ADVISING CITIZENS
GRANTS FOR PUBLIC PARTICIPATION
ADVISORY SERVICES
endangered species (en dâŋ′ jard spē′ shēz), 1. a species at risk of extinction in Central and Eastern Europe because of human activity, changes in climate, changes in predator-prey ratios.
2. Aquila Heliaca: a globally threatened bird of prey, known as the Imperial Eagle.
3. Hungarian Ornithological and Nature Conservation Society and Slovak Ornithological Society: NGOs working in cooperation to protect the Imperial Eagle in the Carpathian Basin with the financial support of the Regional Environmental Center.
Advising Citizens

Grants for Public Participation
Advisory Services

Budapest
SEPTEMBER 1996
About the REC

The Regional Environmental Center for Central and Eastern Europe (REC) is an independent, non-advocacy, non-profit international organization. The REC was established in 1990 by Hungary, the United States and the Commission of the European Communities. Eleven countries have since joined these founding sponsors.

The REC’s mission is to promote cooperation among diverse environmental groups and interests in Central and Eastern Europe; to act as a catalyst for developing solutions to environmental problems in this region; and to promote the development of a civil society. Beneficiary countries are Albania, Bulgaria, Croatia, Czech Republic, Estonia, FYR Macedonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and Slovenia. In these countries REC primarily supports environmental nongovernmental organizations (NGOs), but also cooperates with local authorities, national governments, academic institutions and the private sector.

In addition to its headquarters in Szentendre, Hungary, the REC has local offices in Bucharest, Budapest, Bratislava, Ljubljana, Prague, Riga, Skopje, Sofia, Tallinn, Tirana, Vilnius, Warsaw and Zagreb.

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MAP OF THE REGION

ADVISING CITIZENS
The most fundamental principle of public participation is that individuals possess a basic right to have a say in matters affecting their lives. In the process of environmental decisionmaking, however, the citizens and informal groups are usually the weakest in advocating their interests.

While the opportunity to give input sometimes stands out, the right to participate also applies in decisions where rights and interests may be less recognizable. In these cases — and even in other, seemingly less-complicated environmental cases — it is not easy for citizens or NGOs to orient themselves in the maze of environmental legislation and administration. The citizens — the “public” — often turn to more organized forms of participation to make their voices heard: They organize themselves into more formal groups or they contact and cooperate with well-organized environmental NGOs. These groups can bridge the gap between individuals and authorities, represent the public in certain cases or be the partners for dialogue with those “in power.”

Effective citizen and NGO participation requires assistance from legal professionals, especially regarding access to justice. Involvement of scientists or journalists can also give a request or complaint the sound scientific justification and media support it may need. Another prerequisite for success is cooperation and partnership with local or central authorities and their agencies and with involved businesses. This requires knowledge of efficient lobbying techniques, coalition building and other methods of nonformal public participation.

All this shows the need for services that support citizens and NGOs. These services should increase the capacity and knowledge of the public and NGOs through publications and training programs and should assist in specific public participation cases. Until recently, only a few initiatives in some CEE countries could provide such assistance. This is why the Regional Environmental Center for Central and Eastern Europe launched a Special Earmarked Grants initiative: to support NGO efforts to establish advisory services projects and to promote public participation in environmental decisionmaking in the CEE countries.

The goal of the initiative was to give funding for NGO-based advisory service projects that would:

- enable and assist NGOs and citizens to address environmental issues properly;
- facilitate the use of available legal and institutional frameworks for public participation;
- strengthen the ability of NGOs, citizens and other target groups — first of all, local governments — to carry out a democratic, open and transparent public participation process;
- stimulate cooperation in the CEE region on public participation in the environmental field.

Special requirements for the grant proposals included the following:

- Advisory service activities should include both legal and nonformal aspects of public participation;
- the project should make an impact not only on local communities but also on the NGO community on a broader national level;
- during the project the service should take the lead in solving and documenting a public participation case. The organizers should then publicize the results of activities through existing newsletters, publications and other networks.

A call for tender was advertised at the end of August 1995 through the REC Local Offices and e-mail networks in 13 CEE countries. Because of the time limitation of the grant, a one-month
application period was given, closing Oct. 2. The evaluation process was handled according to standard REC earmarked grant procedures. A group of five experts, including three well-known public participation experts — from a CEE country, a Western country and from REC — evaluated the proposals in a meeting on Oct. 13, 1995. Of the 21 applications reviewed, nine were awarded funds for a project period of 10 months, together totaling 88,981 ECU.

The winners of the grants were invited to participate in a Winners Meeting on Nov. 24, 1995. They were also invited to regular meetings of the REC Public Participation Working Group, where they could share experiences with a network of public participation experts.

In this brochure, the results of these grant projects are presented, with special focus on their achievements and lessons. Also shown are the different services involved and the impact of the projects, demonstrated by one case example from each.

The activities of the nine NGOs presented here — and the experiences of similar NGO efforts that have been in place for the past few years — show that there is tremendous potential in the CEE NGO community to assist citizens and NGOs in building up capacities and institutional background. This would, in turn, encourage the more efficient use of the legal and nonformal instruments for public participation. It is now up to the NGOs and the funders to keep these services alive so NGOs can fulfill their role of advising citizens and thus help build a strong civil society in the CEE region.

Project description for this brochure was prepared by Istvan Kosztolanyi, with the assistance of Magda Toth Nagy and Hajnalka Benyhe. English-language editing was completed by Reuben Stern and Paul Olchvany. Layout and desktop publishing was performed by Reuben Stern and coordinated by Sylvia Magyar.

The project was managed jointly by the Public Participation Program, the REC Initiatives Team, the Earmarked Grant Team and the REC Finance Team.

Funding for the Earmarked Grants was provided by the Dutch Ministry of Housing, Spatial Planning and the Environment, The Hague.

The REC would like to thank them all for the contribution to and support for this project and the publications.
Background

Green Action is among the most well-known environmental NGOs in Croatia. Established in 1990, it has some 700 active members. In addition to local initiatives around Zagreb, Green Action cooperates with other NGOs at the national and international levels.

Another important aspect of its activity is cooperation with national governmental institutions. Green Action participates in the Legislative Working Group of Parliament’s Environmental Committee, the Commission for Eco-Labeling and the Government Coordination Committee for the Protection of the Ozone Layer.

Its international activities involve the Climate Action Network, the Danube Environmental Program and the representation of NGOs in Central and Eastern Europe in negotiations with the Global Environmental Facility.

Green Action’s “Green Phone” project was established in 1992 to help citizens participate in solving environmental problems. The first six months of the year brought 932 registered calls to the Green Phone. A monthly bulletin ensures the circulation of information to the media, Green Action members and city institutions.

Project Goals

- To strengthen public participation in the decisionmaking process with respect to environmental protection and sustainable development
- To establish a Legal Working Group and provide individuals and NGOs with legal assistance and help them by making the Green Phone accessible

Objectives

- To improve the existing Green Phone (GP) service by fostering more effective use of legal instruments by the general public
- To increase the interest of the identified target group of currently passive supporters by distributing the GP newsletter to them
- To stimulate public discussion of environmental issues by organizing monthly public round-table meetings
- To present complete legal analysis to individuals and NGOs on environmental problems

Amount Awarded

11,118 ECU

Implementation

The recently established “Green Phone Legal Working Group” comprises mostly law students with an interest in environmental issues who work with the guidance of an environmental lawyer. The group addressed the lack of capacity to respond to an unexpected increase in the number of requests from the general public. Group members take calls and provide legal advice twice a week. Two model cases were chosen for the case study, in which outside experts were involved as well.

