

## Deliverable D 8.1: Internal Briefing Paper on Best Practices: Focus on Public Participation and Transparency

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## 1. Introduction

By the end of month 3 of the BESTGRID project, Germanwatch delivers a first and preliminary briefing on best practices in public participation and transparency in grid development projects. This briefing paper builds on a common paper that has been provided by Birdlife, Germanwatch and IIASA for the BESTGRID Month 3 workshop as well as the discussion held at this workshop. It shall be refined during the upcoming months to reflect discussions within the BESTGRID project.

The objective of the deliverable is to:

- Provide a framework for the specification and design of the action plans in terms of transparency and public participation that allows for monitoring and scientific analysis of ‘what works’.
- Provide suggestions and guidance to the TSOs in designing their action plans in line with two of the five guiding principles (transparency and public participation) towards higher levels of public acceptability.
- To create building blocks towards the final ‘guide book’ stakeholder engagement to be delivered at the end of the project.

In the framework of the BESTGRID project, five guiding principles have been identified that might help to overcome public resistance against grid development projects and might contribute to higher public acceptability of new projects: Explaining the need of new grid projects, transparency, public participation, nature protection and benefit sharing.

This briefing paper deals with two of these five principles: Transparency and public participation. In early discussions among the project partners concerned, we have defined these two principles:

### 1.1. ‘Transparency’

Affected groups expect and demand to be able to understand who makes decisions affecting them, on what basis, and to be able to hold decision makers to account. Thus maximum transparency concerning all aspects of the project is required, including costs (to whom), benefits (to whom), design choices, involved actors, and environmental, economic, and health impacts. This is necessary but insufficient: there must also be clear procedures in place for affected groups to engage, and to make their concerns heard.

Expected impact: The public, stakeholders and independent experts are better facilitated to understand who makes key decisions and on what basis, and have access to the information and opportunities they need to make informed and effective inputs and challenges to those decisions.

### 1.2. 'Public Participation'

Experiences show there are strong benefits to public acceptability in very early involvement of stakeholders in the deliberative process. Public participation needs to then continue throughout planning and project phases, with methods suited to different stakeholders, and clarity on how their input will be (and has been) taken into account.

Expected impact: The public, stakeholders and independent experts have better opportunities to understand and provide input to key decisions.

The next sections cover the following issues: After a short theoretical introduction about definitions and background of public participation, as well as chances and challenges for public participation, some general success factors will be described. Then, a five step process to enhance transparency and public participation will be introduced. Based on existing legal requirements and best practice examples concrete recommendations will be developed – ranging from overarching specific guiding principles to practical recommendations at the national, regional and local level.

Please note this is an early project draft for internal discussion. The aim is to start a dialogue and to improve the deliverables so that they are as useful as possible for all project participants.

## 2. Theoretical Background

### 2.1. Definition of public participation

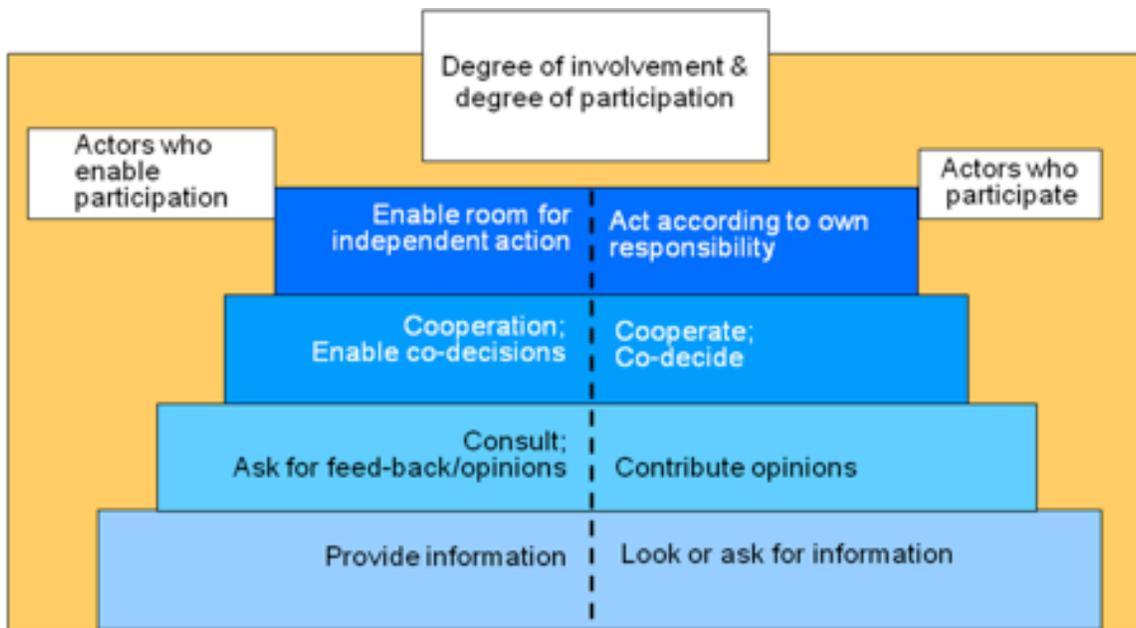
There are various definitions of public participation. These definitions refer to the following questions: *Who* participates? In *what kind of decision* does participation take place? What is the *influence* of those who participate?

