum best practice public participation to facilitate environmental decision making (but it does not guarantee actual realization of the project).

Step 0 (adequate baseline background existing)

Existence of adequate baseline documentation is the foundation of any development. For example, when developing an energy project, system scale planning has to be in place; when building a factory the location has to be in the relevant spatial planning documentation or when building a hotel, it has to be in accordance with relevant tourism planning documentation. Before listing the steps needed to ensure early public participation, the baseline condition is to have mutually planned and agreed locations or spaces dedicated for development between relevant sectors with minimal impact on nature. In that way, we can ensure that the project, plan, programme or strategy has a solid basis and can be further developed.

Step 1 (determine stakeholders)

- prepare a stakeholder analysis to define key stakeholders
- prepare an information sharing plan and awareness raising plan
- prepare a gender action plan/strategy to ensure equal representation of women and men
- include disadvantaged and vulnerable groups in the process (young, elderly population, minorities)
- include interested parties/public/local community/CSOs in meetings and consultations while developing the initial idea

Step 2 (provide first-hand information)

- provide information on all relevant processes (e.g. plan of concession granting, self-initiated processes, etc.)
- present all drafts and final project/plan/programme/strategy to interested public/CSOs
- allow minimum 15 days for interested public/CSOs to provide comments
- critically evaluate the comments received during and after presentations
- develop an open dialogue with the community directly affected by the project/plan/programme/strategy
- use social media, radio, newspaper and other communication tools to inform interested parties
- provide all information related to a process on one platform (including all information, deadlines, drafts and final documents)

Step 3 (implement SEA procedure)

- include interested parties/CSOs in development of the ToRs for the SEA
- allow and encourage the consultant company developing the study to establish and maintain communication and exchange of information with the interested parties/CSOs
- establish permanent communication with the community affected by the programme/strategy

- ensure that the SEA procedure has been implemented for spatial documentation (plans) that are in use for development of the programme or strategy
- use all legal grounds to enable commenting in the SEA procedure
- take into consideration all potential environmental impacts and inform interested parties/CSOs on identified impacts
- consult relevant experts and ensure high quality inputs from them

Step 4 (implement EIA procedure)

- provide information on the submission of the EIA
- educate interested parties/communities about list B project and screening process
- communicate with interested parties/CSOs during the screening process for projects on list B and actively involve them in the screening process (ask for inputs, comments etc.)
- actively involve interested parties/CSOs in the development of the ToRs for the EIA
- allow and encourage the consultant company developing the study to establish and maintain communication and exchange of information with the interested parties/CSOs
- organize preparatory meetings with the local community to inform them about the project and potential impacts
- inform the local community about their right to participate in the consultation process, especially the right to attend public hearings
- consult academia and/or experts on issues that require specific knowledge

Step 5 (quality public hearing & consultations)

- allow enough time for public participation (from 30 working days, non-holiday season to at least 60 working days, non-holiday season for more complex and big projects/plans/programmes/strategies)
- use all tools for sharing the information on deadlines and places of public hearings (newspapers, social media, post information in post offices, shops, libraries, etc.)
- organize meetings after working hours, in facilities with an easy access, preferably near the project site
- use understandable language while explaining the project
- be prepared for the public hearing (provide additional information if needed, allow enough time for all questions, etc.)
- appoint a competent person to provide information to interested parties during the whole process of consultations
- allow as many presentations as possible of the project to inform as many interested parties as possible
- use modern tools for public presentation (3D modelling, online presentations, visualizations, etc.)
- include all suggestions/comments in the public hearing report
- prepare a 2nd draft of the study after taking into consideration comments/suggestions
- present the 2nd draft of the study to interested parties
- explain the reasons for the acceptance or dismissal of suggestions/comments interested parties made during consultation process

- allow time for additional consultation process
- present the final study to interested parties

Step 6 (decision making & beyond)

- include CSOs' representatives as active members of the commission that gives recommendation for approval or dismissal of a study
- be a partner, give affirmative proposals
- publish the final decision on a platform that already contains all documents from all stages of the process
- in case of any changes, inform interested parties/CSOs via web page, social media, etc.
- allow additional public consultations in case of any changes.

2.2. Logistical framework needed to enable early inclusion of interested parties in decision making

While informing public/interested parties there are two types of information: public information – distribution of information to the wider public via newspapers, TV, radio, social media, internet, billboards, etc. – and individual information, sent separately to each interested party. To be able to inform the public and interested parties in a timely and transparent way, the relevant authority has to make a list of interested parties and establish an email list accordingly (if not applicable, door-to-door campaign, notifications on bus stations and other community gathering places or via post). In that way, after participation in a process, each interested party should be informed of each stage of the process, acceptance of submitted comments (in the form of a table) and the final decision. For the wider public, the general decision should be announced using various media (e.g. newspapers, digital media). To achieve this, the relevant authorities should establish a registration platform where each member of the public/interested parties can register to receive all information about the subject, where they can receive an automatic invitation for a process of public participation and where all nature and environmental protection organizations are automatically informed about the processes.

Each relevant authority should appoint one or more experts for providing additional information or clarification about each subject that is in the decision making process. This person should be an expert, with flexible working time to ensure that members of the public (i.e. people with traditional working hours) have easy access to information.

Public consultations should be organized, depending on the scope of the project/plan/programme/strategy, at different locations, bearing in mind also vulnerable and disadvantaged groups. Consultations should be organized outside traditional working hours to ensure that all interested parties/public have the opportunity to be present.

Meeting venues should also be arranged according to the needs of public/vulnerable, disadvantaged groups. All participants should be treated as equal; round tables where all participants are equal are recommended. Appropriate language should be used during public consultations; clarification of expert terminology and use of local language should be a

priority. Projects/plans/programmes/strategies should be presented in a simple and understandable way. Enough time should be allowed for answering questions. Contemporary visualisation tools and field trips to relevant sites are also recommended (for implementation of the latter, logistics have to be ensured).

2.3. Other recommendations

The Aarhus Convention and other legislative acts define reasonable deadlines for implementation of the public information and participation process. Different stages of projects/plans/programmes/strategies define different deadlines for participation. Based on the Aarhus Convention, a reasonable deadline is defined as: a period of 6 weeks for accessing the documentation and preparation for public hearing and an additional 6 weeks for providing comments, information or opinions relevant to the subject of the public consultation process. Public hearings should be, according to latter, organized in the middle of the public consultation process.

Deadlines for receiving comments should be set strictly, without any possibility for misinterpretation (date on the post stamp).