Model cases of public participation undertaken by GP’s Legal Working Group were published along with other articles in the newsletter Zelena Akcija, of which 1,000 copies were printed. All published materials aimed to motivate new activists and overcome the lack of environmental information in the mass media.

Round-table discussions were held to discuss model cases. Announcements on radio,
advertisements in daily papers and direct invitations encourage participation.

A press conference was held at the outset of the project to inform the media and the public about the project.

The Legal Section’s work consists of a weekly meeting at the Green Action (GA) office and of direct field work with citizens involved in cases. The discussion focuses on pinpointing available steps that can be taken to solve cases, including formal and nonformal instruments. An advertisement was placed in a daily newspaper to boost the number of requests for information. However, except for inquiry calls, not one letter has been received since the ad first appeared.

As a result of the GA Legal Section’s work, a database on environmental legislation has been created and a small library is being established containing information related to legal aspects of environmental protection.

Monthly round-table discussions have been organized to discuss priority environmental topics with the participation of all interested parties. Citizens, GA activists, representatives of city agencies and the media were invited with the goal of strengthening cooperation among the various players in environmental cases.

The following activities were carried out within the scope of the Legal Section’s work on a particular case (i.e., the Ivanec quarry — see sample case below):

- research into and collection of specific legislative regulations and all relevant documentation;
- phone consultations;
- field research in Ivanec;
- analyses of the previous cases and the selection of the appropriate legal procedure (first phase, administrative procedure; second phase, court procedure);
- preparation of the Administrative Procedure Claim and of the Citizens’ Reference, and preparation for the round-table discussion (e.g., theme selection, guest list);
- soliciting public signatures for a claim to start administrative procedures and submission to the authorized inspectorate. The claim was sent at the beginning of May, and the Legal Section is now awaiting a reply.

### Target Groups

Citizen groups, government officials and the media

### Lessons

#### Major Problems

Because of the low level of public awareness and interest concerning environmental problems, only few phone calls and letters were received and answered by the Legal Working Group. Citizens have been mostly interested in using nonformal instruments rather than seeking legal help or going to court.

Although formal and legislative means of environmental protection do exist, legal constraints have nonetheless hindered the activities of NGOs.

#### Major Successes

While the project was certainly useful, tangible results could not yet be perceived during the project period. Nevertheless, the establishment and continuous operation in Croatia of the Green Action Legal Service has been a success.

### Overall Evaluation

The project helped to establish the Legal Section working in useful interaction with other sections of Green Action and resulting in significant activities on specific cases. In the Croatian environmental movement this is the first time that a grassroots environmental NGO succeeded in involving a group of law students and a law expert in its work on a permanent basis. Despite the problems experienced during the project, the Legal Section plans to continue its work raising awareness about the use of legal tools for public participation and encouraging citizens to take a more active role in environmental protection.

### Sample Case

#### The Ivanec Quarry

This case concerns a quarry next to the village of Ivanec, near Zagreb. The quarry is owned by the Viadukt Company. Because of ongoing mining activities and inadequate use
of explosives, Ivanec residents are continually subjected to excessive noise. Frequent tremors caused by mining have damaged property.

Furthermore, the company’s use of inadequate technical equipment has resulted in environmental pollution, especially in springtime, when orchards, gardens and the surrounding forests are covered by a thick layer of dust.

Many people in Ivanec have complained about respiratory problems, which may be linked to the abnormally high levels of airborne dust. There is also a problem of constant traffic — old, noisy, polluting trucks that carry the material from the quarry.

The first meeting between the Legal Section and local representatives was held in January 1996. At the beginning, Green Action had difficulty in obtaining from the local authorities official documents concerning the quarry’s activities and previous complaints by citizens. The situation has since improved, and Green Action has gained access to most of the pertinent documents.

At the moment, Green Action is researching whether the company had obtained all permits necessary for the latest phase of construction in the quarry.

Green Action believes it has several well-grounded arguments in the case, the main argument being the highly questionable location of the quarry — in a designated nature conservation area.

Green Action aims not to stop the quarry’s operations immediately, but rather to force it to follow existing regulations and to undertake remedial measures before its closure (due by 2000 under current plans).

Upon consultations with members of the local community, Green Action agreed to take the following actions:

- New letters of protest were sent to regional authorities, state agencies and other relevant institutions.
- Public discussion have been and will be oorganized with all interested parties.
- Measures will continue to be taken to prevent the issuance of new permits that would allow the company to expand its activity, including a request to start an administrative procedure.

Some Ivanec residents have already initiated a civil litigation procedure, and Green Action hopes to encourage others to do the same, demanding compensation from Viadukt for the fall in property values and for the actual material damage caused by the quarry operations.

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Background

Children of the Earth was founded in 1989 as an independent non-profit citizen's association with the aim of improving the state of the environment. Its prime goals are the preservation of nature and landscape, the environmental education of children and young people, the fostering of activity by environmental specialists, and the promotion of public endeavors to preserve environmental quality. Although its central office is in Prague, Children of the Earth has numerous sections, clubs and local branches that pursue independent activities throughout the country. The Center for Citizens' Support, to be established by this project, will also act as an independent body, offering services primarily to other civic groups.

Project Goals

- To increase public awareness of both environmental issues and the legal framework of environmental protection
- To establish a network of local groups and NGOs and assist their activities by providing them with necessary information and legal assistance

Objectives

- Establishment of the Children of the Earth Center for Citizens' Support to strengthen public participation in the Czech Republic
- Promoting the work of citizen groups by providing up-to-date advice, as well as by sharing experience and contacts

Amount Awarded

9,125 ECU

Implementation

A working group was set up according to the original plan involving the key people assigned to work on the project, and tasks were distributed among them.

Electronic databases were developed mainly for use by the working team. Due to a software copyright, the computer files cannot be freely distributed. Consequently, printed databases were distributed to NGOs. The databases are available at the regional offices as well.

Few requests have come in from NGOs for use of the planned library, so its development is, at least initially, not a high priority. The established library was used more by inside experts than by citizens or NGOs.

The center's Public Relations Department used various tools to help citizen groups and local authorities convey issues of concern to them to the media, and this met with success in numerous instances. These included articles in local and regional newspapers, leaflets, press releases and press conferences. The electronic media were involved as well by preparing TV and radio broadcasts about certain environmental problems.

The exhibition Marquee for Life was set up in three towns during the project. Among the topics presented were highway by-passes, dam construction and waste incineration.

The seminar Public Participation was organized in late May 1996 with the participation of representatives from 15 citizen groups. The two main goals of the seminar were fulfilled (namely, to share experience with concerned citizen groups and to help grassroots groups pool their efforts in a functioning network). Mayors who have been active in the field of public participation and EIA were invited as well in order to discuss four hot issues:
Involvement by the Center for Citizens’ Support helped block funding for a planned dam in the Vesec Valley, which houses valuable natural areas.

- environmental law;
- campaigns;
- public relations;
- cooperation and networking.

Members of the Center also took part in other seminars organized for NGOs.

The brochure *Public Participation* has not yet been published, but it is under preparation and will be used as working material for future seminars organized by the Center.

The Center commented on the new Waste Management Act and is preparing comment on new EIA legislation as part of its legislation-monitoring activities.

**Target Groups**

Active citizen groups, NGOs, mayors and
local authorities, ministerial and parliamentary representatives, journalists and specialists in various fields that touch upon environmental issues.

Relationship with NGOs, the Public and the Government

The Center developed a good working relationship with many citizen groups and NGOs engaged in solving environmental problems and assisted them in several instances to fully or partially validate their interests in legal proceedings. Legal help and assistance was provided by the working group in several cases. Invitations to comment on draft versions of new legislation have, meanwhile, resulted from cooperation with various levels of government administration.