Concerning the question of who participates, one can mainly distinguish between those who refer to the participation of citizens and hence the *broader public* and those who refer to specific stakeholders such as environmental associations, unions, etc. (i.e. the "*organized public*"). In this briefing, we would like to refer to both groups – individual citizens as well as organized stakeholder groups.

Concerning the content of public participation, the majority of definitions refers to political decision making processes as well as (local, regional) planning decisions. It can be differentiated between *formal* and *informal participation*. The former refers to those participatory processes that are legally required whereas the latter refers to public participation that is not required by law and hence is conducted on a voluntary basis. Both forms of public participation are often combined and closely linked. In any case, it is important to link formal and informal methods so that they can complement each other in a meaningful way.

Many of these definitions differentiate between the level of influence by stakeholders or the broader public. One of the most famous classifications is Sherry Arnstein's ladder of participation (Arnstein 1969). According to Arnstein, the relevant criterion is the level of influence – she identifies eight different steps of the ladder ranging from non participation to citizen control. On the basis of this approach, other models have been developed, among them the model by Lüttringhaus (2003) and Rau et al. (2012) which differentiates between four levels of participation from information to consultation, cooperation and independent action. It takes into consideration those actors who participate as well as those actors who enable participation.

**Figure 1: Four levels of participation**



Source: Schweizer-Ries et al. (2012)

Many other authors differentiate between only three levels of participation ranging from *information* to *consultation* and *cooperation* (Bundeskanzleramt Österreich et al. 2011; Arbter 2005, Bundesministerium für Verkehr, Bau und Stadtentwicklung 2012).

The two levels of information and consultation can be often found in legal requirements on public participation with regards to the extension of the power grid (formal participation), e.g. by certain transparency requirement or formal public consultations. It can be decided to go beyond formal legal requirements in terms of information and consultation (e.g. via additional information events, additional online information, additional consultations etc.) hence reaching to the sphere of informal participation.

The level of cooperation in contrast mostly goes beyond legal requirements of the permit granting procedures for new transmission lines and hence refers more to informal participation.

Many authors state that participation only makes sense, where there is a certain degree of flexibility and room to take suggestions by stakeholders into account (Nanz/Fritsche 2012). Otherwise, it would make more sense to communicate the results of internal decisions. To conduct a participation process without any flexibility may create public opposition as people will give input and will then realize that

this input did not have any added value or influence. This easily leads to frustration and mistrust in those who conducted the process.

## 2.2. Chances and Challenges

### **Challenges/ Transparency**

- Formal permit granting procedures do not always fulfil the needs of citizens and other stakeholders in terms of information and transparency. Additional information is needed.
- It is sometimes difficult to identify what kind of (additional) information is needed when by whom in order to understand the process and to participate in a meaningful way.
- Complex decision-making processes are difficult to understand for local citizens.
- Many citizens and local initiatives do not have the resources and time to read and understand complex and comprehensive material about grid projects.
- If timing/kind of information is not well prepared, it might be misunderstood by the public and create more resistance.
- The credibility of information by companies is questioned.

