



**Twinning Project - SR 2005/IB/EN/01
Capacity Building of the Directorate for Water**

between the Ministry of Agriculture, Forestry and Water Management of Serbia and the
German Ministry for Environment, Nature Conservation and Nuclear Safety

**Component 1:
Strengthening the institutional capacity of the Directorate
for Water and related institutions**

**Sub-Component 1.5:
Design of a WFD public awareness programme**

**Activity 1.5.1
Assessment of Obstacles and Opportunities
For Public Participation in the
Implementation of the WFD**

Elaborated by:

Dr. Dieter Schütte (STE)
Valentina Mileusnic Vučić (Directorate for Water)

Presented in March 2008 by:

Endorsed by:

**Claus Heuberger
(RTA)**

**Dr. Nikola Marjanović
(Serbian Project Leader)**

Public participation – legal basis in Serbia and meaning in the sense of WFD

According to Article 51 of the Constitution of Serbia and the Law on free access to information of public importance of the Republic of Serbia everyone has the right for true, complete and timely information regarding the questions of public interest while public information services are obliged to respect and act according to those rights. It is also prescribed that everyone has the right of access to data in the possession of the government in accordance with the law. Of particular relevance is the public trustee for public information as a separate and independent state authority which takes care of the rights to public information. Also, the Law on environment protection states that everyone has the right to be informed of the state of the environment and to participate in the decision making process. Other laws, particularly those in water field, do not have the articles concerning public information accessibility because they are chronologically older than the constitution or mentioned Law on Environment and the old and new laws are not harmonized. The exemption is the Law on Hydro meteorological Service, which although old does prescribe that hydrological and meteorological data and information are available to the public.

Also the Aarhus Convention grants the public rights and imposes on its parties and their public authorities obligations regarding access to information and public participation and access to justice. Serbia is not yet Party to the Aarhus Convention, however, is in the process of ratification of the Convention within the framework of activities to harmonize national legislation with European legislation.

Public participation has become a principle in EU-politics, it is included in the EU-constitution draft (Article I-47), and public participation is to be expected as a part of all relevant framework directives in future.

Public participation in the WFD contains two components, active involvement of interested parties and public consultation.

Interested parties in sense of the WFD are not political parties in a parliamentary system but rather social organisations and pressure groups which are affected in their interests, be it material interests or non-material, idealistic and technical interests.

Public consultation in the WFD means three public hearings between at the latest December 2006 and at the latest December 2009. This applies for the EU member states in which WFD is in force, therefore not for Serbia, but Serbian water administration could have the timeline in mind.

a) **Active involvement of interested parties**

Active involvement of interested parties means a continuous discussion and decision-making process, including stakeholders being affected in material interests, which should represent the majority in the involvement committees, as well as professional organisations or umbrella associations in water management or water maintenance, upper and lower public authorities, municipalities, water engineer associations, organisations with non-material goals like NGO or associations dealing with ecological protection and perhaps scientific institutions from hydraulic engineering and water ecology.

Identifying and contacting the potential stakeholders

Before involving a variety of participants, it is necessary to **identify** potential stakeholders.

Organisations being affected in their material interests by the WFD could be:

- landowners
 - owners associations assembling owners of
 - houses
 - forests
 - agricultural property
 - revenue board or relevant state agencies (maybe not in Serbia)
- land users
 - farmers' associations
 - (professional) fisheries associations
 - (professional) horticultures associations
 - anglers' and sport fisheries associations
 - allotment gardeners' associations (maybe not in Serbia)
- economy, industry
 - direct dischargers, big industry
 - chambers of commerce
 - chambers of industry
 - mining industry(especially hard coal, brown coal, salt, gravel, sand excavating)
- river navigation
 - transportation of passengers
 - transportation of cargo

- public utility companies for water supply and for waste water treatment and disposal
- tourist services, especially water tourism
- sports associations, especially water sports, or rather umbrella organisation
- municipalities or rather umbrella organisation
- districts authority or rather umbrella organisation
- local or regional action groups, affected by water management or water protection

Organisations with non-profit goals could be:

- NGOs
- associations for environment protection
- university-level institutions concerned with water management and water protection
- professional associations of water management engineers

Governmental bodies and state administration

Although government administrations don't belong to the public in the sense of the WFD, the following ministries should participate early in order to prevent later conflicts within the government before the water management plan comes into force:

- Competent ministry for water management with relevant institutions and subaltern agencies if necessary
- Competent ministry for economy and/or subaltern agency if necessary
- Competent ministry for sport and/or subaltern agency if necessary
- Competent ministry for environmental protection and/or subaltern agency if necessary
- Competent ministry for traffic and/or subaltern agency if necessary

- Competent ministry for spatial and urban planning and/or subaltern agency if necessary

Maybe some stakeholders are not active in the whole Serbia, but only in certain regions, depending on geographical, social or infrastructural conditions. They should be nevertheless included.

