

Name of Exercise: Land use planning of a mixed industrial-dwelling area

Location: Csepreg, Hungary

Participation Exercise under which Article? *Articles 6 and 7*

Purpose of Participation Exercise:
Spatial planning and EIA of new industrial facility in an important area for tourism.

Summary:

Csepreg is a small city in Western Hungary dependent on tourism. Local families let out rooms in their homes to tourists and local enterprises consist of fishing and camping. The earlier development plan for the municipality supported these activities. A few years ago a private entrepreneur bought a large piece of land beside the fishery pond and started a process to make a new spatial plan which would allow him to build industrial facilities on the site.

After losing a challenge to the changes, local families started to participate in the environmental inspectorate's environmental impact assessment (EIA) process. They opposed the plan and said that proposal was harmful to the environment and that the location was not right for the proposed activities. However, in the second permitting process, the investor made modifications to the plans and the permit was granted.

Participation techniques used:

Participation before the planning process started

The concerned public (here: the whole community of Csepreg) was consulted according to the rules of Article 9 of Act. LXXVIII. of 1997 on Construction.

They had the opportunity to express their opinions on the preliminary decision at the start of the planning process. A public notification was placed on the municipal notice board and in an article in the local newspaper. This preliminary information contained a description of the location of the plant and the purpose of changing the classification area (i.e. to allow the expansion of a metal finishing company). The notification also contained references to the possible effects of the changes which were said to be not to be significant if the environmental regulations were complied with.

In general in Hungary, the law and practice provide fewer opportunities for involvement of the public in planning processes than the involvement of neighbouring municipalities and authorities. This is to be expected since these authorities and municipalities must have the possibility to influence the local spatial planning plan in order to harmonise with their own similar plans or with their respective sectoral plans.

Participation before the municipality council accepts (finalises) the plan

After the professional planning process was closed and the draft plan was ready, the Mayor of Csepreg sent the draft to the participating authorities and municipalities. If the local group representing the local population had formed an NGO, they would have had the same opportunity to participate as these other bodies. However, at this stage the local populace did not have the benefit of legal advice and were unaware of these opportunities. Instead, they participated as individuals.

For those who gave opinions in writing, or wanted to do so verbally, the mayor organised a hearing (according to Article 9, Par. (4) of the Construction Act). Since the community group were not an NGO, they did not have the right to participate in this meeting and they could only influence the meeting informally. Letters were sent to several participating authorities (the water management authority, the public health authority and the environmental inspectorate) setting out their views.

As a third procedural step, the mayor also had to publish the plan in Csepreg and send the draft to the main authorities that had not participated in the negotiations. The published draft was open to all interested persons (not only NGOs) for their opinions.

All the opinions submitted during these three steps had to be forwarded to the municipal council before it could make its decision. Due to the prohibition in Article 9, Par. (7), the council cannot vote on the draft without undertaking the proper participation process.

Who participated?

The number of local inhabitants who participated changed during the process. There was one local family, who lived closest to the planned metal finishing factory, who participated throughout the whole process. After the first announcement of the plan, 200 people signed a petition but later, only a few neighbouring families participated in the process. Substantial comments were mostly made by a single family.

What information was made available?

Although the law does not provide details on this point, the information on the municipal notice board and in the article about the plan was too short: it contained only the concerned locality, the change of use and the purpose of the change, i. e. the construction of the metal finishing company. This can be considered to be ineffective in achieving the aim of the law. However, the authority made available all the planning materials and all the opinions of the authorities and the public for those who requested it. No mention was made about hazardous wastes the factory would produce, about the elevated level of traffic of heavy trucks carrying hazardous materials, about possible accidents or water pollution which would result from the operation of the metal finishing factory.

What was the outcome of the public participation exercise?

Following the protest of the community groups and a negative opinion given by the public health authority and by the chief civil engineer of the region, the municipal council voted against the first draft. After that decision, the investor lobbied key people on a revised second plan. The second, amended plan, which still received a negative opinion by the chief civil engineer, was passed by the council.

Comments of participants in process:

Local families continue to fight against the metal finishing factory, even though it has now been granted a permit by the municipal council. A civil law court case has been started on the basis of the nuisance and damage that the factory will cause.

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REC view on participation exercise:

Although this example is for the change of a plan to allow industrial use, in practice it represents approval for a particular facility, which would normally fall under Article 6. By using this method, the developer was able to avoid the more detailed procedural requirements for a specific facility.

The most positive aspect of this case is that there is an existing legal opportunity for participation in the planning process. It is also a positive aspect that the public did not become discouraged from participating, even though the law and practice did not always provide the most clear and favourable opportunities. On the other hand, the failure of the public to understand its opportunities to organise and the additional rights that would be obtained might have contributed fall in interest among the community. It also appears that members of the public who were not most immediately affected (i.e., the neighboring families) were influenced by the publicity campaign of the investor. Capacity-building might have contributed to better efforts on the part of the public campaigners, the press and the municipality experts to keep public interest at a higher level.

The manner in which the decision-maker took the public's comments into account is not entirely clear from the facts presented. A clear response document might help to resolve some of the apparent problems with the decision. It is also worth noting that more elaborate public participation procedures following best practices and a better quality decision might have avoided the necessity of the neighbouring families going to the civil courts.

Significant omissions from requirements of Article 6 or 7:

A preliminary issue, bearing further scrutiny, is whether there is a loophole in the law allowing for approval of specific projects in the context of a planning procedure, thereby avoiding the more detailed public participation requirements of specific decision-making. More specifically in this case, the municipality failed to give proper information to the public about the possible environmental consequences of the change in the spatial plans of Csepreg. It is also clear that there is no methodology in place to take into account public comments in an effective and meaningful way.