

Task Force on Public Participation in Decision-making, October 10-11, 2022

Item 5. Public participation in decision-making on urban development/cities

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Ukraine has good provisions on public involvement in the local planing process and EPL has provided legal support to citizens trying to participate in development of master plan or detailed plan of the territory at local level. The Law "On regulation of planing activity" forecees the obligation of local bodies to publish their decision on development of local planing documentation, to make public the planing documentation, to organise public hearings and take into account its results. In cases of contradicting positions that can not be satisfied by the changes to planing documentation, the reconciliation commission can be created. Such commission will issue its decision on agreement or disagreement with disputable arguments and can decide on changes to local planing documentation. The final decision is taken by local authority.

In practice, public participation is organized by the local bodies of self government, which very often conduct formal participation procedures, associate public hearings with mere approval procedures. Deficiencies in public participation procedures could be questioned in administrative courts and as a result - to declare illegal the decision of local municipality on approval of local planing documentation.

EPL addressed the courts several times in cases of violations of public participation procedures in local planning concerning location of hazardous facilities, mega ski resort Svydovets in Carpathian region. EPL and citizens were able to access the court and declare illegal the decisions on the approval of local planing documents. The court practice shows that NGOs and local citizens have standing in court challenging local planning decisions violating the rights of the public and provisions of relevant national legislation. The Supreme Court of Ukraine concluded that such documents are normative acts, thus wide range of persons can challenge them in court.

In the case concerning construction of Svydovets ski resort in Carpathian mountains local residents with the legal help of EPL filed a suit to court challenging approval of the detailed plan of the territory allowing such project to be carried on. The court of first instance in Zakarpatya region, reconsidering this case for the second time after the decision of the Supreme Court of Ukraine on normative character of planing documentation, issued a decision in favor of plaintiffs and environment, and declared illegal the local planning document (detailed plan of the territory) allowing location of ski resort with capacity of 28 000 tourists, 60 hotels, 120 restorans, with 23 ski lifts and 230 km of ski slopes.

We also believe that public participation would be crucial during rebuilding of Ukrainian cities and towns, villages and settlements after the war. I hope that there will be no rolling back of democratic standards of local planing, including public involvement. Also some legislative amendments have been made to limit PP in assessment procedures for reconstruction projects during war time and in post-war period, we believe that public involvement should be a rule with no derogation allowed.

Ukrainian civil society showed that its voice is loud, professional and unbiased and it should be heard by decision-makers at all levels.