As mentioned before, all relevant information about the project/plan/programme/strategy and corresponding procedures should be easily accessible in one place (not on different websites). To be able to provide all relevant documentation to the public/interested parties, the relevant authority should make a list of documents relevant for decision making and make these easily accessible to public/interested parties. This list should include: amendments to the studies, relevant opinions, confirmations or statements of other public bodies or persons, local and regional governments, previous EIA requirements, suspensions or rejections of the project, later addendums to the decisions and so on.

3. EARLY AND TRANSPARENT INCLUSION OF PUBLIC/INTERESTED PARTIES IN ENVIRONMENTAL DECISION MAKING

3.1. Legal framework

Public participation in environmental matters started with Principle 10 of the Rio Declaration⁵ which reads: *“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”*

Principle 10 widely promotes a need for the active role of communities on all levels, including every concerned citizen. However, from a strictly legal point of view, the declaration as an instrument is not a legally binding document, so the question remains as to how to achieve complete implementation of Principle 10 (as well as the entire Rio Declaration), for sharing benefits and sharing responsibilities. Following the idea of Principle 10, UNECE⁶ started a process of negotiations on creating a legally binding document, that eventually led to the conclusion of a legally binding instrument on an international level (UNECE region) – The Convention on Freedom to Information, Public Participation and Access to Justice in Environmental Matters. This Convention was adopted in Aarhus, Denmark, in June 1998 and today it is colloquially known as the “Aarhus Convention”⁷.

Negotiations on the Aarhus Convention introduced CSOs as a partner in the process, which was a practical test for the future application of the main achievement of the Convention – how to include the public in important decision making processes. By its own example, the Aarhus Convention was proof – it is possible and achievable.

⁵ The Rio Declaration on Environment and Development (1992), produced during United Nations "Conference on Environment and Development" (UNCED), informally known as the Earth Summit. The Rio Declaration consisted of 27 principles intended to guide countries in future sustainable development. It was signed by over 170 countries

⁶ The United Nations Economic Commission for Europe (UNECE) was set up in 1947 by ECOSOC (The Economic and Social Council). It is one of five regional commissions of the United Nations. UNECE's major aim is to promote pan-European economic integration. UNECE includes 56 member States in Europe, North America and Asia. However, all interested United Nations member States may participate in the work of UNECE. Over 70 international professional organizations and other non-governmental organizations take part in UNECE activities

⁷ <http://ec.europa.eu/environment/aarhus/index.htm>

The Aarhus Convention provided legal grounds for exercising three important rights:

- ✓ Right to access to information,
- ✓ Right to participate,
- ✓ Right to access to justice.

The public (CSOs, citizens) have the right to be informed, to participate and to protect their rights; on the other side, public bodies (administration, government) are obliged to ensure that the public can exercise these rights. This is a crucial outcome of the Aarhus Convention and a huge achievement in the democratization process on environmental matters. It is set in provision of Article 3, paragraph 2 of the Convention: *“Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters”*.

Following the ratification process, the Convention entered into force; and signatory countries proceeded to transpose rules of the Aarhus Convention into national legislation. The EU also adopted several legal acts (directives) transposing these rules to EU legislation.

However, it is very important to know that countries, members to the convention, have to apply rules and provisions of the Convention, even if they haven't fully transposed it in their own legal system. This is a “direct” application of the Convention, based on the fact of the “supremacy” of international law over national law. There are examples of direct implementation of the Convention over the UNECE Region (e.g. Bosnia and Herzegovina, Ukraine).

For the purpose of the development of the ETI model, the rights promoted and legally protected by the Convention are not considered only as rights and obligation per se. While they ensure minimum standards in environmental decision making related to the participation of interested parties, they are also a very important and efficient tool for environmental protection, as a natural basis for exercising basic human rights and for people to live in harmony with nature.

Exercising rights is a permanent process, driven by interest, but also requires basic knowledge of the procedure for project development to be followed in order to participate in decision-making processes. It is of great importance to have in mind the provision of the Aarhus Convention (Article 6, para 2), which reads: *“The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:*

- (a) The proposed activity and the application on which a decision will be taken;*
- (b) The nature of possible decisions or the draft decision;*
- (c) The public authority responsible for making the decision;*
- ... The opportunities for the public to participate”*.

The focus of this provision is the right of interested parties (the public) to have the option of participating from the early stages of the project development process.

As mentioned above, the Aarhus Convention has set the grounds and minimal standards that need to be respected in the process of informing and participation of the public in subjects related to the environment. In the case of those rights being violated, based on the right to access to justice, the public has to have the possibility to start adequate legal action (appeal, court of justice case, constitutional court case etc.). CSOs must have the status of a legitimate entity (legal person) to start the process or to participate in it as an interested party.

Even though most countries that signed the Convention have aligned their legal environmental frameworks with the Convention, implementation of its recommendations is still not on a satisfying level, especially in terms of transparency and inclusion of public/interested parties. Levels of inclusion are very limited especially on local and regional levels, and both in public and private bodies. To help improve transparency and inclusion a special Public Consultation Handbook for Local and Regional Self-Government Units⁸ and Public Participant Consultation Handbook⁹ were made. There is also an Implementation Guide for the Aarhus Convention¹⁰ and Maastricht Recommendations on Public Participation in Decision-making¹¹ that can help decision-making authorities in the early and transparent inclusion of public/interested parties to improve this process. Each country also has its legislation linked to environmental decision making in the form of laws on the environment and nature and various ordinances concerning public participation connected with decision making to be applied when developing a project of a specific kind.

3.2. Inclusion in different environmental decision making processes

Regarding the process of environmental decision making and the need for the early inclusion of CSOs, it is very important to explore project development¹² as such, to understand the specifics of each decision-making level and what “early inclusion” means in that term. Early inclusion, as we use it in this document, is the inclusion of interested parties, namely CSOs, interested citizens, etc. from the early stages in the development of a project/plan/programme/strategy, from the planning to the implementation and post-implementation phase.

Overall policy paper (strategy, plan, programme) – spatial plan including zoning plans

Policy documents are introduced at an important stage in the development of a society. Looking at the overall legal system, any project has to be defined by its development strategy/plan/programme. With policy papers, the state is giving the direction of future development, trying to satisfy the needs of the country to achieve better living conditions and

⁸ <https://savjetovanja.gov.hr/UserDocsImages/dokumenti/Prirucnik%20za%20provedbu%20savjetovanja%20JLPS.pdf>, Povjerenik za informiranje, 2016

⁹ <http://int.uzuvrh.hr/savjetovanja.aspx?pageID=242>, Ured za udruge Vlade RH, 2012

¹⁰ <https://www.unece.org/index.php?id=35869>

¹¹ <https://www.unece.org/index.php?id=49142>

¹² for the purpose of this text, 'project development' means all development / decision making options which have an impact on environment (project, programme, strategy, plan, etc)

living standards for its citizens. CSOs have the right to be involved in the development of policy documents on all levels (local, regional, state, international). By taking an active role in the preparation of policy papers, CSOs have the possibility to protect public interest and to take responsibility for sound development of the community. Sectoral strategies have to pay attention to environmental aspects and to drive processes towards sustainable development.