### **Opportunities/ Transparency**

- Transparency and information are the basis for accountability and for the meaningful engagement of citizens and stakeholders.
- Transparency about the process helps to create understanding about what is decided when and by whom. This helps to build trust and to establish a fair and transparent process.
- Early information about the process as well as the issue at stake enables citizens and other stakeholders to participate in a meaningful way and to bring their points of view into the process when they can be taken into account.
- Target-group oriented information as well as means of information help to reach out to the stakeholders concerned. The internet provides a good opportunity to reach out to a broad target audience.

## **Challenges/ Participation**

- Political decisions or decisions about concrete projects such as energy infrastructures are contested by society. Their legitimacy is being questioned more and more often. This refers both to the process as well as the outcome of political decisions.
- There is a lack of trust in TSOs and public authorities.
- Stakeholders and the broader public sometimes have very high expectations on the level of engagement that do not reflect the possibilities of participation. In some cases, there is only limited room for public engagement.
- There is no one-size-fits-it all approach towards public participation. Each case is a singularity and needs a tailored approach. Furthermore, a participatory approach can be a fragile process when the issue at stake is highly controversial.
- A lack of capacities (at TSOs, public authorities, stakeholders and the broader public) leads to imperfect participation processes which in turn may create frustration by all parties concerned.

## **Opportunities/ Participation**

- Public participation shall help to increase the legitimacy both of the process and the outcome of a political decision. As a result, the process might be evaluated as open and fair; furthermore the outcome might be improved due participatory measure. Both may help to increase the acceptability of an infrastructure project.
- Public participation may help to increase the knowledge base of decision makers, provide information about values and preferences, identify obstacles for implementation and integrate conflicting interests. Hence, it may help to create support for political decisions or infrastructure projects.
- If stakeholder's views have been considered and taken into account, less resistance from a broader part of the society may be expected.

## 3. Success Factors for Public Participation

### **Transparency/ Publicity**

- Transparency and publicity are the basis for public participation. The broader public as well as organized stakeholders need to know the issue at stake in order to give a meaningful input
- The public/ stakeholders need to have information about the process, the decisions that shall be taken as well as the framework conditions
- The participatory process needs to be transparent itself so that the broader public who did not participate can follow and understand it
- This is especially important for methods that only include a limited number of people
- Part of transparency/publicity is feedback to those who have participated. It is important for them to be able to understand what arguments have been taken into account and which ones haven't, why.

### **Flexibility, Room for impact**

- Flexibility is a necessary prerequisite for public participation so that the participation can have an impact.
- If no such flexibility exists, public participation becomes senseless (some authors as Sherry Arnstein talk of "tokenism")
- The framework conditions and the flexibility/room for impact needs to be communicated to avoid frustration
- Public participation needs to take place at an early stage of the decision-making so that the opinions and input by stakeholders can be taken into account

### **Professional, tailor-made process management**

- Public participation needs a stringent concept with clear goals and the outcome that shall be reached
- Public participation needs a tailor-made approach that takes local and regional specificities into account

- A professional project and process management as well as professional working structures are needed

### **Mutual trust and respect**

- Public participation is not only about tools and procedures. All stakeholders concerned (both those who enable participation as well as those who participate) need to be willing to work together constructively.
- All stakeholders concerned need to respect each other and should take an appreciative attitude towards each other

### **Commitment by decision-makers as well as the public**

- Public participation only makes sense, if there is a commitment by politicians and/or company representatives (decision makers) to take the results of this process into account
- The public/stakeholders are concerned by the issue at stake and are interested/ willing to participate

### **Capacities, Resources**

- All actors concerned (public authorities, TSOs, NGOs, broader public) need to have the necessary resources in order to participate. These include the relevant knowledge, time to participate and financial resources.

### **Inclusiveness and representation**

- It needs to be made sure that all the relevant stakeholders that are affected by a new power line are taken into consideration in a public participation
- This includes those people that are difficult to reach, but very often vulnerable as they do not have the resources to voice their concerns and at the same time are highly affected by a new power line
- If relevant stakeholders have not been addressed, they might fuel opposition to a new power line

## 4. Five Steps for a Transparent and Participatory Process

Many scientific articles as well as practitioners in public participation have stressed the fact that each case is singular. Hence, there is no one-size-fits-it-all solution. Some methods of public participation may help to increase the acceptability of a project in one case, but create opposition in another case.