Lessons

Major Problems

The Center’s limited capacity hindered the extent of the services it was able to provide. On the other hand, many NGOs have yet to appreciate the importance of validating their interests by way of legal proceedings. The Czech government’s relative ignorance as to interests of villages and communities marked yet another problem, and this resulted in a loss of numerous potential initiatives. It has turned out there is a need for coalition among environmentally oriented groups in order to realize the common needs and tasks and to teach them how to cooperate with each other. Many NGOs didn’t see the impact of the cooperation and were not willing to take part in seminars or be involved in common actions or activities.

Major Successes

The establishment of a network of local groups, along with precepts governing their cooperation (e.g., advocacy or the sharing of experience) was a major success. Furthermore, an increasing number of activists from Children of the Earth and other citizen groups are amassing experience in environmental advocacy as a result of the project. The number of environmental NGOs increased as well. The Center has succeeded in creating an environmental public advisory service that can be easily contacted by citizens and civil organizations.

Overall Evaluation

The project helped bolster the capacity of the Czech environmental movement and its effectiveness in solving environmental problems by way of legal instruments. This was clearly demonstrated in the cases won or otherwise resolved with the help of the Center. In addition, environmentalists, citizens and NGOs became more concerned about the necessity of public advocacy services as a useful way of promoting public participation in environmental problems.

Sample Case

Liberec-Vesec

This case involves a controversial plan to build a dam in a valley that houses valuable natural areas. The Center has helped in the decisionmaking process by promoting public participation in Environmental Impact Assessment (EIA), public hearings, the development of relevant environmental law and other aspects of the matter in the following ways:

- helping establish a Civic Association;
- taking requisite measures after the EIA process (e.g., drafting necessary letters and lobbying the local government of the City of Liberec);
- soliciting expert opinions on the planned dam.

The Center has also been instrumental in the related public relations effort by having articles published in journals and newspapers, issuing press releases, holding a press conference in Liberec on Jan. 26, assuring that the issue was discussed in a popular TV program and by incorporating the issue into the exhibit Marquee for Life.

As a result of this effort on various fronts, the company planning to build the dam, AKVA KB., has encountered serious difficulties in obtaining funds from banks. The company has lost more than a year, and the issue has not even reached the first stage of the decision-making process.
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Background

The Estonian Green Movement (EGM) was founded in 1988. It now functions as a national umbrella organization uniting 13 independent regional groups with about 2,000 active members. The EGM has participated in numerous endeavors to raise public awareness of environmental issues (e.g., issuing publications, arranging the translation of books on ecology).

The EGM also maintains regular contact with foreign organizations, including the Coalition for a Clean Baltic, Friends of the Earth and European Youth for Action.

Project Goals

- To strengthen the democratic foundation of Estonian society
- To raise public awareness of environmental issues
- To improve environmental conditions in Estonia by establishing advisory services to promote public participation in environmental decisionmaking

Objectives

- To create a model for the establishment of an advisory service by drawing on the experience of EGM’s three regional offices. After testing the viability of the model in the regional offices, the model should be published for future use in the region.
- To provide training for regional officers on public participation procedures and skills and to do so in close cooperation with local authorities, other NGOs and the Estonian Law Center
- To encourage public participation in preparing forestry policy and strategy

Amount Awarded

13,000 ECU

Implementation

An analysis was undertaken of the Saaremaa Green Cabinet with the aim of using it as a model of public participation. Other instances of public participation organized by government ministries were examined as well. A report was published highlighting the positive and negative aspects of the Cabinet.

Potential network members, including interested lawyers in all three EGM regions, were identified for training as legal advisors. Two or three interested representatives of local authorities and other NGOs were invited to participate in this process.

An assessment was analyzed of needs and problems with respect to public participation, and a reference list was compiled of existing information resources. A training seminar was organized with the participation of NGO members as well as local and national government representatives.

The training of NGO activists and lawyers occurred in cooperation with the Estonian Law Center and the Faculty of Law at the University of Tartu. About 25 people took part. The training agenda included such topics as environmental legislation, legal instruments for public participation in Estonia, international experience, the introduction of a model for advisory services, testing of the model through role play and the choosing of specific topics to test models at EGM regional offices.

On the basis of the model, trained staff and
lawyers undertook public participation initiatives on the local level — e.g., by establishing a green telephone hotline. A computer network was set up between EGM local groups and other NGOs to enhance cooperation.

A public participation working group was formed within the EGM with the aim of coordinating and advising local groups. Green telephone hotline services were extended along with legal advice on public participation.

An environmental data management system was established to assure the advisory service a ready supply of information and to set up a green database.

A seminar was held after four months to evaluate the tested model, public participation manuals, practices and problems that emerged. The compiled information was finalized and published in draft form in Estonian as a manual on public participation.

The organization was actively involved in drafting the new EIA law, and some of the comments have been taken into consideration by the government. The Public Participation Working Group was even asked to prepare the section on public participation.

The Public Participation Group has followed and supported the EGM’s forestry strategy working group, organizing public meetings and discussion seminars.

An Internet training course was organized in conjunction with the establishment of a core information network.

The EGM also responded to a number of requests concerning local legal cases.

One case (Kunda, see case example below) was carefully followed by the EGM and legal help and advice was offered for the citizens.

Relationship with NGOs, the Public and the Government

The greatest number of contacts was established with environmental NGOs and not so much with members of the general public. The latter were far from enthusiastic about participating in environmental decisionmaking. Cooperation with the authorities was good both in the drafting of EIA legislation and in the course of local legal cases.

Lessons

Major Problems

Along with the general lack of public participation skills, the key obstacle encountered in the course of the project was the lack of willingness on the part of the state authorities to invite citizen groups to partake in the decisionmaking process — e.g., to public hearings. Official sometimes only feigned a commitment to public participation in order to satisfy public opinion. Requests received from the public were usually about the general status of the environment and not case specific.

Major Successes

The project’s biggest success was the direct participation of the Estonian Green Movement in the development of EIA regulations. The Public Participation Group has started to work with the EGM Tallinn Office to prepare the UN-ECE convention on public participation and access to information. The draft version of the Public Participation Manual was introduced to NGOs to test its content and gather useful feedback from the NGO community.

Overall Evaluation

The project’s most discernible impact is that NGOs and citizens have now become acquainted with, and use, the public participation services provided by the EGM. Central and local authorities have also recognized the EGM’s role, which they demonstrated by inviting members to partake in the legislative process. Despite the questionable success of the green phone operation, there is a need to keep the green line alive in order to encourage public participation and spread information concerning environmental problems.

Sample Case

Pollution in Kunda

In addition to air pollution from a cement factory (Nordic Cement), soil pollution has become problematic in the city of Kunda. The local drinking water contains radon and other dangerous gases, heavy metals and microelements above permissible limits.
At least five different research and governmental institutions have investigated the quality of drinking water and indoor air in Kunda: the Estonian Meteorological and Hydrometeorological Institute (EMHI), the Institute of Chemical and Biological Physics (KBFI), the Health Protection Department of Estonia (HPDE), the Laane-Virumaa County Health Protection Department (LVCHPD), and the State Laboratory for the Environment (SLE).

The EMHI and KBFI have reported problems with drinking water and indoor air to the City Government of Kunda (CGK) on several occasions, upon which CGK initiated the program “Clean Drinking Water for Estonia.” The application to help start this program was sent to the HPDE on July 12, 1995, with the signatures of 891 Kunda residents.

The HPDE responded to the city of Kunda on Dec. 2, 1995, and declared that according to data compiled by the LUCHPD and SLE, Kunda drinking water does not exceed permissible component levels, except in the case of iron. The excessive iron would be eliminated by a new water purification plant, construction of which was to begin in March 1996. According to the response, there was no danger of radon pollution to human health.

