

**EFFECTIVE PUBLIC PARTICIPATION –
PLEDGE FOR ADOPTION OF WELL-
GROUNDED AND ENFORCEABLE
DECISIONS**



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General conditions for effective public participation according to the Convention

- Scientific substantiation of the project and involvement of experts
- Granting the public opportunity to express its opinion about the planned activity
- **Due account of the results**
- Notification of the public about final decision with indication of relevant grounds
- Peculiarities of public participation in the process of preparation of NIR: according to the rules established by the Secretariat and the Compliance Committee, the Ministry conducts public hearings, consultations with involvement of interested state agencies, experts of the National Assembly – experts of the Standing Committee on Environmental issues, scientific circles, representatives of business and Mass media.

General rule

Obligation of state authorities to take due account of the results of public participation and consider them in the process of decision making on certain types of activities, elaboration and adoption of plans, programmes and policy as well as elaboration of legal acts.

**DUE ACCOUNT OF THE OPINION OF
THE PUBLIC WHEN MAKING
DECISIONS ON CONCRETE
ACTIVITIES (6), ON PLANS,
PROGRAMMES AND POLICY (7),
LEGAL ACTS (8)**

GENERAL PROVISIONS ON PUBLIC PARTICIPATION IN THE NATIONAL LEGISLATION

- Public notification and hearings are conducted at the preliminary and main stages of EIA and expertise.
- Public opinion on concrete types of activities and conceptual documents is revealed at the public hearings. Members of the public may also send their written comments during established time-frames.
- Aarhus Centers are used as a mechanism for conducting public hearings which serve as a platform to facilitate public participation through dissemination of information and realization of public demands.
- Draft Law of RA “On Non-governmental Organizations” envisages the right to participate at the decision-making procedure and also establishes the right to file actions to the courts and other administrative bodies (within their charter goals) concerning protection of the environment.
- Draft Law of RA “On Environmental Policy” establishes the mechanism of public participation in the administrative process of issuing environmental permits.

FIXING THE RESULTS

- The Law of RA «On Environmental Impact Assessment and Expertise» (2014) envisage a requirement of mandatory protocoling of the public hearings with reflection of adopted and denied public comments.
- In comparison with the previous Law, the Law from 2014 contains also a requirement on making video protocols of the public hearings. This suggestion was made by NGOs.

The Role of Public Authority

Efficiency of public participation under Art. 7 merely depends on the extent public authority defines the circle of concerned community who are invited to participate at the decision-making process. To this end, following the suggestion of a range of NGOs, in 2014 Public Environmental Council was created with membership of scientists and representatives of NGOs. An announcement about establishment of the Council has been made available on the web-page of the Ministry inviting relevant persons to participate.

One of the goals of the Council is to reach cooperations and consensus between the Ministry and NGOs.

The goals and the tasks of the Council:

- Notification of the public on environmental problems in the country; collection of environmental information from NGOs;
- Participation at the process of elaboration of plans, programmes and policy related to the environment;
- Elaboration of alternative solutions for environmental challenges;
- Elaboration of suggestions on making changes to the environmental legislation.



Due account of the public comments

Substantiated comments and suggestions of the public raised at the public hearings are taken due account by the developer and the expert center.

Suggestions and comment are not considered if:

- they contradict national environmental legislation;
- are not relevant to EIA;
- contain incorrect calculations and data.

In these cases, the state authority provides relevant expalnations, i.e. any suggestion and comment denied by state authority should be substantiated.

DUE ACCOUNT OF THE PUBLIC COMMENTS AT THE PROCESS OF ELABORATION OF DRAFT LEGAL ACTS (ART. 8)

Everyone is granted with the opportunity to express his/her opinion about a draft legal act. Drafts are posted on the web-page of state authority to invite the suggestions and comments by scientists, specialists and NGOs. There is a practice formed to invite the interested NGOs, experts to participate at the plenary hearings, parliamentary hearings of the Standing Committee on Environmental issues. Representatives of the relevant state agencies are also involved in this process.