TSOs or public authorities who would like to involve the public must develop a tailored solution and choose from a broad range of different methods. In order to find the right methods and procedures when involving the public, it helps to apply to following five steps.

An additional tool that might help to find adequate solutions and to implement these five steps is a steering group or “pilot-group”. This group represents a micro cosmos of all relevant actors and helps to analyze the starting point, to develop a tailored concept of participation and may give guidance during the implementation of the measures chosen. Furthermore, this group represents already a form of participation in itself – many solutions that are developed within this “pilot group” may be the basis for solutions supported by the broader stakeholders.

### **Step 1: Analyse the starting situation**

The first step consists of a thorough analysis of the situation at stake. It forms the basis for defining the next steps and helps to find the adequate method of public participation.

It is very important to have clarity on the “room for manoeuvre” and purpose of the participation. This should be known by TSOs, authorities and the public/ stakeholders in order to prevent unrealistic expectations. False expectations might create frustration and might endanger the whole process.

It may be useful to present the preliminary results to the “pilot-group” and ask for feedback in order to get additional input and to carry out a reality check.

The following questions should be taken into account when analyzing the situation.

- **Aim of public participation**
  - What shall be the results of the process? How shall they be taken into account? What can be a valuable contribution by the public/ stakeholders?
  - What is the “room for manoeuvre”? Which facts and figures are “non-negotiable”? Is there any flexibility, and if so, at which degree?

- What are the possibilities for influence by public/ stakeholders?
- In how far are the results of the participation binding for decision-makers?
- Who is going to take the final decision? On what basis?
  
- **Framework conditions of the project and public participation linked to it**
  - What are the legal requirements in terms of transparency and public participation?
  - What is the room for manoeuvre for additional (informal) participation?
  - What is the status of the project?
  - What is the timing (deadlines, when will which decisions be taken? How and when could the results of the participation be fed into the formal process)?
  - How much time is available for public participation?
  - What kinds of resources are available: Time? Money? Personal? Technical equipment – e.g. internet?
  
- **Stakeholders that need to be addressed/ included in the process**
  - Who are the relevant decision-makers? Who has influence on the project?
  - Who can foster or hinder a decision if he/she has not been consulted?
  - Who has been involved in similar processes in the past? Who has not been involved, but should be this time?
  - Who are the relevant experts/ Stakeholders (e.g. NGOs, Scientists, Authorities, etc.) who have knowledge on the project/ issue?
  - Who are the people affected by a project?
  - Are there groups of people who are difficult to reach?

## **Step 2: Develop a tailored concept for transparency and public participation**

The next step consists of preparing a concept for public participation that answers the questions mentioned in step one and details how the aims of the participation can be reached. This concept has

different aims. As it specifies the purpose of the participation, it is already a tool to communicate this purpose to policy makers, stakeholders and the public. Hence, it should be considered to make this concept or a summary publicly available.

Without the support of decision-makers (i.e. hierarchy within TSOs, but also local, regional and national authorities) a participatory process might easily fail. It is very important to discuss the concept with decision makers and to gain their support and the commitment to take the results of the participation into account.

These topics should be included in the concept for public participation:

- Which stakeholders shall be addressed: The public? Key stakeholders? Specific target groups? Or a combination?
- Aim, framework conditions and resources (see Step 1)?
- Intensity of the participation: Information, Consultation, Cooperation? Or a combination of different forms of participation?
- Methods of public participation
- Timing
- What is the link between formal and informal forms of public participation and how can they fit together?

The concept of public participation should provide all the information necessary for a professional project management and process design, including resources, work packages, milestones and timing.

As already mentioned, there are many different methods on how to involve the public. Many of them have been applied in different circumstances. This briefing provides a selection of some of these methods. There is an overlap between the different levels of participation and the methods applied. For example, a Citizen Assembly can be a pure “information event”, but it could also be used to collect feedback and information from the audience and hence would be classified as “consultation event”. These methods can be differentiated according to different criteria: How many people are involved (small groups or large groups of people?); how are the participants chosen and/or addressed (participation by chance or selected participants? Broader public or specific stakeholder groups?), the

resources needed and the form of communication taking place (Listening, articulation of interests, negotiation, exchange of arguments, etc.).