A public hearing was held in Kunda on Dec. 2, 1995. Twenty specialists from various institutions participated, and there was a presentation on the quality of the drinking water. There were 100 participants in all, mainly older residents. For the most part, the specialists debated, and the public was passive. The hearing aimed primarily to inform the public and garner support in case additional investigations were necessary. Indeed, it was decided that another complex investigation was needed. The issue of financing the new investigation and additional measures to reduce drinking water pollution has also reached Parliament. However, the Ministry of Environment is agrees with the Health Protection Department — namely, that the problem is not serious.

The seminar organized by the EGM offered Kunda activists legal advice concerning what to do next and how to press through solutions in the interest of Kunda residents. They now aim to establish contacts with the World Health Organization to involve international experts in further investigations. EGM’s Public Participation Group plans to initiate a court proceeding in Kunda if any violation is discovered.

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Background

The Environmental Law and Public Participation Center (ELPPC) was recently registered as an NGO with the dual goal of promoting public participation in the environmental law process and itself participating in the preparation of such laws. ELPPC runs its own library, containing mostly items related to law, public participation, and Environmental Impact Assessment (EIA). The quality of the ELPPC’s work was indicated by a contract it signed with the Ministry of Urban Planning to help develop the legal and institutional aspects of the National Environmental Action Plan.

Project Goals

- To educate NGOs and the public on applying legal and nonformal instruments of public participation
- To promote, comment on and draft environmental legislation to promote public participation in environmental decisionmaking
- To represent NGOs before the authorities and the courts in environmental and public participation cases
- To inform citizens and NGOs about the National Environmental Action Plan

Objectives

- To provide advisory services to NGOs and the public on public participation methods and to establish an advisory network for NGOs and citizens using the existing Environmental Public Advocacy Network
- To actively involve NGOs and the public in the development and implementation of the National Environmental Action Plan (NEAP);
- To prepare a report on the NEAP for citizens and NGOs
- To establish a communication channel among NGOs, local governments and the national government.
- To provide networking and information services

Amount Awarded

4,961 ECU

Implementation

A study on the use of legal and nonformal methods of public participation showed that NGOs and individual citizens did not understand their rights or how to go about validating them. Consequently, an expert advisory service was to be launched to involve NGOs in decisions on major issues. This was done to avert situations such as the Macedonian government’s having started the NEAP project without informing public of its main goals. Because of its direct involvement in the legal and institutional aspects of the NEAP, the ELPPC planned to inform NGOs about the NEAP process, collect their comments and convey them to the government by organizing meetings for NEAP working groups and national and local government authorities.

The ELPPC arranged with the monthly journal Mlad Borec and the Environmental Law and Public Participation Bulletin to publish the results of the project and give more information about the NEAP following the World Bank’s recommendation. The ELPPC has invited the public to cooperate on the NEAP. In the initial phase of advisory services, Mlad Borec circulated 5,000 copies containing key information on...
the benefits of public participation, the plans of the ELPPC and the NEAP. Furthermore, radio and TV interviews were given along with interviews to two national daily newspapers.

The ELPPC has become well-known. Both citizen groups and governmental bodies have approached it for advice, mostly on the NEAP and on specific legal cases involving environmental damage. Some such cases have been settled or otherwise moved toward a solution with the help of the ELPPC.

The Center sought to include NGOs and individuals in the NEAP process as much as possible. A meeting was held with NGO members, ministerial representatives, and the local staff of the Institute for Sustainable Communities (ISC) and the REC. A task force was established to facilitate the contribution of NGOs to the development of the NEAP. Five regional meetings have been planned as well. Foreign experience in public participation and examples of environmental regulations from other countries have been drawn upon to encourage public participation in the NEAP. As a result of the above activities, several NGOs and members of the public submitted recommendations and comments on the NEAP.

Through networking with other NGOs in the region, the library, which consists of materials on public participation and environmental law, was planned to be extended with the latest works from these two fields.

**Relationship with NGOs, the Public and the Government**

The ELPPC has invited numerous NGOs and citizens to participate in the NEAP process. Some organizations have approached the ELPPC for legal advice, reflecting public trust in its activities. Also, contracts and agreements have been signed between the ELPPC and ministry departments to fortify cooperation. The Center has established cooperation with the REC Local Office in Macedonia, the ISC and the Ministry of Urban Planning, Construction and Environment.

**Lessons**

Several NGOs have participated in the project by commenting on the National Environmental Action Plan and making various suggestions that were forwarded to the government.

The project’s major success is that the NGO community, in cooperation with the ELPPC, has succeeded in blocking Macedonia’s new Environmental Act pending the completion of the NEAP.

**Overall Evaluation**

The project proved successful in initiating the almost non-existent public participation processes in Macedonia and establishing a well-functioning advisory service for the public.

**Sample Case**

**Local Environmental Action Plan in Bitola**

The ELPPC provided advice to an environmental NGO named Molika, situated in the city of Bitola, on how to propose a local environmental action plan.

Molika approached the ELPPC to seek advice on how to create and submit a local environmental action plan. The ELPPC recommended using the methodology of the National Environmental Action Plan (NEAP) as a basis for the project, as the working draft of the NEAP is now being adapted to address local issues. In its advice to Molika, the ELPPC drew on the experiences the Independent Ecological Center of Budapest garnered from a project to create sustainable communities in three municipalities in Hungary. The ELPPC recommended using “Comparative Risk” methodology in establishing environmental priorities. The ELPPC will be the major consultant of both Molika and the Bitola city government as they formulate a local environmental action plan.

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Polish Environmental Law Association

Poland

Project No. 20519: Network for a Democratic Environment: Law as a Public Participation Tool

Background

The Polish Environmental Law Association (PELA) was registered in 1987 as the first independent organization of environmental lawyers in Central and Eastern Europe. Its headquarters are in Wroclaw, and its membership now stands at 40. The PELA serves as a center for information, education, research and publishing in the fields of environmental law and policy. It runs its own publishing house, Environmental Law Publishers, which has published 12 books on environmental policy and legislation since 1991. Its consulting group provides logistical support for research and educational programs. The PELA’s Environmental Law Information Service, established in 1992, provides free legal counseling to NGOs and the public. During its past four-year operation, the Service has established itself as an important part of the ecological movement in Poland.

The PELA and its members have also been consultants in the drafting of environmental legislation, including the State Environmental Protection Act of 1991, the Nature Conservation Act of 1991, and two pieces of pending legislation, the Environmental Protection Act and the Water Act. Recently, the PELA, in consortium with the environmental consultant EkoKonsult, succeeded in a tender for a PHARE project on the drafting of comprehensive Environmental Impact Assessment legislation for Poland.

PELA members include members of parliament, high-ranking officials from state environmental authorities and members of international organizations. Their cooperating partners are based in Germany, the United States and Hungary.

Project Goals

- To increase public awareness and knowledge of law among officials, citizens and NGOs
- To strengthen the capacity to use formal (legal) possibilities of public participation in environmental decisionmaking
- To introduce and enhance legal instruments to solve environmental disputes, thus fostering both democracy and environmental protection

Objectives

- To encourage NGOs, citizens and local communities to get actively involved in formulation and implementation of environmental policy and to assist them in using legal avenues for protecting their rights
- To increase the capacity of NGOs, local communities and experts through workshops on public participation
- To address the demand for a wide range of resource materials, such as manuals and documentation on case studies
- To improve the efficiency of PELA’s Environmental Law Information Service

Amount Awarded

10,155 ECU

Implementation

The Environmental Law Information Service was conceived as the core of the entire project. All planned activities and services were thus to be carried out within its frame-
work. Plans call for the Service to be run on a not-for-profit basis into the future as well and to provide information and advisory services only for the general public.

