

Dear Mercedes and online congress participants,

I was asked by the organisers to focus on the question of the best model plans for public participation.

1)

Strategies of public participation

I decided to modify and translate into English an earlier material we in EMLA prepared for environmental NGOs and local communities that want to participate in environmental decision-making processes. In the below table we tried to summarise the main strategic tools the subjects of public participation may use in fighting against environmentally harmful plans and already existing operations respectively.

Strategic elements	In case of a planned activity	In case of an operating activity
The earliest possible detecting of the problem, realisation of its importance by the NGO (local community) and making the rest of community to realise it	Monitoring of data of national, international organisations, Internet sources	Public monitoring (of the environmental effects of the facility); public participation in controlling of the company monitoring (upon individual agreement or using the regulations on rights to public information)
	Monitoring official notifications of local and regional authorities, visiting their homepages, personal connections with officials	Raising of earmarked funds for establishment expert background for the public environmental protection cases and for acquiring monitoring equipment
Involvement in the processes in connection with ensuring the financial conditions of the activity	Participation in the environmental impact assessment of the financial organisations; flagging the environmental problems in the press and also in political and professional circles	Prevention of giving further loans of environmentally harmful enterprises
Involvement into the physical planning processes, development of environmentally friendly alternative solutions	Using public participation rules of physical planning; political pressure on the decision-makers; revealing the interests behind the scene; press work	Lobbying for modification of the spatial development plans (paying attention to possible damage payment responsibilities of the municipality or other decision-making bodies)
Participation in the environmental impact assessment processes/	The local community (NGO) members shall carefully divide the tasks amongst themselves in order to be able to thoroughly study the case; exploiting in the process	

environmental supervision processes in order to modify/prevent/eliminate the activity	the comparative advantages of the local community (e.g. better knowledge of the locality, knowledge about the history of the investment and of other important factors); creating a public interest expert network; contacting national or international expert NGOs; arguing at several participating authorities; handling the time factor; initiating mediation and compromises	
Participation in permitting processes of the activity	Acquiring information (in case it necessary, using legal remedies, like data protection ombudsman); using standing rights (written suggestions, proposals, legal remedies etc.); determining the range of participation measures	Making sure that the operator is in possession of all of the necessary permits and also checking the expiration of the permits; monitoring the amendments of the relevant laws and regulations
Clarification of the interests behind the scene	Clarification of ownership issues at the land register office; additional clarification of every important data in connection with the concerned companies at the company registration court; monitoring of economic connections	
Agreement with the investor/polluter	Offering refraining from appealing, suing in exchange of significant modifications in the plan, concerning e.g. the locality, waste production, carrying routs	Direct participation in the monitoring activities of the facility; field examinations without former notice; regular checking of measurement equipment; agreement in environmental investments
Starting civil law litigation	With the aim of preventing environmental harm from occurring; requesting injunctive relief	Litigation for damages; claiming to cease with the activity; and/or reimbursement of harm)
	challenging background contracts (like illegal, irregular real estate purchase, decision of the condominium)	Claiming for obligation of ceasing trespassing activities or limiting them (in time, in territory)
Initiating personal liability measures	Challenging the acts of officers who did not seem independent/unbiased or committed major procedural faults	Sanctions against negligency causing environmental harms
General elements of pp. strategy		
Preventing insulation of the NGO/local community	Building of membership; continuously operating internal democratic processes; press work; balanced selection of cases; political indepenence and neutrality; avoiding economic and political commitments, debts; establishing realistic goals	

Defence against SLAPP (strategic lawsuits against public participation – in order to discourage or revenge those who exercised their pp. rights)	Filtering the content and form of public declarations, interviews etc. (eliminating those parts that hurt other parties and cannot be proven beyond reasonable doubt); absolute high quality content of NGO complaints at prosecutors, police, disciplinary or other bodies
Avoiding thratcherous economic situations of the NGO	Preliminary clarification of the expenses of the processes; pilot project litigation; bidding at targeted public support

2)
Capacity building

Speaking of effectiveness of public participation *capacity building* is a key term. Governments and mainstream NGOs frequently complain of weak, low quality public participation that does not represent a significant help in environmental protection and in administrative decision-making process thereof. If they are not content with the quality of public participation, it is partly their own responsibility: there are plenty of tools to be used in order to raise the level of capacity of the public to participate effectively in environmental decision-making processes.

The UN-ECE Aarhus Convention on public participation in environmental decision-making processes represent the most comprehensive collection of capacity building tools which are summarised in the following table.

	Capacity building with information		Capacity building with institutional help	Exclusion of capacity destruction
	with environ. info	with meta-info ¹		
General level	environ. education, awarenessraising (3.3, 5.3.a, 5.4)	environ. education, special guidelines (3.3, 5.2, 5.5.a-c 5.7 b-c.)	recognition, direct and indirect support of NGOs (2.5, 3.4)	exclusion of discrimination (3.9)
Special level	info. from the env. officer or from the officer who deals with the case (3.2, 5.2.b.ii,iii., 6.2)	info. from the env. officer or from the officer who deals with the case (3.2, 5.2.a, 5.2.b.ii,iii., 6.2)	procedural help (fee waiver, pro-bono legal help etc.) (4.8, 6.6, 9.1, 9.2, 9.4, 9.5)	exclusion of harrassing those who exercised their particip. rights (3.8.)

¹ We call meta-information all those information which describe the system and the structure of the authorities, the tasks and responsibilities of the officers, the procedural rules of the administrative cases and the way the environmental information can be gained.

3)

Some further comments

Although I was not asked to, I cannot resist to make some comments to the other two topics, too.

Although the first point you have sent me speaks about bridging scientific knowledge and public understanding of environmental problems, later it seems to me it thinks only a one way information dissemination from the scientists to the members and organisations of the public. This is more and more problematic because of the growing public distrust in science. We do not know what is science, what is only a speculation of a too brave mind, we do not know who are the good guys and who are the bad ones (paid by the developers, politicians and similar evil persons...). We do not know what are their motivations, philosophical background etc.

Getting again into the lost communication with the wide public seems to be a long, painful process of exchange, rather than a matter of one enthusiastic campaign of dissemination of “the proper” knowledge. So I would like to emphasize the bilateral nature of diminishing scientific illiteracy of the public and also its time dimensions: it starts from the elementary school is a continuous process: all of the activities of scientists shall take place at the public fora (popular publications, non-technical language etc. – not only as side activities).

Point 2 seems to me extremely suspicious. We have to be careful not to commit the same mistake that consumer society commits we just are fighting against. In general, to motivate people seems to me artificial, dangerous. Motivation should stem from knowledge not from outside. Motivation without knowledge reminds me Didi, Dexter’s cute sister: “Wow, what does this button do?” (and has pushed already the button...).

Instead of motivation we usually need a warning: slow down. “More rights to the slow thinkers!” “Think twice and don’t act at all! – and similar slogans we might use.

Best wishes,

Sandor Fulop