Submitting suggestions and comments (Art. 8)

During the public hearings natural and legal entities are invited to express their opinion on the draft posted at the web-page of the state authority.

Comments may be left either in the special field of the web-page or sent by e-mail or ordinary mail.



Return Mail

If suggestions and comments are sent by e-mail, then the relevant state authority (elaborating the draft) immediately but not later one working day, notifies about receiving the comments by return mail.



Analysis and consideration of suggestions received

In order to analyse of the suggestions received, the method of “utmost effective practice” is applied which obliges the relevant authority to provide direct feedback on the subject of suggestion. Identifal suggestions might be grouppped. There are cases when all suggestions are compiled in a written document as a substantiation of the final decision which is called “feedback document”.

National legislation

Public participation

- Law of RA «On Environmental Impact Assessment and Expertise» (2014), art. 26
- Requirements on public participation are established also in different branch laws (Water Code of RA, Mining Code of RA, laws in the sphere of healthcare) etc.
- Law of RA «On legal acts» (2002)
- Draft Law of RA «On non-governmental organizations»
- Governmental Decree of RA «On establishment of the order of organizing and conducting of public hearings» (2010) – applicable to decisions under art. 8
- Governmental Decree of RA «On establishment of the public notification and organization of hearings» (2014) – applicable to decisions under articles 6 and 7

National practice

- In the result of public hearings of the Law Draft “On Use of Genetically Modified Organisms”, the suggestions and remarks were submitted to the Government. Afterwards, the Law Draft was withheld from the Parliament based on the public opinion.
- Public hearings have been conducted on the Law Draft of RA “On State Forest Service” and a range of Governmental Decrees. Taking due consideration the negative public attitude, the procedure of adoption was repealed.
- The same reasons were in place when the President of RA used his right of veto for the first Draft Law “On EIA”. In the light of critics and public opinion, a new procedure of law drafting has been launched.
- Project of construction of road through state reserve “Shikahogh”. In the result of wide-scale public campaign, at the final meeting the ministers of Nature Protection and Transport declared about cancellation of the construction works of the “strategic” road through the state reserve

The main obstacles to the effective public participation in Armenia

- Deficiencies and gaps in environmental legislation of RA;
- Weak return mail (feedback) between decision-makers and the public, especially with the public concerned;
- Insufficient awareness of the public about the risks to human health through the quality of elements of the natural environment;
- Insufficient development of special tools of public notification;
- Distrust of the public about the efficiency and results of participation;
- Non-guaranteed possibilities for all forms of participation;
- Public participation in the process of issuing environmental permits is not ensured. Such an option is considered within the framework of the draft Law of RA «On environmental policy» through the mechanism of IPPC.

Perspectives of development of the legislation

Within the Programme «Strengthening Environmental Governance by Building the Capacity of Non-Governmental Organization (NGOs)», NGO Environmental Public Advocacy Center (EPAC) conducts the project «Capacity building for NGOs for effective participation in environmental decision-making through elaboration of relevant policy tools and awareness-raising», funded by the EU, implemented by the UNDP and delivered by GEF-SGP.

Outcomes expected

- Publication of the Guide to Public Participation in the Process of Elaboration of Draft Legal Acts related to the Environment;
- Conducting regional training for NGOs with involvement of representatives of state authority;
- Elaboration of draft Governmental Decree of RA «On Approval of the Order of Public Participation in the Process of Elaboration of Draft Legal Acts related to the Environment»;
- Elaboration of a web-resource with will ensure:
 - Access to all draft legal acts concerning the environment from a single source;
 - Possibility for the public to make comments and suggestions to the draft legal acts on the web-page directly;
 - Possibility to receive information from the public authority about taking due account of the results of public participation.



***THANK YOU FOR YOUR KIND
ATTENTION!***