The activities of the Service consist of three main areas:

- a telephone hotline service;
- providing requested legal advice;
- participation in conferences and workshops organized for or by environmental organizations.

During the project period, the telephone hotline operating five days a week received and answered 56 requests, mostly from NGOs, individuals and some local governments.

The Service prepared documentation for use in dozens of legal cases upon written requests of environmental NGOs, local governments and citizens. Organizations who requested assistance included Polish Ecological Club, Ecological Association, Greener, Pro Natura, Green Federation, BORE, Ecological Office, Institute of Sustainable Development, Foundation of Human Rights, Foundation of Olawy and Nysy Klodzkie and the Polish Fishing Association. Several foreign NGOs have also asked for advice, including Greenpeace, Friends of the Earth and Environmental Law Network International.

Since the development of highway infrastructure causes significant harm to environment and nature in Poland and since Polish environmental legislation is not yet sufficiently suited to deal with these problems, the service has mainly focused on assistance in these matters.

An interesting example was the case of localization of the Babice highway by-pass. PELA gave advice to the Green Federation of Krakow, an NGO representing local residents. After a series of administrative procedure and as a result of PELA’s advice, the case was brought before the Supreme Court. In another case, PELA advised the Institute for Sustainable Development in Warsaw on an illegal administrative decision granting permission requested during an EIA procedure without complying with the legal requirements. In this case, PELA helped prepare research for a member of parliament and also challenged the decision in court.

As originally planned, a workshop was organized on the problem of public participation in authorization and localization of highway construction in Poland. The aim was to discuss difficulties and to elaborate a common position for the ecological movement concerning the highway construction program. The one-day workshop organized in May in Kolumna, during the national meeting of Polish NGOs, dealt with the following issues:

- procedural problems related to the authorization of highway construction with special regard to the Act of EIA;
- sustainable transport policy;
- social and economic problems related to the construction of highways;
- possible NGO strategies, campaigning and other ways of combining efforts of different NGOs interested in the issue;
- harmful impact of highway construction on wildlife;
- overview of the activity and actions of the Polish ecological movement against the program of highway construction with special regard to legal actions supported by PELA.

After the workshop, a group of environmentalists discussed ways of communication and networking among NGOs on these matters. The proceedings of the workshop were published in a book in cooperation with the NGO OTZO 3R.

The most important such event was perhaps that which focused on the Network of Ecological Offices in Poland, where the PELA prepared the legal basis for the Network’s operations.

Target Groups

NGOs, individual citizens, local governments and local communities

Relationship with NGOs, the Public and the Government

Each week, the PELA receives numerous requests for legal advice and other counseling services from individual citizens and NGOs, indicating that it is widely recognized for its
key role in formulating the legislative aspects of environmental policy in Poland.

Lessons

The telephone hotline proved successful — in fact, it was necessary to operate it overtime during the project period. According to feedback, the publication on public participation in highway construction procedures, compiled in cooperation with another NGO, was an interesting and useful resource.

The court case involving the highway construction issue, although it was lost, may have a positive impact for the future — namely, the threat of legal action by NGOs will presumably be a strong incentive to take environmental issues seriously in decisionmaking procedures.

Overall Evaluation

The Service, besides providing legal advice, has gradually become a clearinghouse on legal issues and a public library containing published laws and other documents relevant to environmental problems. This makes it unique in Poland.

Sample Case
Challenging Highway Plans

This case saw the filing of legal actions against the siting of four highway sections (routes A-1, A-2, A-4, and A-12). Two NGOs, the Polish Ecological Club and the Institute for Sustainable Development, sought the assistance of the PELA's information service to prove that the authorization of the construction plans was unlawful because it did not adequately follow the procedural rules of the Highway Act of 1994. Moreover, the EIA did not meet the requirements established in the pertinent regulations, which had been approved on June 5, 1995. The PELA advised the NGOs to explore a new opportunity as set forth in a 1995 law on the Main Administrative Court (NSA Act). In the PELA's view, this law subjected the siting of highways to judicial control and gave legal standing to NGOs.

The PELA hired attorney Jerzy Rotko to handle the case and to provide ongoing legal assistance to the above-mentioned NGOs. First of all, the PELA advised them to follow the initial procedural step required by the NSA Act of 1995. To this end, the PELA prepared for them a formal request to the Central Planning Office requiring the withdrawal of the siting authorization. The authorities did not duly reply to the request, so the PELA advised the NGOs to initiate the second step by filing a formal lawsuit before the NSA, which they did. The trial was held April 1, 1996, but the court did not agree that siting must be subjected to judicial control. The PELA plans to challenge the decision and explore the new alternatives set forth by a 1996 amendment to civil procedure.

Although the case itself seems lost for the time being, there is already one positive aspect to the proceedings: The court did not question the participation of NGOs in such cases. The PELA hopes this will serve as a valuable precedent into the future.

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POLAND: POLISH ENVIRONMENTAL LAW ASSOCIATION

ADVISING CITIZENS 23
Background

The Focus Eco Center, an outgrowth of the Rhododendron Eco Club, established in February 1990, is a non-profit NGO whose aim is to raise public awareness of environmental issues. Focus Eco Center promotes and implements environmental education initiatives, fosters public participation, offers environmental counseling services and implements water management policies. The group numbers about 35 active members, including teachers, engineers, lawyers, students from a teacher training college and others.

Although Focus is funded mainly by Western foundations, for smaller projects it draws on domestic resources, mostly in-kind contributions from local partners.

In 1994, the center’s Education Working Group published an environmental manual for teachers, Cunoastinte despre mediu. The same team compiled a methodological guidebook, Omul si mediul inconjurator, likewise published in 1994 by Focus. Among the other major, long-term projects of the Focus Eco Center is the “Niraj River Basin Water Management Scheme,” which got off the ground in June 1993 with the intention of establishing a joint administration to manage the river basin.

The organization participates in various projects and activities, including:

- **Environmental Manual for Local Authorities in Central and Eastern Europe** (in collaboration with ICLEI-Europe)
- **Manual on Public Participation in Central and Eastern Europe** (REC project)
- Promotion of eco-agro tourism (in collaboration with ECEAT, the Netherlands)

Project Goals

- To develop public participation by reinforcing the conceptual knowledge and practical skills of NGOs and individuals to assure that environmental problems can be addressed (and solved) with the use of an available legal and institutional framework for public participation
- To increase the knowledge of the NGO community and the public on legal provisions on public participation, thus assuring more efficient application of legal and nonformal instruments
- To stimulate cooperation between NGOs, individuals and local authorities by presenting and implementing a successful case for public participation

Objectives

- Establishment of an advisory service to promote public participation projects in various parts of the country by providing NGOs and citizens legal assistance and information concerning legal and nonformal methods of public participation
- Implementation of a successful public participation case and presentation of it to the NGO community and local authorities
- Publishing of information materials and case studies

Amount Awarded

12,946 ECU
Implementation

In the initial phase, an advisory service was organized and a working team set up at the Focus Eco Center’s facilities in Tirgu Mures. The team was composed of five to seven NGO experts and lawyers providing scientific, technical and legal assistance to the public. An environmental library and database was established where all case materials and information were collected. The advisory service was publicized in Tirgu Mures and in other cities through leaflets, newspapers, radio, the NGO newsletter, the working group members and in different workshops and seminars.

