
Increasing public participation in law-drafting process

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Content of presentation

- **Analysis:** Transparency and public participation in law-making processes
 - Goals
 - Content
 - Main findings
 - **Models** for inclusion of public in law-making process (with focus on using e-tools):
 - publishing on websites
 - centralized website for information and consultations
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Analysis: Transparency and public participation in law-making processes

□ **The main goal:**

- to map the current level of transparency and public participation in law making process in Macedonia
- to provide recommendations for their improvement based on best regulatory practices in countries of Europe and best practices in Macedonia

“Tell me and I will forget, show me and I will remember, involve me and I will understand.”

An old Chinese proverb

Analysis: Transparency and public participation in law-making processes

1. Provides a brief overview of **European standards** and **models** for participation of the public and civil society organizations (CSOs) in the process of law making on governmental level.
 2. Overview of the **legal framework** concerning participation in Macedonia and how participation is **practiced** by the government and CSOs.
 - analysis of the actual relevant laws and policies;
 - mini researches: through surveys and interviews with representatives of CSOs and ministries.
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Analysis: Transparency and public participation in law-making processes

Main findings:

- Documents adopted on European level and in different countries address wide range of issues:
 - create a framework for inclusion ;
 - introduce rules which help increase transparency of the law making process;
 - including from the moment of planning, through the drafting and finally in the process of implementation.

 - Three main levels of participation :
 - (1) access to information;
 - (2) consultation;
 - (3) active engagement through dialogue and partnership.
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Analysis: Transparency and public participation in law-making processes

Main documents:

- The Lisbon Treaty
- Resolution on the perspectives of *Developing Civil Dialogue under the Treaty of Lisbon*;
- EC Communication - General principles and minimum standards for consultation of interested parties by the Commission;
- CoE: *Code of Good Practice for Civil Participation in the Decision-Making Process*.

Mainly regulate:

- Participation of the public in decisions made by the European Union institutions;
- (but also) expectation for members states to follow these rules and adopt similar standards.

Analysis: Transparency and public participation in law-making processes

Findings (country analysis):

- Everybody should be informed and consulted in the process of law drafting;
- Participation may be limited in case of special working groups;
- Participation should be open to different groups (minorities, people with disabilities, women);
- CSOs can play an important role in the process;
- Certain conditions could require limitations in the process (e.g., natural disaster, conflict);
- Most commonly countries allow between 10-30 days for comments;
- Providing feedback to the consulted parties increases trust and strengthens cooperation.

Analysis: Transparency and public participation in law-making processes

- Republic of Macedonia - Several documents :
 - Constitution;
 - Law on Referendum;
 - Law on organization and work of the bodies of state administration;
 - the Rules of procedure of the Government;
 - the Strategy for Cooperation of the Government with Civil Society;
 - Methodology for Policy Analysis and Coordination and
 - Methodology of Regulatory Impact Assessment (RIA)
 - Code of Good Practices for Citizen Participation (adopted July 2011)
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Analysis: Transparency and public participation in law-making processes

The amendments of the Rules of procedure of the Government from 2008 (Article 71):

- the proposals for adoption of laws/draft laws, the competent ministries publish on its internet site and in the Central Electronic Register of Legal Acts (ENER);
- Each interested party can deliver to the ENER its opinions, commentaries and proposals regarding the published proposals for adoption of laws in 10 days from the day of its publication;
- Obligation of the competent ministries to prepare reports on the received opinions and these report to be published on the internet site of the adequate ministry and in the ENER.

Analysis: Transparency and public participation in law-making processes

The novelties of the Rules of procedure and RIA which was introduced in 2009, are not fully implemented yet.

Two main aspects are particularly not observed:

1. the regular and consistent use of “external” consultations with involved parties;
2. timely publishing of the information about the draft laws on the web sites of the ministries and in the ENER:
 - does not publish the information in timely manner;
 - has ambiguities about the phase of the preparation of the law;
 - the law adoption or amendment of certain law is not even mentioned in the Registry.