Public involvement in development and adoption of strategies, plans and programmes is ensured through sectoral legislation as well as through environmental protection legislation. A general provision is that all sectoral policies have to be in line with environmental goals. Additionally, legislation on spatial planning (also other sectoral legislation) has strict provisions on public participation (public hearing, option for interested parties to comment draft documents, possibility to be consulted about certain issues etc.) on the content of the strategy/plan/programme (not exclusively regarding environmental concerns).

Strategic Environmental Assessment

On an international level, the Kiev Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in Transboundary Context (SEA) was adopted in 2003¹³. All countries of the Adria Region ratified the Protocol and officially undertook to adjust their legislation in accordance with the Protocol.

The EU enacted the SEA Directive¹⁴ in 2001. While Slovenia and Croatia, as EU members have a legal obligation to transpose the Directive in their legal systems, other countries from the Adria Region transposed the Directive to a certain extent based on agreements that countries concluded with the EU on their road towards EU accession.

Legislation on environmental protection in all Adria Region countries prescribes SEA (strategic environmental assessment) procedure. By regulating SEA, the legal system precisely defines the obligation of those responsible for developing policy documents to prepare a separate chapter on environmental concerns and also to involve interested parties, including CSOs, in the process of screening, information exchange, consultations and public hearing, especially regarding the environmental aspects of the project, plan, strategy or programme developed. The purpose of the wide consultations on SEA is to ensure maximum inclusion of environmental aspects in the plan/programme/strategy development.

Bearing in mind that policy documents (development strategy/programme/plan) are a basis for further steps, including implementation of any specific project, this stage is of crucial importance for sound development of the community on all levels.

Even if the legal ground for SEA implementation exists in Adria Region countries, the fact is that SEA is not used to the extent that it should be.

¹³ https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-4-b&chapter=27&clang=_en

¹⁴ Directive 2001/42/EC on the assessment of the effects of certain plans and projects on the environment (SEA Directive)

Existing Sectoral (e.g. Energy) development strategy

Most countries in the Adria Region have adopted strategies/plans/programmes on development in different sectors (energy, water resources, etc.). National legislation on energy (as well as in other sectors) prescribes mandatory reference to environmental protection. SEA (strategic environmental assessment) is applied to plans related to the energy sector.

One of the challenges in this context is how to react to those strategies/programmes/plans/projects that had been adopted before the SEA as an instrument was regulated and implemented. This must be taken in account in case of a process of amendment of any policy document.

From a legal point of the view, laws regulate how common and public goods (natural values, public infrastructure) may become profit-making resources for an investor. The law on concessions contains a general provision, but no precise obligation on how to ensure environmental protection (this applies to all countries in the Adria Region). Concession may be conducted in two ways: i) as an official procedure that starts with an invitation of the state for bids, where a potential investor applies with an offer in a competitive procedure (tendering procedure); and ii) as a so-called self-initiated process, where a potential investor offers their partnership to the state, through negotiations, and there is no competitive procedure. While some elements of transparency may be noted in the official procedure, in the self-initiated procedure, transparency may be significantly decreased. Concession is a very important stage in the process of development and potential project preparation. Namely, any investor who wants to utilize natural resources for any economic action, has to obtain a concession. Very weak provisions on environmental protection during the concession process leaves space for investors to act against environmental standards once the project starts. On the other side, the process of concession granting is mostly hidden from the public; decisions are made by the concession commission, followed by confirmation by the government. This is the case in BiH, but the situation is very similar in other Adria Region countries.

Interested parties, including CSOs, have no guarantees that public interest will be protected. While legislation on concessions prescribes that the process has to be transparent, there are no provisions to ensure transparency in the process. Provisions on information access, public insight in the concession substance, references of potential concessionaires do not exist. It is of high importance to apply the principles of the Aarhus Convention to the concession process, bearing in mind that such decisions are made by public bodies (even if these are ad hoc commissions, they have the legal power to deal with public interest) and the decisions have major implications for environmental protection. CSOs have to have an opportunity to take an active role in the process of concession granting; the authorities are obliged to ensure it.

Unfortunately, in most of cases, interested parties are not involved in the process of concession granting and get information about it only after the concession agreements are concluded.

Land use permit (Location consent)

In land use permit procedures the public may be involved to a limited extent. The law regulating this matter specifies that information regarding the issuing of location consent has to be shared with those who have a direct interest (owners of neighbouring properties etc.). There is no specific provision for the participation of CSOs and/or the general public.

Bearing in mind that location consent is a decision which might have a significant impact on the environment, it is of high importance to involve interested parties early on in the process of issuing urban permits. Timely and substantial participation at this stage may prevent environmental damage.

Environmental impact assessment (including screening process¹⁵)

Environmental impact assessment (EIA) is a potentially complex procedure, legally regulated in all countries in the Adria Region. The process itself is divided into several steps. EIA legal acts (international and national) set two lists of projects under the regime of EIA.

List A includes those projects that have to be subject to EIA process. List A is very precise, and such projects are marked by their type, size and potential location.

List B includes those projects that have to be screened by competent bodies. These projects are mainly small in size, under a certain threshold, but due to their nature, location or some other characteristics, it may be potentially necessary to explore the environmental impacts of such projects. Very frequently, such projects have to be evaluated if they produce some cumulative impact with some other project/s in a certain area, or they may be potentially interesting due to their location (nearby, or within a protected area or other area which is relevant), or sensitive from an environmental point of view. It has to be very clear, the competent body makes a separate decision about the screening process in a form of administrative act. In most legal systems in the Adria Region, consultation within the screening process is limited to communication with local authorities. In some of the Adria Region countries, legal acts do not prescribe the obligation of the competent body to include other stakeholders in the process of decision making. The consequence can be very negative - if the competent body makes a decision that the EIA is not needed, the project developer will get a construction permit, without any public involvement in such a decision. Consequently, CSOs have no possibility to react at a very sensitive stage of the project development.

In most legal systems in the Adria Region, EIA is a process that comes before the issuing of a construction permit and it is open to interpretation as to whether interested parties can stop the project at this stage. Once the project comes to the stage of EIA procedure implementation, it is possible only to work on a description of potential impacts and search for solutions that will minimize the potential negative effects of projects. This is important for CSOs, since they are entering the process of decision making in many cases only at this stage. General question is what really can be done at this stage – in most of cases the process may be prolonged by administrative procedures and court cases, but in general, projects are approved sooner or later.

