

Name of Exercise: Construction of the temporary part of Highway Berlin -Kyiv

Location: Ivano-Frankove Town, Lviv Region, Ukraine

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

Purpose of Participation Exercise:

To influence decision making by coordination the public's opposition to the highway construction. An NGO led project.

Background:

An International agreement on International Transport Corridors requires the Ukraine to build on its territory part of the Berlin to Kyiv highway. There were no funds for the construction of the highway so the Ukrainian Government started construction of the Border Post on the Ukrainian-Polish border. The Border post was built and the local government of the border region decided to build a temporary highway using existing roads. They therefore needed to connect the roads by constructing the part of the highway through Ivano-Frankove. One of their reasons was that it would benefit the region.

Participation Techniques Used:

The temporary road (temporary means for 5 or more years) would damage the environment. The road had to pass near to peoples' houses, a school, a hospital and a bakery. The public were not informed about the project and the decision to build the temporary highway. The public only learnt about the scheme when construction started. No Environmental Impact Assessment was undertaken and there was no approval from the environmental authorities.

With Ecopravo-Lviv's (an independent environmental legal NGO) legal assistance, local people started a campaign against the road construction. They made and disseminated posters against the road; informed people about construction at the meetings in a Church and filed numerous petitions to different authorities (including Cabinet of Ministers and President). The citizen's appeal collected 170 signatures.

The construction was stopped temporarily. The local government said that the construction of the temporary road did not need EIA because the highway had been foreseen in the Town Plan. Following this statement, the citizens requested the local administration to submit the complete General Town Plan for an environmental impact assessment which was done.

During the EIA process, the experts were questioned by the government and by the citizens.

With Ecopravo-Lviv's assistance and representation, the citizens had the chance to look through the materials, study the assessment and to comment on them.

As a result, the environmental authorities approved the plan under the condition that the road would only be used for less than 740 light cars per day (according to the proposal it was going to be several thousands trucks per day). This condition meant that the local government lost interest in building the road and it was not built.

Due to the peoples' activity the Government had to look for different solutions. The Government found the funds and a way of building the highway that would not cross any settlements. The President issued a Decree on organisation of the concession competition for the highway construction. It required that the highway had to comply with international standards.

Who participated?

Local inhabitants participated very actively by sending comments and appeals. The public also participated in the EIA process for the plan. The NGO "Ecopravo-Lviv" assisted people from Ivano-Frankove Town and participated throughout the process.

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

Ecopravo-Lviv participated by representing people in the inspections organised by the ecological inspection and environmental prosecutor. Local inhabitants organised a campaign and requested and

disseminated information by themselves, appealed local government actions and decisions. When the EIA of the General Town Plan was made, the local inhabitants and Ecopravo-Lviv were able to look at the documents and make comments.

What information was made available?

By sending comments and requests, the Law on environmental protection and the Law on information meant that Ecopravo-Lviv and citizens were able to receive all the information on the project that they needed. During the EIA procedure, information was available at the office of the Lviv Regional Department of the Ministry of Ecosafety.

What was the outcome of the public participation exercise?

The environmental authorities approval of the plan with the condition that the road would only be used for less than 740 light cars per day meant that the local government lost interest in building the road and it was not built. The Government found the money for the full highway.

The General Town Plan had not been approved yet but due to the active public participation, it was submitted to EIA and people had the opportunity to participate. It is the only Plan in Western Ukraine that was adopted and approved by environmental authorities after the EIA procedure. Other plans were approved and adopted without compliance with regulations and without EIA.

Comments of participants in the process:

The process of public participation was successful. Illegal road construction was stopped by a court decision and fined the violators. The Government found money and an alternative solution for solving traffic problems. Several environmental problems were solved before the General Town Plan was approved.

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REC view on participation exercise:

This case is interesting for several reasons. It demonstrates the effectiveness of independent non-governmental professional assistance in helping to "level the playing field" between the public and the authorities. It also shows that in at least some cases there is very little incentive for authorities to comply with existing legal requirements. Without the participation of the public, a highway causing unacceptable environmental damage would have been built. What is also interesting is that the authorities appear to have been quite accepting of the final decision of the court, which even went so far as to order an EIA of the overall Town Plan. It is unfortunate that the public must use a rather extreme measure (going to court) in order for authorities to comply with existing legal requirements.

Significant omissions from requirements of Article 6 and 7:

Initially, the requirements of Article 6 with respect to the specific decision concerning approval of construction of the highway spur, and of Article 7 with respect to the development of the overall Town Plan were not complied with. It appears that there was no regular system for ensuring that the requirements of the law were followed by the authorities. However, once pressure was put on the authorities by the public with the support of an environmental legal advocacy NGO, the authorities appear to have implemented the basic requirements.