Plans called for three working group sessions to coordinate the team’s work, but only two were held. During the first session, the role and functions of the working team members were formulated, and the principles of public participation and methods of project implementation were discussed. Members agreed to produce detailed written materials on various fields related to environment protection and public participation. Arrangements were made to disseminate information and materials about public participation through NGO newsletters, local newspapers and radio broadcasts. The members of the working group were acting as promoters of public participation in different parts of the Romania.

The legal background of the EIA procedure included in the permitting procedure was analyzed at the second working group meeting. Members also discussed how the public participation possibilities should be enhanced through publications and other activities. The working group decided to prepare and publish a booklet offering information and advice on public participation opportunities in the permitting procedure. The booklet, which was prepared, published and disseminated in September, is meant to be a practical guide for NGOs and citizens to understand and use the available legal instruments for public participation through the permitting procedure. It includes description of competencies, details of procedures, possibilities to participate and appeals, techniques and examples.

The working group members distributed several written materials concerning legal instruments. A detailed overview was drafted on the legal principles of public participation and a compilation of 11 leaflets explaining the different provisions of the new environmental law was disseminated and summarized on several occasions, including seminars. The leaflets addressed the following issues: hazardous waste, pesticides and chemical fertilizers, air protection, duties and obligation of juridical and physical persons, public participation, protected areas, water quality, permitting procedure, punitive regime, soil protection and radiation. More than 100 copies of laws and regulations related to public participation in environmental decisionmaking were distributed in the NGO community.

Focus was asked to provide advice on legal and nonformal public participation issues related to the environment in more than 20 cases. Many of these requests dealt with elimination of green spaces in the town or with tree cutting. Though some requests were not related to public participation issues, Focus examined the requests and transferred them to the competent authorities.

The Ministry of Environment organized a seminar for local environmental authorities to present legal provisions for the permitting procedure. The project leader was invited to discuss the role of NGOs in the area of public participation.

The first Romanian national seminar on public participation and access to environmental information was organized on July 12-14, 1996, by the Focus Eco Center and Transylvanian Conservation Volunteers (CET) in Cluj Napoca. The large number of participants, 62 in all, representing diverse institutions (NGOs, the Ministry of Environment, environmental agencies, the media and local authorities) reflected the importance of the issue, the commitment of participants and the success of the project’s efforts to disseminate information. The main goals of the seminar were, among others:

- to analyze the existing Romanian legal framework for access to information and public participation;
- to evaluate the needs and the level of public participation from the point of view of both the NGOs and authorities;
- to present and discuss different case studies
on access to information and public participation (FOCUS, CENTRAS, CET) and evaluate achievements and failures;

- to elaborate programmatic materials for the NGOs to follow public participation;
- to create a cooperative network among Romanian NGOs to promote public participation.

Detailed discussions took place on many aspects of public participation, including the cooperation of NGOs. The major achievement of the seminar was the creation of a 13-member national working group representing large environmental NGOs. The mission of this group is to develop a working framework to foster public participation initiatives in Romania on both the local and national levels. Focus and CET plan to play a key role in this framework in the future.

**Target Groups**

NGOs, the public and local authorities

**Relationship with NGOs, the Public and the Government**

The organization has had a good relationship with other NGOs as reflected by the number of participants at its seminars and during the establishment of the national working group on public participation. The same was true of its relationship with the public: substantial amounts of materials were distributed and numerous contacts made during the individual cases considered.

Cooperation during the implementation of environmental proceedings seemed to go more smoothly with local governments than with the central government. Indeed, some members of the working group developed a fine relationship with local authorities.

**Lessons**

**Major Problems**

The approach of the national government toward public participation is still utterly different from that of NGOs in terms of openness and transparency, and this rendered difficult the implementation of some steps of the project.

**Major Successes**

The most important success is that because of promotional activities, the advisory service can give support on public participation problems and is known across the country and by all environmental NGOs.

**Overall Evaluation**

Based on feedback, the establishment of the advisory service has met a real need within the NGO community and covers a gap in public participation activities. A core group for a national advisory service network was formed at the Cluj seminar. The materials collected and prepared during the project and the national working group sessions will serve as a sound basis for future public participation initiatives in Romania.

**Sample Cases**

During the duration of the project, the Focus advisory team was faced with 27 requests for advice and assistance.

An especially important case was the establishment of a public advocacy center by the NGO Ecomont in the town of Piatra Neamt. Ecomont established the Center for Citizen-State Dialogue with the aim of developing a fruitful partnership among the authorities, NGOs and the general public. The options available in doing so were discussed by Focus and Ecomont. The Focus team was thus involved both in the creation of the center, by providing legal support, and in solving the environmental issues the center was then faced with, including cases of air and noise pollution.

Another interesting case on which Focus is still working is related to air pollution in the center of Tirgu Mures. The citizens living near the City Hall are confronted with heavy traffic and intend to influence the competent authority to stop the traffic in that area. Focus provided legal advice for the citizen association on developing a strategy to reach this goal by collecting signatures and turning to the local environmental authority with their request. At the same time, Focus contacted the competent authority and requested to measure the level of pollution and compare it with the allowed
legal standards. The next steps planned are to publicize the matter and submit a complaint to the administrative authority.

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Transylvanian Conservation Volunteers

Background

Transylvanian Conservation Volunteers (CET), a registered NGO since 1992, has 60 active members and more than 500 supporters in the region. Since 1992, CET’s public advisory service has contributed markedly to the effectiveness of the available legal and institutional framework for public participation. In 1994, a CET-organized public protest campaign (i.e., signature collection) compelled the city government of Cluj-Napoca to modify a development plan which had threatened a park. CET members are now involved in the work of the city’s Commission on Housing.

The latest development is the Ecoforum project, which brings together citizens, local government officials, specialists, NGOs and other organizations and institutions in an effort to find the most feasible solutions to local environmental problems.

Project Goals

- To develop a model for settling problems related to the issue of access to environmental information and to use this model to increase public participation in environmental decisionmaking
- To increase public awareness about public participation in environmental decisionmaking and identify mechanisms to facilitate free access to environmental information
- To create a network of NGOs, local communities, public authorities, local governments, other organizations and institutions, media and businesses
- To provide support to build up coalition among different sectors and improve cooperation among NGOs

Objectives

- Improve the Ecoforum Advisory Service and extend its activities
- Compile, publish, and distribute a set of materials on public participation, including user’s guides entitled Freedom of Access to Information on the Environment in Romania and Manual on Public Participation in Environmental Decisionmaking
- Support two case study projects

Amount Awarded

8,398 ECU

Implementation

A working group was established with 15 members, each of whom leads a working team — meaning that altogether the working group has about 40 people. The first session was a training seminar focusing on the role of public participation in the development of civil society. Posters and folders were prepared to publicize the project.

The campaign to publicize the project focused on the conditions and criteria of public participation in environmental decisionmaking at the local level. The project was accorded air time on local radio and television and was also publicized by newspaper articles and two Ecoforum public debates. As a result of the media campaign, Ecoforum and CET members have been invited to participate in the work of the local environmental committee.

A workshop was held on access to environmental information. The workshop included detailed discussion of both the existing formal and nonformal means of public participation in...
Romania and of the brochure *Freedom of Access to Environmental Information in Romania — A User’s Guide*. As a result, the project leader was invited by the most widely read local daily newspaper to write a full-page piece once a week on environmental and public participation issues. Two thousand copies of the User’s Guide were published in Romanian.

Working group members participated in several public forums, where they voiced the need for a clearer framework for public participation in environmental decisionmaking.

Support was given to two case study projects run by the Ecoforum Advisory Service, one on waste management and the other on the protection of green spaces. The support included a media campaign, distribution of promotional material, organization of two model activities and the establishment of a “Green Phone” for citizens.

A memorandum on the extension of urban green spaces, featuring 5,000 signatures, was sent to the Cluj-Napoca City Council.