¹⁵ <https://www.iisd.org/learning/eia/eia-7-steps/step-1-screening/>

Bearing this in mind, it is important to ensure the active role of interested parties, including CSOs in processes that come prior to EIA.

The EIA process starts with the application of an investor. At this stage, the competent body is obliged to share information on EIA application as an entry point for CSOs, to be informed when the procedure starts. The second stage in this process is communication between the competent body and investor – determining the scope and contents of the EIA Study (scoping phase). In some of the Adria Region countries, this stage includes the preparation of Terms of reference (ToRs) – the competent body instructs the investor (project developer) on how to develop an Environmental Impact Report (Study). This is a very important stage; the ToRs are very important for the further design of the Study. In some of the Adria Region countries (BiH), ongoing practice shows that CSOs are not involved in the process of ToR development. It is desirable for CSOs to participate actively at this stage, as it is possible to suggest ToR elements and to create tasks for the investors in Study preparation. A proactive role for CSOs at this stage may significantly improve the quality of the Study. ToRs can be a very good tool with which to indicate to the investor which particular interest (environmental pressure) to elaborate, to undertake additional research work and how to address certain important issues. Even if legislation doesn't prescribe the involvement of CSOs at this stage, CSOs can request to be involved on the ground of general provisions that ensure the participation of interested parties in all decision-making processes in environmental matters.

After the ToRs are finalized, the investor has to prepare a Study. The project developer (investor) makes a direct contract with the authorized consultant company. Selection of the consultant is absolutely beyond the influence of CSOs. In most cases, the consultant prepares a Study which is in favour of the project developer – the Study is usually very limited in its description of potential impacts and in measures to be undertaken aimed to reduce potential impacts.

Once the Study is prepared (first draft), the investor submits it to the competent body for their approval. The competent body notifies all interested parties about the Study and gives a certain period of time for all stakeholders to provide comments, suggestions and remarks. In most cases, the competent body publishes the study on the official website and communication with stakeholders is conducted online. CSOs may submit their comments by other means. The period for communication is limited to 30 days after the Study is published/available.

The competent body makes a written report about the Public Hearing and instructs the investor to improve the Study according to the comments and suggestions received. Comments sent by CSOs are often not accepted and the Study is not improved accordingly. In addition, CSOs are also not informed as to why their comments were not accepted.

After the project developer makes all necessary changes to the Study, the competent body makes a decision. It is important to notice that the final version of the Study is not published. In that way, interested parties aren't able to see what changes have been made, or the final Study itself. The proposal of the decision is made by the commission on a case-by-case basis; but there are also other ways of decision making. In some countries, CSOs nominate one of the commission members, and thus are directly involved in decision making. The decision made by the commission has the legal power of the recommendation. The final

decision is always made by the competent authorities. The final administrative act issued by the competent body is the Approval of the Study.

Given that CSOs are entitled to participate in the decision-making process, at least at the consultation stage, CSOs also have right to start an appeal process (this may be an administrative process or an administrative dispute in front of the court of justice) if the decision is against the interests of environmental protection or if the procedures were not respected.

Once the decision on EIA is final, the investor may apply for a construction permit.

Environmental permit

The environmental permit is regulated mainly by legislation on environmental protection and is the last permit to be obtained in the environmental permitting process. There are provisions that give certain guarantees for public involvement at this stage as well. However, meaningful impact of public participation here doesn't exist as the process is not adequately implemented.

3.3. Participation – guiding framework

Participation should be promoted as a **(human) right and fundamental democratic principle**¹⁶ and not only as a means to achieve certain objectives.

Community representatives, various CSOs and other relevant stakeholders should be positioned as **key actors** in the development of their livelihoods, and not only as passive observers of information and outputs from various government bodies.

All participation types are valuable in a specific way: although informing stakeholders requires their minimum engagement, having relevant, reliable and timely information is necessary for meaningful participation in decision-making processes.

Efficient communication and participation tools must ensure **feedback** from stakeholders, otherwise the action and involvement would be inefficient.

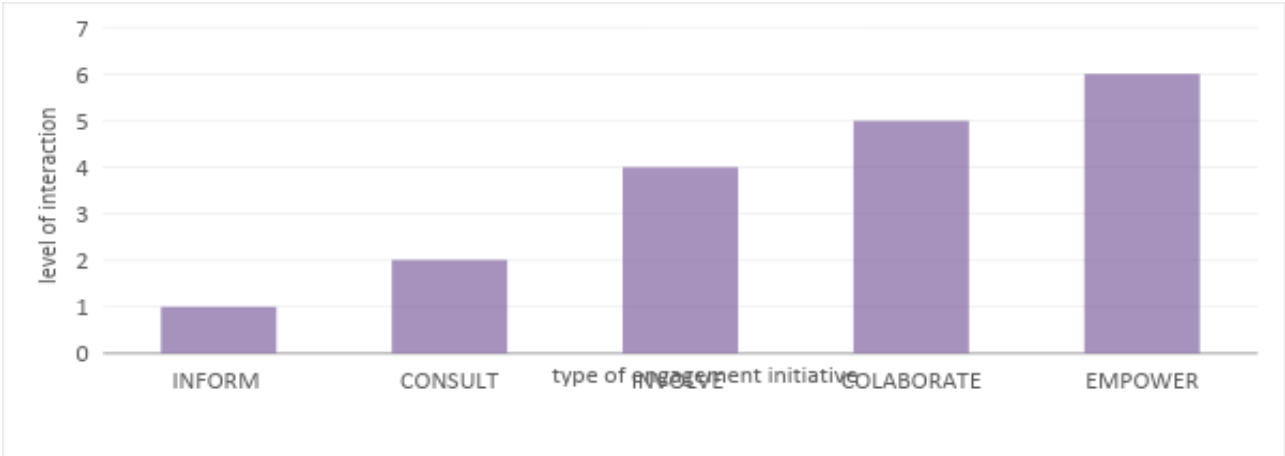


Chart 1 Typology of participation (0 – no interaction; 6 – max interaction)