Analysis: Transparency and public participation in law-making processes

Recommendations:

- Need for adoption of one, legally binding document, e.g., a rulebook for inclusion of the public in the law adoption process ;
- The same rules should be applied in the preparation of the by-laws or other implementing documents;
- The timeframe for requested public comments and opinions in a consultation process should be made longer;
- Need of standard mechanism for the manner of selection of CSO representatives in the bodies that will draft the laws;
- Need to strengthen CSO capacities for inclusion in creating policies, especially in the processes of law adoption ;
- Need to raise the awareness of public officials about the benefits of consultation and participation

Models for inclusion of public in law-making process

- Different tools and methods can be used - decision should be made at the beginning of the process :
 - **coordinators** who will facilitate the process ;
 - developing a **list of interested parties** to be engaged in the process;
 - development of **plans** for the process which highlights the stages and deadlines;
 - Tools to ensure that information about the launched process is distributed as widely as possible: web sites, newspapers, TV, CSO portals
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Models for inclusion of public in law-making process

Main used models:

- web sites of the ministries;
- central on-line registers to assist with the coordination of information sharing and consultation;
- public debates;
- working groups.
- The use of one model does not exclude the others.
- Not everybody can participate at any stage of the process and use any of the models.

Models for inclusion of public in law-making process

Publishing on ministries' websites

- Why is this model used?
- Inform as many stakeholders as possible
- Enable a large number of stakeholders to provide their comments

When is this model used?

- This model is used at the very beginning of the process for as long it is possible to amend the text of the bill.
- provides quick information ;
- obtaining comments on several topics;
- possibility to exhaust all opinions that would be provided during the process.

Models for inclusion of public in law-making process

How is it used?

1. Before the commencement of the process:

- Recommended to the ministries to provide a short notification on their websites of the drafting law at the moment when preparatory activities begin

2. After the commencement of the process

- As soon as the process of law writing has begun, websites are to be used to publish draft versions of the law and to obtain opinions
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Models for inclusion of public in law-making process

- Any website notification about the **beginning** of a specific law making process may contain the following information:
 - which law is being prepared or amended;
 - why it is necessary to draft it or amend it;
 - what issues are going to be regulated;
 - deadline for submitting it to the Government;
 - description of the enactment activities planned (the process);
 - information on the working group preparing it;
 - information on the responsible person who may serve as a focal point;
 - ~~other relevant materials or links to other related web pages.~~

Models for inclusion of public in law-making process

- During the **consultation** process, the website may contain the following information:
 - the actual text of the draft version of the bill;
 - the deadline for the submission of opinions and comments;
 - the manner of submission of opinions and comments;
 - information on the responsible focal point;
 - other relevant materials, research or previous consultations;
 - opinions on previous drafts provided by experts or links to other relevant websites;
 - links to opinions and comments already provided by the public;
 - ~~explanation of the manner in which the ministries will respond to any opinions provided.~~

Models for inclusion of public in law-making process

Manner of submission of comments and opinions

- There are several possible ways of collecting written opinions and comments on bills published on the website:
- via electronic mail;
- via regular mail;
- via fax;
- by directly posting opinions on the website.

Feedback (ministries should):

- summarize the results of the consultation process;
 - provide feedback on the opinions that were accepted/rejected;
 - do not have to respond to every single opinion or comment individually; instead, a summary report should be produced.
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Models for inclusion of public in law-making process

■ Responsibilities of state administration authorities

make sure :

- that the public is informed about the process in a timely manner;
- to provide precise and up to date information on the process;
- to publish it on its website;
- to review all the received opinions and comments;
- to produce a report.

■ Responsibilities of civic organizations:

- promoting the process itself;
 - promoting the web site;
 - collecting opinions;
 - presenting collective opinions of various groups.
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Models for inclusion of public in law-making process

Resource needed: This model does not require a lot of financial resources, since organizations and citizens can submit their opinions through the website or in other ways (thus, there is no need to cover any travel expenses, accommodation, and organization of an event).

Deficiency : The fact that the people who do not have access to Internet cannot make use of this opportunity, nor give their contribution using this model.