CET and the Focus Eco Center, another Romanian NGO, jointly organized the first-ever Romanian national seminar on public participation and access to environmental information. The national seminar was held July 12-14, 1996, in order to create a regional network to promote public participation in the decisionmaking processes.

The seminar’s main goal was to analyze the current situation of public participation in environmental decisionmaking and to work out strategic plans for how to implement the mentioned ideas. Another main objective of the seminar was to present the legal framework for public participation in Romania and to prepare a comparative analysis on current practices in the region. The organizers sought to elaborate the idea of collaboration among Romanian environmental NGOs and to encourage common activities in a national NGO public participation network.

The main success of the seminar was attracting representatives from many different sectors, including the Ministry of Environment, Environmental Protection Agencies, local gov-

*Citizens of Cluj-Napoca collected 5,000 signatures supporting a memorandum on the extension of urban green spaces.*
ernments and NGOs. The large number of participants (62) represented diverse interests, thus demonstrating the importance of the issue, the commitment of the participants and the success of the project’s endeavors to disseminate information.

**Target Groups**

NGOs, citizens, local and national governments and the media. Unexpectedly, local governments and the local representatives of political parties have demonstrated interest as well.

**Relationship with NGOs, the Public and the Government**

CET has developed a good relationship with other organizations and with the general public, as shown by the large number of participants at its activities and by the 5,000 signatures it collected in the drive for urban green space. Participants of the project attended several meetings which, in most cases, resulted in the development of a cooperative relationship with government officials at various levels of state administration.

**Lessons**

The project’s major successes were the public debates, which established a link between local authorities and the public in the search for solutions to local environmental problems. Also, materials prepared and published during the project form a solid basis for future public participation initiatives.

**Overall Evaluation**

At the national seminar, the project successfully established a National Working Group on Public Participation in environmental decisionmaking and access to information. The group will focus on practical assistance and the development of initiatives in environmental issues.

Also, the Ecoforum Advisory Service became an important factor in assisting the public and in providing a framework for dialogue between the public and local authorities.

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**Sample Case**

**The Ecoforum Monthly Public Debate, New Local Initiatives for an Ecological City**

CET invited local officials and the newly elected leaders of political parties represented on the Cluj-Napoca City Council to explain to the public their initiatives concerning the development of the city in an ecological context. A week before, CET had submitted a questionnaire to all local legislators to gauge their interest in developing a relationship with the public and with NGOs. Forty percent responded. A debate on this issue was recorded on videotape and broadcast two days later on a local TV station.

Above all, the debate fortified the relationship of CET with the new local administration and raised the legislators’ interest in the development of public participation. Indeed, as before, the public was quite aggressive in addressing environmental problems, invariably citing a perceived lack of responsibility on the part of the authorities concerning the dissemination of information. This provided CET a foundation from which to request support to run the Ecoforum Advisory Service as a link between the public and the local authorities in addressing and solving environmental issues.

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Background

The Center for Environmental Public Advocacy (CEPA), an independent organization in Slovakia located in Poniky, near Banská Bystrica, has been active since 1992 in strengthening Slovak NGOs that organize environmental campaigns and in supporting related public and private initiatives. In conjunction with its main activities, the CEPA also coordinates two special programs: “Helping Endangered Communities,” begun in September 1994 to address the problems posed by large dams in Slovakia; and “Global Economy Program,” launched in July 1995 to train NGO activists in dealing with multinational institutions.

Within the scope of another program, entitled “The Law and the Public,” CEPA provides legal assistance to both NGOs and the public-at-large. The CEPA's publications — including brochures, books, and handbooks — are key supplementary elements of its public training programs.

Project Goals

- To increase efficiency of public and NGO participation in environmental decision-making, by providing training and consultation, while analyzing legislation on public participation and developing unconventional instruments to assist local governments and the public in protecting their rights.
- To develop an initial basis of experience which eases legal interpretation of controversial or ambiguous aspects of environmental legislation.
- To utilize in practice the results of this legal analysis of precedent cases with wider impact to influence the level of public participation and bring about changes in legislation.

Objectives

- Provide assistance to NGOs, members of the general public and municipalities in legal and nonformal public participation;
- Train NGO activists in organizational skills and in the effective use of legal instruments;
- Expand the capacities of CEPA by establishing a network and team of lawyers to render its own activities more effective;
- Provide consultation to NGOs and municipalities on various environmental issues;
- Initiate and promote networking and communication among NGOs and activists working on issues related to environmental legislation with special regard to public participation;
- Publish handbooks, brochures and other written materials on legal instruments of environmental protection facilitating the use of the legal instruments by citizens and NGOs.

Amount Awarded

9,690 ECU

Implementation

Advisory services were provided in several fields during the project.

Since the EIA process is relatively new in the Slovak Republic, environmentalists and affected citizens are not fully aware of their legal options, and the activities of the authorities and investors are often not in compliance with the law. CEPA offered legal advisory services to NGOs and citizens concerned with regional development projects, especially with respect to participation in current and planned
EIA processes and decisionmaking. Mayors of villages affected by the construction of a dam requested legal assistance regarding the violation of the EIA Act. CEPA was asked to participate at public hearings in the affected villages of Dubakovo and Slatinka and assisted NGOs and communities prepare their statements and to file claims.

The right of environmental NGOs to be party to proceedings is still rather limited in the Slovak Republic. As a result, advocacy services have focused on two areas:

1. Utilization of currently available legal instruments to influence decisionmaking processes (e.g. a petition regarding a gas station construction, permitting of a dike on the Ipel River);

2. Innovative practical use of the current definition of being party to the proceedings. In the case of the WOLF Forest Protection Movement, which is a precedent case (see case example below), the question was raised whether an NGO can be a party to the proceeding according to the provision of Article 14 of the Act on Administrative Procedure. Regarding another problem, the legal instruments available to an NGO to enforce environmental regulations (e.g., hunting restrictions) had to be determined as well. This was done with legal assistance provided by CEPA.

Many environmental organizations and municipalities encounter problems in accessing environmental information, and thus in preparing for participation in decisionmaking processes. The most restrictive example found was the behavior of the Subdistrict Environmental Agency in Poltar. The agency denied information to the mayor of Dubakovo on proceedings of a long-term ban on construction in the village. After a joint visit by a CEPA representative and the mayor to the agency’s office and an explanation of the legal situation, the mayor received the relevant information.

Similar problems arise regarding the right to assemble. According to the Slovak Constitution, demonstrations or meetings do not require permission of the public authorities, but local authorities often pressure groups to request permission in such cases. CEPA offered assistance so the organizations and municipalities received due consideration from the authorities.

CEPA’s recent activities have also shown the need to clarify several controversial interpretations of the provisions of the Building Act that regulate public and municipal participation in the preparation of development projects. CEPA has been approached by some small villages where local development has long been obstructed to set the stage for large, environmentally and socially destructive projects. Such villages, searching for ways to implement their own local development strategies, have received legal assistance in administrative procedures and expert advice on physical and land-use planning, as well as regional planning. In the village of Dubakovo, for example, legal assistance was provided to cancel the bans on building activities and enable the community to participate in the drafting of the regional development plan.

CEPA and other NGOs jointly participated in evaluating a draft version of the Access to Information Act, prepared by the Ministry of Environment. The representative of CEPA, together with other Slovak NGOs, participated in a hearing organized to prepare a platform for the further discussion. This resulted in several suggestions.