¹⁶ <https://hrbaportal.org/faq/what-is-a-human-rights-based-approach>

Participation TYPE	Description	Tools
<p>INFORM</p> <p>Type: Passive Participation</p> <p>Output: Stakeholders are INFORMED</p>	<p>Stakeholders participate by being informed about what is going to happen or has already happened. People's feedback is minimal or non-existent, and individual participation is assessed mainly through head-counting and occasionally through their participation in the discussion.</p>	<p>Facebook Blog Web site Newsletter Direct contact Direct mail Local/national radio, TV and newspapers Fact sheets Educational brochures and other publications</p>
<p>CONSULT</p> <p>Type: Participation by Consultation</p> <p>Output: Stakeholders are ASKED</p>	<p>Stakeholders participate by providing feedback to questions / documents / strategies, etc. Input is not limited to meetings, it can be provided at different points in time. In the final analysis, however, this consultative process keeps all the decision-making power in the hands of official body and there is no obligation to incorporate stakeholders' input.</p>	<p>Mailing lists Direct mail Meetings Surveys Interviews Storytelling</p>
<p>INVOLVE</p> <p>Type: Functional Participation</p> <p>Output: Stakeholders COMMENTING ON DECISIONS</p>	<p>Stakeholders take part in discussions and analysis of predetermined actions. This kind of participation, while it does not usually result in dramatic changes on "what" wants to be achieved, does provide valuable inputs on "how" to achieve them. Functional participation implies the use of horizontal communication among stakeholders.</p>	<p>Working groups Councils Various events (meetings, round tables, conferences, workshops, fairs etc.)</p>
<p>COLLABORATE</p> <p>Type: Collaborative Participation</p> <p>Output: Stakeholders DEVELOPING SOLUTIONS</p>	<p>Stakeholders participate in joint planning through joint decision making bodies. To collaborate means to include stakeholders in each aspect of the process, including the development of alternatives and the identification and delivery of the preferred solution.</p>	<p>Local action groups Clusters Forums Platforms Intervention teams</p>
<p>EMPOWER</p> <p>Type: Empowered Participation</p> <p>Output: Stakeholders DELIVERING SERVICES</p>	<p>Stakeholders are willing and able to be part of the participation process and participate in joint analysis, which leads to joint decision making about what should be achieved and how. While the role of outsiders is that of equal partners in the initiative, local stakeholders are equal partners with a decisive say in decisions concerning their lives. Empowered stakeholders make informed decisions about what kind of intervention they want and are accepting.</p>	<p>Decision making and advisory bodies CSO representatives equally participate in decision-making bodies</p>

As mentioned above, stakeholder(s) refers to all interested parties in a project – they can be individuals, organizations, citizens' initiatives or unorganized groups. The main stakeholders in the Adria Region can be grouped into the following categories:

- international actors (e.g. donors, development agencies)
- national or political actors (e.g. legislators, government)
- public sector agencies (e.g. ministries, governmental agencies)
- interest groups (e.g. unions)
- commercial/private for-profit
- non-profit organizations (NGOs, foundations)
- civil society members (CSOs)
- users / beneficiaries / individuals.

Each stakeholder has their own role in the decision-making process. CSOs play a crucial role in environmental decision making. Not only are they as organizations involved in the participation process, they also have the role of informing other interested parties, raising awareness and building capacity of the public for participation in decision making. Often, the public and interested parties are not aware that they can and should participate or be involved in decision-making processes. This is where CSOs can step in, depending on their capacity and expertise. In addition to making sure that the legislative basis is developed according to the standards and existing regulations are appropriately implemented, CSOs could be in constant relation with public, providing them with the most important information and valuable inputs related to the subject of environmental decision making and their rights in the process. In that way, CSOs are a key partner, and, depending on their capacities, can contribute to effective and appropriate early and transparent inclusion in decision making; however it is the ultimate responsibility of national / regional / local authorities to ensure full achievement of early and transparent decision making.

4. WHAT SUCCESSFUL EARLY AND TRANSPARENT INCLUSION OF INTERESTED PARTIES SHOULD LOOK LIKE

4.1 Best practices in environmental decision making

The need for inclusion of interested parties, especially civil society has been recognized in the Adria Region as one of the priorities for ensuring environmentally friendly sustainable development. One of the projects which has this priority as its main task is the CO-SEED¹⁷ project that is contributing to the sustainable management of natural resources by supporting improvements to regulatory frameworks and ensuring that the decision-making process for new infrastructure is more participatory and transparent.

The CO-SEED project and its regional network of civil society partners developed a manual “How Public Participation Improves Environmental Decision Making” on global best practices for successful collaboration between civil society organizations, public authorities, and private companies in decision making for environmental impact assessments and strategic environmental assessments¹⁸. The manual represents a summary of good practices from all over the world, presenting situations when fair dialogue among interested parties resulted in good solutions, enabling investors to realize investment, with a minimized impact on the environment. Examples demonstrate good practice for the application of three pillars of the Aarhus Convention – freedom to information, public participation and access to justice.

Most countries in the European Union imposed legal acts prescribing the obligation of the investor or/and decision-making authority to publish information about launching certain projects/plans, programs or strategies. Examples from Estonia, Hungary, New Zealand show that publishing information at a very early stage (even before the environmental impact assessment (EIA) study development started) created a positive atmosphere among citizens and other stakeholders. By early inclusion of citizens, decision makers and investors demonstrated their good will to talk about the project/plan, programme, and strategy. This produced a positive attitude, and created a good atmosphere in which everyone is welcome to take part in the consultation process. Such behaviour brought positive result to all parties involved – in this way, the project is understood as the property of the local community and authorities, and on the other side the investors realized the project with no major obstacles and in a relatively short time.

A number of other examples show that the active participation of different stakeholders in the process of consultation strongly affected the decision-making process and that solutions made jointly brought a win-win situation for the investor, local community and environment. The consultation process is open and any involvement in such processes requires all interested parties to understand the position of the other side(s). Negotiation is a

¹⁷ Civil Society Acts for Environmentally Sound Socio Economic Development (CO – SEED) project- developed and implemented by WWF - with partners in Albania, Bosnia and Herzegovina, Montenegro, Serbia, and Turkey. For more information see: <http://co-seed.eu/en>

¹⁸ How Public Participation Improves Environmental Decision Making, <http://co-seed.eu/assets/files/Q2MDFfHsM6-how-public-participation-improves-environmental-decision-makingpdf.pdf>

sensitive process, which in most cases leads to compromise – something should be done in favour of the “other side”. Such an attitude towards consultation processes results in decisions that bring new value, and solutions that may be much better than the original ones, creating a sense of democratization. Open and democratic procedure brings benefits to the entire community, investors are not faced with long lasting procedures (court cases), the local community considers itself as an equal partner in the process that makes an impact on their livelihoods, while decision makers are more accountable and the whole process is more transparent.

The following examples show how citizens may intervene to protect their rights and protect communities and the environment using legal instruments and exercising their rights to information and participation.