Furthermore, they can also be differentiated according to the function this method has and how much influence the results of the participation have on the outcome of the decisions that need to be taken. Some selected tools in public participation are mentioned below, classified according to their function from information to consultation and cooperation. The annex provides links to useful websites with more information on these methods and how to implement them. .

- **Information**

- Posting/ Announcement
- Mailing
- Exhibition
- Road-Show
- Citizen Assembly
- Press Conference
- Newspaper Advertisement
- Question time for local residents
- Field office
- Expert Panel
- Hotline

- **Consultation**

- Written Consultation (possibly online)
- In Person Surveys, personal interviews
- Question time for local residents
- Citizen Assembly, Town Hall Meeting
- Focus Groups

- Consensus Conferences
- World Café
  
- **Cooperation**
  - Permanent Working Groups/ Ongoing Advisory Groups
  - Citizen Jury
  - Wisdom-Council
  - Consensus Conference
  - Planning Cell, Citizen Report
  - Round Table
  - Focus Groups

### **Step 3: Implement the identified measures**

The next steps consist of the implementation of the concept of public participation. This is best carried out by a professional project and process management. It is important to make sure that the resources needed are made available.

When it comes to highly controversial projects, but also when new methods and tools are tested, it might be very helpful to engage a professional process facilitator. This person may guarantee a neutral approach and may help to conduct difficult discussions.

In general, it is more difficult to carry out informal public participation is more difficult as rules of procedures; aims etc. are not defined by legal provisions. In this case, it is very important to agree on the mode for decision making as well as on the rights and responsibilities of all participants. When implementing new tools and informal forms of public participation, a professional moderator who is familiar with these tools might be very helpful as well. When working with smaller groups, the broader public needs to be informed about the procedures and results.

#### **Step 4. Communicate Results**

After the public participation, the results need to be communicated to the broader public. Furthermore, feedback to all participants is very important. The results of a public participation might be communicated by a final conference or public event. Furthermore, they should be published in the internet and also be communicated (e.g. via mailings).

#### **Step 5. Monitor and Evaluate the Process**

It is very helpful to evaluate the process in order to be able to build future processes on the experiences made. Different forms of documentation exist: internal documentation, documentation by independent experts or documentation by participants of the process. When involving the participants of the process, this might help to create joint learning. Lessons learned may be taken into account by all actors during the next public participation.

#### **Additional Tool: Pilot Group**

As mentioned above, it may be very useful to create a steering group or “pilot group” that accompanies the participatory process from the start to its end. It may help to establish the concept for participation as well as to monitor and evaluate the process afterwards.

The pilot group should consist of all relevant stakeholders. For grid development projects, this means representatives from TSOs, public authorities, NGOs, local action groups, non-organised representatives of the local communities affected by a project, scientists and/or dedicated experts, and possibly energy producers and consumers.

This group of stakeholders may help to identify the relevant key issues and whose opinion needs to be taken into account. The pilot group provides the necessary expertise and thus supports the facilitator/moderator of a participatory process.

## **5. Empirical Background: Legal Requirements and Existing Good Practice**

## 5.1. Legal Requirements

### Existing legal requirements and standard practice

- TEN-E Regulation
- National special planning procedures
- National permit granting procedures
- SEA-Directive
- EIA-Directive
- Aarhus Convention

## 5.2. Existing Good Practice

### Existing good practice

- National Grid: Dual formats for continuous stakeholder involvement: Community forums (strategic community forum and local community forum), thematic groups
- Tennet: Early involvement of local stakeholders well before handing in application for permit-granting in Schleswig-Holstein
- Elia: Interdepartmental guidance group with Flemish authorities

### Transparency

- Internet platform by German TSOs and national regulator on grid development in Germany: [www.netzentwicklungsplan.de](http://www.netzentwicklungsplan.de) which provides information about the process as well as the content of the grid development plan in Germany
- Minutes of meetings are published online by National Grid
- 50Hertz Road Show on EMF