The potential participants (associations, chambers, institutions, NGO, authorities) should be **contacted** and invited. During a preparatory conversation they should be introduced into the objectives of the WFD and the procedure of participation as is expected. It might be advantageous to discuss separately with certain groups of organisations grouped around their special interests - land users separately from NGO, industry separately from scientific institutions. Within a certain period of time they should decide whether they are inclined to participate in the public participation procedure.

Initiator and organizer of public participation

Who should initiate and organize public participation? There are two possible ways. In the first one, the organizer or the organizing team could be staff members of government authority or of the competent water management company, in the second one a professional facilitator could be hired.

Depending on the different and contrasting interests of the participants the participatory process might be sometimes characterized by conflicts between representatives of various associations. If the representatives of influential institutions are present, the conflicts sometimes might obtain political relevance.

The best way to manage the general participation procedure and especially the periods of disagreement is to impose responsibility to the government bodies or to the competent water management institutions who prepare the river basin management plans.

Within the participation procedure a high degree of centralisation should be avoided as well as a high degree of decentralisation. In the first case you are not able to discuss concrete regional or local problems, in the second there is the risk of building a great number of committees. For the authorities it could imply dissipating the time and manpower.

In the draft of new Serbian water law the competence for the river basin management plans is located at both public water management companies .I consider the best way is to locate all public participation at both public water management companies, standing in close

contact to the Ministry, where the water management master plan of the Republic of Serbia should be prepared.

Creating the advisory bodies

After identifying and contacting all stakeholders and following their consent, the initiators of public participation should create two advisory bodies in order to start participation procedure. The title of such a body could be “water council”, “water committee”, “water forum” or something similar. In order to enable effective discussions and proceedings the number of participants in each of the bodies should be no more than 30 persons.

The representatives of the participating organisations are members of these bodies and they work together up to that point when the water management plan will be brought into force. It's a continuous discussion and decision-making process for some years.

Within the participating procedure the stakeholders should get the chance of getting to know all relevant documents and open result discussions. The organizers of the advisory bodies must create conditions which make possible the discussions even about concrete regional or local problems. Maybe they create special working groups within the advisory bodies, maybe the stakeholders will not only meet in plenum, but in smaller groups, focusing on special local problems in the documents.

During some years of cooperation and discussions, compromises on the concrete topics of measurement programmes and water management plans within the environmental objectives of the WFD should have been found. These compromises have to be supported by all participants, although some of them might have to make concessions. The government should profit from the reached consensus between relevant social and economic pressure groups as well as NGOs. It should make easier the water management plans coming into force in the year of 2009.

The advisory bodies should be open to subsequently newly established organisations. As Serbia now is at an intermediate stage, new establishments of relevant associations or umbrella associations are to be expected.

b) Public consultation

The second part of public participation in accordance with WFD is public consultation. WFD postulates 3 hearings within 3 years:

“Member states shall ensure that, for each river basin district, they publish and make available for comments to the public...”:

1. by December 22nd 2006 at latest a timetable and work programme for the production of river basin management plan including a statement of the consultation measures to be taken.

This **deadline** is already exceeded.

2. by December 22nd 2007 at latest an interim overview of the significant water management issues identified in the river basin.

3. by December 22nd 2008 at latest draft copies of the river basin management plan.

A hearing at the measurement programmes which shall be established at the same date as the water management plan is not obligatory.

The special date of December 22nd depends on the coming into force of the WFD in the year 2000. That was the initial point to all setting of time standards.

Furthermore the WFD postulates: “Member states allow at least six months for commenting in written on those documents in order to allow active involvement and consultation.”

This means that each physical person and each legal entity can pass a comment on documents within half a year.

Who should be responsible for the consultation procedure? Consultation and active involvement are two sides of the same coin. For this reason responsibility for both should be located in the same institutions, meaning the public water management companies. Comments on documents should be sent at both of them.

How to publish the three documents in 2006, 2007 and 2008? As official documents, first of all, they should be published in the official journal of the government and - if more than one

official journal exists - in the official journal the public water management companies make use of.

There are additional potentialities to distribute the document as wide as possible, for instance, via (fee required) announcements in newspapers and periodicals as well as press releases.

Another way to disseminate document information is to send the official statement at the municipalities requesting them for publishing the statement in their own journals or information boards.

But the most effective and most modern way is to present the documents on the website of the Ministry and on the websites of the public water management companies indicating also the special E-mail-address. So comments on the documents could be sent on the very easy way per E-mail. Links could be established connecting the website with the International Commission for the Protection of the Danube River and with other websites related to implementation of WFD.

Finally the documents must be available to the public during all the six months at the competent administration, meaning both public management water companies.