EXAMPLE 1

Country: **Finland**

Case: Highway 1 construction

Highlight: Consideration of public opinion leads to environmental protection alongside project development.

Highway 1 is among the most important roads in Finland, as well as a key part of the TEN-T network linking Nordic capitals to Russia and Central Europe. The road, however, was not fulfilling its capacity requirements, so the Road Administration decided to undertake an EIA (environmental impact assessment) to determine whether the existing road should be upgraded or a new one built. The limiting factor was that the alignment of the new road alternative was chosen before the assessment of impacts was done. Therefore, extensive improvement of the baseline data was done, which included **(i)** updates of existing feasibility studies, **(ii)** biotope mapping, **(iii)** groundwater surveys, and **(iv)** noise and emissions assessments. Also, discussions with local communities were held throughout the entire process.

The assessment of impacts indicated that the best course of action was to build a new road, but with a modified design to mitigate impacts. The need for modifications resulted from active public participation process, which identified habitats of the protected flying squirrel. These modifications included building a tunnel to save an important recreation area, smaller design changes to reduce impacts on flying squirrel habitat and groundwater areas, and terrain modification for noise control. Also, construction was limited during the fish spawning season and bird nesting season.

EXAMPLE 2

Country: **The Philippines**

Case: Children against excessive timber felling

Highlight: Balanced and healthy ecology is a right of current and future generations.

The Supreme Court of the Philippines in the *Oposa* case confirmed the right of a group of children to bring an action on their own behalf and on behalf of generations yet unborn complaining of excessive timber felling operations permitted by the Department of Environment.

The complaint was based on the right to "a balanced and healthy ecology" incorporated in the 1987 Constitution.

The Supreme Court ruled that applicants could, for themselves, for others of their generation, and for the succeeding generation, file a class suit. Their right to sue on behalf of succeeding generations was based on the concept of intergenerational responsibility insofar as the right to a balanced and healthy ecology was concerned. Such a right considered the 'rhythm and harmony of nature' which indispensably include, *inter alia*, the judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, waters, fisheries, wildlife, offshore areas and other natural resources to the end that their exploration, development, and utilization be equitably accessible to the present as well as the future generations.

Therefore, the Court ruled to cancel all existing timbering permits and to cease from receiving and accepting renewing or approving new timbering permits which are not in harmony with general environmental rights.

EXAMPLE 3

Country: **Yemen**

Case: Integrating gender in SEA

Highlight: Inclusion of all members of the community brings benefit for all

During the SEA process for a road master plan in Socotra, Yemen, the implementing agency involved women from local communities in routing the roads. Because of the early involvement of women in the planning period, the road was built to respect villagers' daily routines, especially concerning women's privacy and mobility. Also, the construction did no harm to the farmland and grazing areas, did not damage the harvesting system, which is especially meaningful for women in the community, knowing that they are the ones that are dealing with agriculture. Finally, the domestic food supply, typically fetched by women, was not threatened.

Bringing cases in front of courts of justice (or some other independent body) is not very popular, requires time, costs and energy, but sometimes it is the only way to protect certain rights. Examples from the Adria Region show that court cases significantly postpone planned actions which may be a sort of "penalty for non-compliance with procedures" for investors or/and decision makers.

The only way to avoid the court of justice, or similar procedures is to fully respect rights to information and to participation – which is best achieved through early and transparent inclusion in decision making.

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ANNEX 1: EXAMPLE OF CONSTRUCTION OF A SMALL HYDROPOWER PLANT RESPECTING THE ETI MODEL

This annex indicates what successful early and transparent inclusion of public/interested parties should look like with an example of the construction of a small hydropower plant (sHPP).

It is important to remember that the ETI model represents the minimum best practice public participation to facilitate environmental decision making (but it does not guarantee actual realization of the project).

	Step needed	Additional information
0	System scale planning is in place	Potential plans and locations of sHPP are known on a basin or region level. The locations are selected to ensure minimum negative impact on nature.
1	Investor prepares an idea of the small hydropower plant (sHPP) they would like to build on location that is available based on step 0	Depending of which kind of concession should be required/granted, responsible body for concession issuing has to provide plan of concession granting for certain period of time (annual in most of cases) or responsible authority prescribes a procedure for investor to follow, and it should be public
2	Once Investor is ready to go ahead with the project, construction of sHPP, there is a need for spatial plan amendment. Investor is entitled to request Spatial Plan amendment; on the other side, it is good opportunity for public to be involved in the process	Very often, spatial plan for certain area has no details about specific objects (like HPP) to be developed. Legislation in the Region allows preparation of so called Plan for area with special purpose.
3	Investor prepares stakeholder analysis for every project/plan at stake	Level of understanding of each stakeholder is analysed, tailor-made awareness and information raising for stakeholders is prepared.

	Step needed	Additional information
4	While preparing for the discussion with public, location of the sHPP is checked in the spatial plan	Spatial plan has defined exact locations where sHPP can be located (outside of most valuable areas of the river) - PRECONDITION (if this condition is not met, investor can't continue with its plan to build small hydropower plant)
5	Idea is discussed transparently at a set of public meetings with all legal representatives on local level and the public	Public is informed via internet, posters on frequent places, radio; meetings are organized in evening hours with special attention given to participation of vulnerable and disadvantaged groups. For better preparation, it is important to get as much information as possible from experts and especially from local population. Visualization of the small hydropower plant (sHPP) is prepared, showing benefits but also losses due to construction; take into account different impact on women and men during construction and during its operation; visualization is used to present the project to relevant authorities and later on to interested public
6	After the meeting, idea is further developed in the project according to the comments and needs of the interested public	Idea now takes into consideration the needs of the interested public, it is developed and improved in participatory and transparent manner.
7	After concession is granted, spatial plan is amended, investor has to obtain local consent (wording may be different e. g. "location permit")	This stage of the process is regulated by legislation on spatial planning and construction. There is a legal ground for involvement of public in process of issuing of location permit.
8	Based on location permit, investor prepares necessary documentation for request of construction permit One of preconditions for construction permit is approval of Environmental Study (EIA process)	For the sHPP (EIA not mandatory), competent body makes decision as to whether EIA procedure will be done (screening process). As described above in the text, public has an opportunity to take part in screening process (AA). It is

