

Name of Exercise: Building of TESCO hypermarket

Location: Horni Lan, Olomouc

Participation Exercise under which Article? Article 6

Purpose of Participation Exercise:

To involve the public in a discussion concerning the proposed changes to the spatial (urban) plan, currently at approval stage.

Background:

A proposal for changes to the existing urban plan for Olomouc were accepted by the Town Council by a vote on 1 July 1999 for the location of a new TESCO supermarket. During this phase, the public was not informed about the proposals. After the motion was passed by the Town Authority, it was announced by decree that the proposal will be dealt with publicly in accordance with the building law.

Participation Techniques Used:

The public were invited to comment on the proposed plans and to attend a public discussion. More detail is given below. A second public discussion will now be held to follow up the results of the first meeting.

Who participated?

By 10th September, the Town Authority collected 473 comments on a petition from the public and citizen groups. Only one of these comments did not express a view about the proposal, the rest (472) disapproved.

The opinions were collected from the following "sectors":

- political subjects (1 parliamentary club , 2 commissions – advisory authorities of the Municipal council of Olomouc);
- businesses (2);
- citizens' groups (5); and,
- citizens (6 individual responses, the rest in the form of petition).

Stage(s) at which public participated in the process:

A public hearing was held on 26 August 1999 in Olomouc Town Hall because the council meeting was intended to be public, and council rules offer the possibility for citizens to provide comments. Members of the council were also invited to the public hearing in order to assure immediate feedback. During the public hearing, details were provided concerning the proposed investment. After gathering comments, the Council further discussed the assignment. The public were also entitled to provide comments on the proposal until 10th September (see above).

What information was made available?

The proposed investment was publicised by putting the decree on the official notice board within the Olomouc town centre. It was also exhibited in public places. A time limit was enforced within which public discussion should take place (28 July 1999 – 26 August 1999) and within this period, the announcement was also available within the Town Authority building during office hours.

Information including the planning documents was made available to the public in printed form and on request from the Town Authority of Olomouc. This means the office was open to the public during working hours for citizens to read the material and make notes. They could also ask for copies of certain parts of it. Announcements were also printed in the press. The information was provided free of charge. There was no direct notification to affected persons, for example the immediate neighbours.

What was the outcome of the public participation exercise?

Final comments to the proposal were submitted in a summarised written form by 10 September 1999 and were provided in printed form to the members of the council. At the same time, the Town Authority amended the proposal to reflect the majority of the public's comments and the comments of the concerned authorities of the state administration. The comments of the State Administration are required to be respected under the law.

The Council held two further public meetings on 30 September and 4 November. At the council meeting of 30 September, some citizens were given the chance to offer their opinions but the length of their speeches was limited to 5 minutes each.

On the basis of a parliamentary motion, the council ruled out the comments and proposals of the public. They also ruled out some of the comments of authorities that were (in accordance with the law) obligatory as the opinions of the 'concerned authorities' within the state administration. As a result, public opinion was ignored.

The municipal authority (its board of elected municipal representatives) made its decision on 30 September based on the deputy's initiative to delete from the proposal the modified text that incorporated the public's comments. The problem might have remained local, except for the fact that the council also voided certain obligatory arrangements based on the statements of the concerned state administration bodies. Since the City Council (a state administration institution) discovered this illegal practice within its proceedings, the resolution of the municipal authority had to be modified again.

Given the controversy surrounding the plans, the council decided to establish a working group to discuss alternatives. The first working group consisted only of a political group of representatives (5), one representative of the petition against change and one representative of the petition for the change.

After the council meeting of 30 September, a meeting took place with an official of the Town authority, declaring that the council resolution is not in accordance with the law and in case a rectification is not carried out, will be cancelled. On the basis of this meeting, a new council meeting was held on 4 November and a new suggested change was submitted. This suggestion respected standpoints of the concerned authorities of the state administration but did not respect the public's comments.

Three citizens could speak in the meeting with the speech of each limited to 5 minutes. After time ran out, the limit was extended by 3 minutes. The council accepted by a vote the new proposed changes and added to the working group established at the previous meeting a representative from TESCO and a representative of the company 'Gemo'. 'Gemo' is a building company that constructs flats within the locality, whose market price will be affected by building the TESCO hypermarket.

The council refused to add further representatives (a citizen representative and 2 representatives from the authorities of state administration (District health officer and Environmental section of District Authority)) to the working group.

On the basis of the mandate given to it by a vote of the council, the working group first met on 9 November and discussed the best methods for collecting suggestions concerning the proposed changes. A new proposal for modifying the urban plan was made public in late February 2000. This was placed on the official notice board at the Olomouc Town hall. The documents could be inspected for one month in the town office. On 4 April, a public meeting took place where the proposal was discussed with the public, but the results were unavailable in time for publication. In addition, an EIA for the construction of the proposed hypermarket was taking place. Effectively therefore the process has been restarted.

Comments of participants in the process:

The process has yet to be completed, so it is not possible to speak about its success. Moreover, the opinions on the matter are polarised, so the standpoints about the success of the process are undisputedly biased with all participants. The most frequent comments of participants can be summarised, as follows:

- the investor complains that the process is being delayed;

- the citizens were not involved in the process from the beginning and they did not have a chance to express their views at the start (approval of changing the urban plan processes), which provoked a lack of trust and feelings that the decision has already been made (only one citizens' group regularly following the topics of council meetings);
- the citizens have the feeling that their participation in the process is not desirable (the laws are met but the information is not provided actively, all the public discussion was held in the period of summer holiday and the approach of the council towards the public is not open);
- efforts on the part of the council to suppress some problematic issues and speed up the process (leaving out the demand for noise and emission study from the task suggestion of 30 September) led to the situation when the assignment was contrary to the law, the process of drawing up the change slowed down by that and the trust of public decreased.

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This case study has been prepared by the REC Country Office for Czech Republic based on information provided by Mr. Raclavský, and was reviewed by the state authorities for the Olomouc District. Mr Raclavský states that he cannot be regarded as an unbiased examiner. He is against the building of the TESCO hypermarket within Horní Lán and disagrees with the discussed change of the local area plan which would enable the building.

REC view on participation exercise:

This interesting case study highlights many of the problems that can be encountered when procedures are not entirely transparent. During the initial stages of the procedure there was a willingness to consider public views and many opinions were taken into account in the documentation. The use of a working group that included one voice against the proposed development is a positive sign. However, at a later stage in the proceedings proponents of the project used procedural technicalities to eliminate public comments (as well as obligatory comments from other authorities) from the documentation. Some points raised by the discussant indicate that some members of the decision-making authority are attempting to cut corners with respect to legal requirements, such as noise and emissions studies and obligatory changes based on comments of other authorities. This naturally provokes suspicion and mistrust from the public. These issues would need to be resolved also in the eyes of the participating public, before the participation could be said to be effective. Fortunately, the responsible authorities detected that certain obligatory comments from state authorities were missing, which led them to investigate further.

Significant omissions from requirements of Article 6:

The requirement of notification appears not to have been satisfied completely in this case as the simple posting of a notice on a municipal notice-board falls short of accepted practice for effective notification. While most procedural requirements of Article 6 appear to have been met, other, more fundamental, questions are raised by the discussant which go beyond the pro forma requirements of Article 6. These involve the transparency of the procedure, especially with respect to the handling of comments. Early direct contacts between the proponent and the public, as promoted by Article 6, paragraph 5, may have been very useful in this case and may have helped to avoid later polarisation.