## 6. Practical Recommendations

## 6.1. Transparency

### Specific guiding principles

- Provide information on the project itself, as well as relevant background information (e.g. EMF)
- Provide information about the decision-making process:
- Communicate which level of decision will be taken at which point in time, including relevant public participation initiatives and consultation phases and deadlines
- Communicate purpose of participation, the rights and responsibilities of the stakeholders
- Communicate decisions and their reasoning, including how input given has been taken into consideration
- Provide information that is easily accessible and understandable and communicate it via different channels (e.g. internet, newspapers, information events, etc.). Take into account the needs of different stakeholders – both in terms of content and means of communication.
- Inform citizens and stakeholders as early as possible.
- Provide balanced information and publish the sources of information (e.g. links, studies, own research etc.)
- Take an active approach which means that information is provided proactively instead of on request only and that more information is provided than legally required which might be necessary if legal provisions do not allow enough transparency.

### National

- Provide load flow data that provide information on the need for new power lines.
- Create a national transparency platform which puts together all the relevant information (possibly in cooperation with national authorities)
- Provide manual about the decision-making process: which decision is taken when, by whom?
- Provide information about the possibilities for participation and the scope of participation
- Provide information about the decisions taken and give feedback to those who have contributed

- Draw attention to upcoming participation early in advance, i.e. at least 4-8 weeks before a consultation or event

### **Corridor**

- SEA

### **Route**

- EIA
- Consider to build up an internet website for infrastructure projects
- Provide detailed information about the project as well as a short summary (ca. 10-20 pages) which is easily to understand

## **6.2. Public Participation**

### **Specific guiding principles for public participation:**

- Develop a tailored approach to public participation for each project that takes into account the specificities of each case and addresses the needs of all relevant stakeholders. This should be mentioned in a concept for public participation.
- Develop an inclusive approach. This means that all relevant stakeholders need to be included in the process (from policy makers to experts and local communities).
- Provide transparency about the process, the scope and the roles of all actors concerned to avoid unrealistic expectations and to foster accountability.
- Involve the public and other stakeholders as early as possible when their opinions can still be taken into account.
- Allow a continuous involvement of the public, stakeholders and independent experts instead of single occasions to get involved. This helps to build trust among all actors and also helps stakeholders to develop a better understanding of the matter at stake.
- Enable a dialogue between all actors involved. Written procedures such as consultations are useful, but not sufficient to create mutual understanding and build trust.

- Consider to set up a steering group that allows for a continuous participation and advice. All the relevant stakeholders should be represented: Stakeholders with authority (i.e. public authorities and politicians), resources, expertise, specific information and those who will be affected by the outcome.
- Consider to involve a professional facilitator to design and implement this process.

### **Consultation**

- Announce upcoming consultation early in advance: at least 4 weeks, better 8 weeks in advance
- Develop the consultation material: Short summary of the topic, issue at stake and aim of consultation, decisions that have been taken/ framework conditions, background and reason for consultation, concrete questions, etc.
- Announce deadline of consultation: about 6-12 weeks is often appropriate
- Actively invite stakeholders/public to participate in consultation
- Provide contact point for upcoming questions during the consultation
- Send confirmation of receipt of the response to the consultation
- Publish responses if not confidential
- Analyze responses and take them into account
- Communicate final decision and produce consultation report

### **National**

- Conduct a SEA of the national grid development plan and include a public scoping event
- Carry out a public consultation on the national grid development plan and inform the broader public as well as specific stakeholders

### **Corridor**

- SEA, EIA
- Involve the public well before you finalize the application for special planning.

- Together with all relevant stakeholders, develop different alternatives (technical and special), taking the local knowledge and the needs of different stakeholders into account
- Create a regional steering committee that represents different stakeholders

### **Route**

- EIA
- Involve the public well before you finalize the application for the permit granting procedure
- Create a local steering committee that represents different stakeholders

## 7. Annex

### 7.1. References and Further Reading

#### Studies and scientific literature

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### **Practical guidelines/ Manuals**

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**Links on methods and tools for public participation**

Lebensministerium Österreich: <http://www.partizipation.at/methoden.html> (last accessed 2 July 2013)

International association for public participation: <http://www.iap2.org/> (last accessed 2 July 2013)