	Step needed	Additional information
	Investor submits a request for EIA (environmental impact assessment)	of high importance to evaluate cumulative effect and sensitivity of the area where HPP is planned to be built. Building of sHPP is allowed in Natura 2000 areas – nature impact assessment (NIA) is needed (even in cases when EIA is not implemented).
9	Competent authority prepares decision on the EIA (environmental impact assessment) and publishes it with all relevant documents	Information is sent to all nature/environment organizations and interested parties (based on stakeholder analysis) according to the emailing list; public is informed via newspapers, internet, radio, local TV; include gender action plan
10	Competent authority prepares terms of references for EIA study	CSOs are actively involved in preparation of the ToR (via meetings, direct consultations, etc.)
11	After the ToR for EIA is prepared, investor makes selection of the Study developer (consultant company)	This is very important stage of the process. CSOs should have the possibility to get in contact with consultant company and to provide exchange of information. This is crucial, bearing in mind that EIA Studies are of very poor quality.
12	EIA (environmental impact assessment) study is developed according to the highest standards, using 3D modelling and visualizations	Experts developing the study are independent, not prone to corruption and political pressures. The study preparation team includes experts of all relevant areas. Modern means of modelling and different visualizations are used to show the impacts of the sHPP
13	1st draft of the study is uploaded to website where all information regarding the sHPP (small hydropower plants) are obtained and stored	Competent authority publishes the Study on the web site and gives basic information about possibilities as to how the Study may be commented; deadline and manner of sending comments, etc.

	Step needed	Additional information
14	Public and interested parties are informed of the study and deadlines are set for the public consultation and public hearings and commenting of the 1st draft and deadline for appeal	Information is sent to all nature/environment organizations and interested parties according to the emailing list; public is informed via newspapers, internet, radio, local TV, posters on frequent places; deadline for insight in the study and commenting is more than 30 days, non-holiday season
15	Public hearing on 1st draft is organized	Competent authority is obliged to prepare written report about the Public Hearing. This is an official document and should present the discussion. The Public Hearing is an option for CSOs to present their suggestions, ideas on how project may produce less negative environmental impact. All suggestions, ideas and remarks have to be presented in a written report. Public hearing is organized in each municipality in evening hours with special attention given to vulnerable and disadvantaged groups; public meetings organised in local communities on the spot; public hearing allows enough time for questions, presentations are adjusted according to the public needs and include visualisation and 3D models of the sHPP, field trip is organized to the potential construction site
16	Comments have been received	Comments have been recorded and taken into consideration; table with all received comments is prepared – explanation for the reasons of acceptance and non-acceptance of each comment is prepared

	Step needed	Additional information
17.	Table with comments and 2nd draft of EIA (environmental impact assessment) are uploaded on the website (where other information about the subject has been uploaded)	Public/interested parties can see whether their comments and suggestions are accepted or not before the final decision is made
18	After the written communication is finished, competent authority organizes 2nd public hearing, preferably near the place where project will be developed to get final comments and inputs on the 2nd draft of EIA This is very important stage when all interested parties, including investor, authorities, local community, CSOs are discussing about the project “face to face”	Public/interested parties can ask for additional clarification on their comments that were or were not accepted and provide last feedback on the 2nd draft of the study before the final decision is made
19	Comments and suggestions are taken into account and EIA provides mitigation measures which have to be implemented when constructing the sHPP	Information is sent to all nature/environment organizations and interested parties according to the emailing list (based on stakeholder map); public is informed via newspapers, internet, radio, local TV;
20	After communication in writing and public hearing, Consultant Company prepares improved version of the Study	This stage implies the work of the Consultant Company in incorporating of comments and suggestions given during consultation process. CSOs have right to evaluate this improved version of the Study. Competent Authority is making decision upon this, improved version of the Study. If possible, CSOs should take part in work of the Commission which is taking the decision.
21	Final design of the sHPP is prepared according to the EIA	Meetings to present the final design are organized in evening hours with special attention given to vulnerable and disadvantaged groups
22	EIA is approved	Environmental permit is obtained (including mitigation measures)

	Step needed	Additional information
23	Final decision is changed/updated during the process	Each change in the decisions made is subject to public consultations (more than 30 working days, non-holiday season) and acceptance
24	After EIA is approved, investor follows all steps needed to obtain other permits (according to construction law)	Location, construction and other permits are obtained
25	Construction has started	Public is allowed to check on progress of the construction under lead of experts explaining each phase; mitigation measures from EIA/ environmental permit should be implemented; inspectors regularly monitor the construction
26	Construction is finished	Public is allowed to check the sHPP under guidance of experts; inspectors regularly check the sHPP and make sure mitigation measures are in place

ANNEX 2: CHECKLIST¹⁹

Annex 2 provides detailed checklist that can be used by CSOs and other interested parties to check whether all criteria have been met during development of the relevant plan, project, programme or strategy.

Step 1 (determine stakeholders)

- Has the stakeholder analysis for every project/plan/programme/strategy entering decision making process been prepared (including assessment of level of understanding of group of stakeholder)?
- Is there a tailor-made awareness raising and information sharing plan for the stakeholders? It would be ideal to prepare such an analysis even before the official process has started.
- Have the public/interested parties been included in the preparation of the initial plan for a project/plan/programme/strategy via meetings, consultations, presentations of first ideas, etc.?
- Has the local community that might be significantly impacted by the project/plan/programme/strategy been consulted during development of the idea (via meetings, on-site visits, etc.)?
- Has the gender action plan / gender strategy been included in the development of a project/plan/programme/strategy?
- Has an equal representation of women and men in the process been ensured?
- Has the process included disadvantaged and vulnerable groups?

Step 2 (provide first-hand information)

- Has the information related to the plan of concession granting, processes that started, especially those processes that are “self-initiated” been provided?
- Has the draft and final project/plan/programme/strategy been presented to public/interested parties and have their inputs/comments been critically evaluated?
- Has the possible information on the project/plan/programme/strategy in the process of strategic and environmental impact assessment been presented in as much detail as possible, using language understandable to the wider public?
- Have the local communities potentially affected been informed in an open dialogue that certain actions may significantly impact their livelihoods (including all positive and negative impacts)?
- Have other means of informing the public like newspaper, radio, social media and other communication tools been used?

¹⁹ The ETI model checklist can be used with already developed SEA and EIA checklists. The lists are available on www.co-seed.eu in both, English and local languages of Adria Region countries.

- Has the information about an overall process been provided on one platform (with all relevant information included i.e. deadlines, general information about the process, all documents developed in different stages of the EIA and SEA procedures)?

Step 3 (implement SEA procedure)

- Has the competent body included interested parties/CSOs in the development of the ToR for SEA Report?
- Has the consultant company which is working on the SEA Report development consulted interested parties/CSOs in the developing of the Report, considering the information they might have?
- Have the permanent communication mechanisms with the local community been developed and implemented in order to keep them informed?
- Has the SEA procedure been implemented when spatial plans and other plans or projects have been created or revised?
- Have all legal grounds for commenting the SEA been used?
- Have all potential environmental impacts been taken into consideration in the SEA report? Don't hesitate to use checklists for evaluation of SEA Report.
- Have the interested parties (local community, other stakeholders) been well informed and are they aware of the SEA report and how it describes potential environmental impacts of the plan/program/strategy?
- Has communication with other stakeholders been maintained and have they been provided with as much information as possible on the eventual impacts on their community?
- Have the relevant experts been consulted?

Step 4 (implement EIA procedure)

- Has the information about the EIA application submission been provided by a competent body?
- Has the local community been educated and made aware of projects on list B and the screening process?
- Has the competent body communicated with interested parties/CSOs in the screening process on projects from EIA list B?
- Have the interested parties/CSOs been involved in the process of screening list B projects, especially if such a project has a cumulative impact with other existing and/or planned projects, especially ones planned in sensitive areas?
- Has the public participation in the screening process been ensured even if it is not precisely prescribed, respecting the right to participate in all decisions in environmental decision making?
- Have the interested parties/CSOs participated in the preparation of ToR for EIA study?
- Has the consultant company which is working on Study development consulted interested parties/CSOs in the development of the Study, considering the information they might have?
- Have the preparatory meetings with the local community been organized to inform people about the project and the potential impacts it may have on their community?

- Has the local population been informed of its' right to participate, through written consultation and especially on Public Hearing?
- Have the experts and/or academia been consulted on issues that require specific knowledge about a particular project/site?

Step 5 (quality Public hearing & Consultations)

- Has enough time for public participation process been allowed, based on the scope and complexity of the project/plan/programmes/strategies (from 30 working days, non-holiday season to at least 60 working days, non-holiday season for more complex and big projects/plans/programmes/strategies)?
- Has the information on deadlines and places of presentation been shared on the internet, in newspaper, libraries, frequent places in small communities (shops, post offices, public news boards, etc.)?
- Have the appropriate arrangements been made for women, people with disabilities, elderly to be able to take part in the consultation process/meetings (e.g. organization of the meeting after working hours, in facilities with easy access, on sites of the project etc.)?
- Has the project been presented and explained in comprehensive language of local communities, ethnic groups?
- Have the meetings been scheduled after typical working hours (including domestic work), taking into account suitable times for women's participation?
- Has the discussion for Public Hearing been well prepared, including set of questions, possible additional information, and has sufficient time been allowed to address all questions?
- Has the competent body appointed a person/people with specific expertise to be able to provide concrete and valid information to public/interested parties during the consultation process?
- Has the competent body in the EIA and SEA process allowed as many as possible presentations of the project/plan/programme/strategy (different places, especially locations that will be directly impacted by the project/plan/programme/strategy involve vulnerable and disadvantaged groups)?
- Have modern tools for public participation like 3D modelling, online presentations, visualization, etc. been used?
- Have all important information and facts been shared with interested parties/CSOs?
- Have all suggestions/comments been included in the Public Hearing report ensuring its accuracy?
- Has the improved Study, based on comments/suggestions been presented to interested parties/CSOs?
- Has the information on certain suggestion and/or comments that were not taken into account been shared with interested parties/CSOs with proper explanation why?
- Has there been a 2nd public hearing on 2nd improved study?
- Were the comments and suggestions from the 2nd public hearing taken into account in the development of the final Study?
- Has the transparent information after finalization of the public participation process and before making a decision (detailed information on comments accepted and ones not accepted, with explanations) been presented?

- Has the final Study been shared with the interested parties/public?

Step 6 (decision making and beyond)

- Have CSOs' representatives been included in the forum (commission) which in the final stage makes a decision upon EIA/SEA Report?
- Has the competent body/interested party/CSO given affirmative proposals, trying to be a partner, not an opponent?
- Has the decision been published on a platform where all documents about the process are available?
- Has the information on any changes to the decisions already made been published on web pages, social media or similar?
- Have any changes in the decisions made been subject to public consultations (more than 30 working days, non-holiday season) and acceptance?

ANNEX 3 – LOCAL AUTHORITIES AND CSOs – OPPORTUNITY FOR IMPROVED COOPERATION

Regulatory framework regarding local self-management in all Adria countries is harmonized with EU Local Self-management Charter. By “local self-management” we intend the administration of municipalities/towns.

Constitution acts of all Adria countries define local self-management as grounds for the realization of the rights of inhabitants, as well as the capacity of local self-management to organize and implement citizens' rights and it includes the following rights and responsibilities:

1. Adopting development programs, urban plan, budget and financial report;
2. Regulating and ensuring communal services for its citizens;
3. Creating and implementing policy of land use and use of public buildings;
4. Taking care of construction, maintenance and utilization of public roads, other facilities of local importance;
5. Providing conditions for exercising of rights related to culture, health protection, education, social care, physical culture and recreation, information sharing, tourism, protection of environment etc.²⁰

Municipalities are entitled to adopt their strategies, programs and plans, which enables them to influence most of the decisions on a local level. They have the right to adjust their interests to the needs of their citizens, and are obliged to ensure adequate public participation and enable citizens to take part in decision-making processes.

On the other side, in cases when there is some development planned, especially one that requires EIA/SEA procedure, the municipalities are entitled only to provide opinions (comments and suggestions). Their opinion is not a legal instrument that can stop the project, it can only be taken into consideration. Such situations can open a space for active and constructive collaboration of CSOs and municipalities, considering that CSOs and the public are not entitled to take part in certain processes: e.g. in case of EIA screening when only local authorities are invited to give their opinion on the project (BiH case). Legal acts do not prohibit the local administration to communicate with other partners – this can be an entry point for CSOs to participate in the process of preparation of opinion and in the process of decision making. Collaboration of municipalities and CSOs may include following:

1. Capacity building of local authorities (relevant bodies). This capacity building should include decision makers on a local level (mayor, head of municipal units, members of municipal councils) but also officers that directly work on relevant matters (environmental protection, water, health, communal issues etc.). It should include knowledge about the project in place, knowledge about environmental impacts, as well as knowledge about procedures that enable the municipality to take part in the process.

²⁰ This list is not exhaustive, and listed are only those areas that are directly and/or indirectly connected to environmental protection

2. Creation of coalition on a municipal level, that would include not only municipal authorities and CSOs, but also other stakeholders in the municipality (wider local community, health institutions and organizations, schools, famous people from sports, culture etc.).

The joint work of different stakeholders on a municipal level, gives a space for stakeholders to indirectly participate in the process of decision making. This brings positive results to the municipality, but also to other stakeholders, including CSOs, improves partnerships on a local level and supports democratization of society.