In some instances, the simple application of relevant legal standards to a given case was impossible, and broader analysis of the problem or assistance from foreign specialists was needed. In instances like the WOLF case, for example, CEPA analyzed court decisions from different countries regarding administrative standing to determine the chances of environmental NGOs. This analysis, together with the evaluation of the Supreme Court verdict (see below), has laid the foundation for NGOs to become a party to proceedings in environmental decisionmaking. The analysis, Development Opportunities for a Small Village, may become both a basis for local land-use planning and a model for other villages combating similar problems. The analysis of Article 417 of the Civil Code helps NGOs use legal instruments to prevent unsustainable forest management.

CEPA has also focused on the status of the NGOs and offered comments for the draft Act on Foundations prepared by the Ministry of Justice. Together with other NGOs, an alternative draft was developed, the Civic Draft of the
Act on Foundations. A significant part of CEPA’s legal advisory services have been devoted on providing information and assistance to NGOs in preparing by-laws and statutes or on other legal issues related to their organizational structure.

Because the Slovak Republic faces the destruction of old-growth forests, CEPA organized a training in cooperation with the WOLF Forest Protection Movement on the issues of public participation in forest management plans. Several site visits were also paid to affected villages to discuss legal problems and strategies to solve them.

The project demonstrated the effectiveness of publishing small leaflets and handbooks that focus on specific problems faced by NGOs. As a follow-up to cases solved by CEPA, brief summaries of the different problems were prepared and distributed to NGOs facing similar situations. Five handbooks have been prepared and distributed to date. These handbooks address participation in the forest management plans, fining illegal hunting activities, enforcement of recycling programs at municipal level, writing a petition and legal tools for NGOs to protect themselves against damaging their public image in the media.

**Target Groups**

NGOs, municipalities, communities and citizens concerned or affected by environmental problems or participation in decision-making processes.

**Relationship with NGOs, the Public, Government and Businesses**

CEPA received numerous requests during the project period, showing that NGOs and the general public trust CEPA; meanwhile, it saw fruitful cooperation with other organizations as well.

Contacts with authorities on various levels of government and with businesses have been ambiguous and sometimes even controversial, depending on whether a business or the government appears more aligned with investors or with majority public opinion in the given community.
Lessons

Major Problems

The ambiguity and lack of legal provisions and regulations were substantial obstacles in finding solutions to various legal proceedings centered around environmental issues and public participation in planning and decision-making processes. Also, the need to increase the number of legal staff at the CEPA became more than evident during the project.

Major Successes

Efforts to provide legal consulting services to help clients help themselves proved very useful. Further, a solid basis of cooperation with outside legal experts was developed through consultation on ambiguous and otherwise difficult issues with lawyers also active in the field of environmental protection. International cooperation appears to be an important factor for increasing the quality of public advocacy activities.

The importance of model cases providing innovative ideas and new solutions became obvious during the lawsuit WOLF vs. Ministry of Agriculture.

The project also demonstrated the effectiveness of enhancing public participation by publishing information materials, practically oriented leaflets and handbooks on specific problems.

Overall Evaluation

The project made a wide range of legal advisory services available to several NGOs and communities and guided them in their activities. These services led to more frequent use of available legal instruments by environmentalists and by other interest groups whose activities touch upon environmental issues. Consequently, it laid the basis for more efficient public participation in decisionmaking.

Case Example

Opening the Door to the Administrative Proceeding

The WOLF Forest Protection Movement (WOLF) is an NGO dealing with forest destruction in the Slovak Republic. As a result of poor forest management practices, many areas of old-growth forest have gradually been destroyed or their healthy functioning as ecosystems has deteriorated considerably. Forest management is based on 10-year Forest Management Plans (FMPs).

After trying various methods of informal participation with no relevant response from governmental authorities, WOLF requested it be allowed to participate as a formal party in developing an FMP for the Sabinov region.

Participation in an administrative proceeding is permissible in the Slovak Republic only if the stipulations set forth by law or in other regulations have been met. WOLF’s position was primarily based on what it anticipates will be the impact of the decision on its “legal interests and obligations” on the basis of other, relevant environmental laws and regulations. WOLF’s claim for status as a party rested on several arguments: that improper forest management had led to financial losses, that local residents were thus adversely affected, and that WOLF’s legal rights and interests guaranteed by the Constitution had been hurt by the decision.

WOLF also asserted that it was bound to participate by the Civil Code, under which all people are obliged to “behave in a manner which causes no harm to health, property, nature, or the living environment.” It continues: “Any person threatened by such harm is obliged to act in a manner befitting the level of the dangerous conditions. If the danger is substantial, the endangered person has the right to petition a court to impose an order that appropriate measures be implemented to avert the threatened harm.”

WOLF informed the authorities that by requesting participation it was reacting to the neglect of an obligation which the Health Protection Act assigns the Forest Agency. According to the act, “State authorities and municipalities are obliged to create conditions for healthy living conditions... and for a healthy way of life.”

When WOLF first applied to the Forest Agency to become a party to the proceedings to develop an FMP, its request was turned down with no reason given. No formal decision was even issued. However, according to the Administrative Procedures Act (APA), in questionable cases a special decision must be issued when a procedure determines who may be among the parties to a proceeding. WOLF,
therefore, notified the agency that it had not followed the APA. The agency rejected WOLF’s contention, saying that under WOLF’s argument, everyone should be granted status as parties to a proceeding and that this would make forest management impossible.

In its appeal against this decision, WOLF repeatedly outlined the reasons for its actions. In reacting to the agency’s reasoning, WOLF stated that the agency was completely ignoring the specific situation underlying this case, which dealt with specific financial damages in a particular geographic region.

In its decision on WOLF’s appeal, the Ministry of Agriculture said WOLF had failed to prove that it complied with any of the conditions defined by the APA. The authorities also failed to provide direct answers to the claims of financial loss caused by poor forest management based on the FMP.

Generally, the stance of the agencies did not appear very convincing. WOLF realized the importance of clarifying its strategy if the group was to be admitted as a party to the proceedings. This could set the stage for other cases in which decisions by state agencies cause the deterioration of the living environment and/or financial losses, so WOLF appealed Ministry of Agriculture’s decision to the Supreme Court.

In its complaint, WOLF focused on the statement in the ministry decision that, in view of WOLF’s internal rules, WOLF would not be affected by the decision in its capacity as a legal entity. WOLF stated that it was established to initiate the protection of old growth forests and that implementing this was its very mission, as established in its Articles of Association. The legal guarantee of this interest is provided by the Forest Management Act (FMA) as well as by the Forest Act. According to the FMA, “all forests must be managed by a plan.” Since the FMP covers a 10-year period, it will markedly influence forest conservation in Slovakia, whether in a positive or negative manner, as well as the conditions for further development of the country’s forests as functioning ecosystems.

Thus, contended WOLF, the decision concerning the FMP is clearly one which directly affects WOLF’s interests as guaranteed by law. WOLF further argued that the ministry insuffi-

iciently and inadequately analyzed the issue and was mistaken in applying the APA. In turn, WOLF recommended a review and nullification of the ministry decision and requested that the issue be returned to a district forest agency for a new decision.

The Supreme Court rejected WOLF’s complaint. Its decision was nonetheless noteworthy on several fronts. For example, this was the first court interpretation of the criteria set forth in the APA. The Court stated that WOLF is a legal entity, and that is the first criterion that must be fulfilled to be considered a party to a proceeding. WOLF is now preparing a comprehensive evaluation of the judgment.

In conclusion, *Wolf vs. Ministry of Agriculture* helped clarify the criteria which must be met in the Slovak Republic to obtain status as a party to proceedings. The final court decision outlined some of these criteria. As a result, it may encourage other NGOs in their efforts to participate in administrative proceedings. Apart from this, the decision was also important because it capped the first lawsuit between an NGO and a government authority in the Slovak Republic. Despite the negative outcome of the lawsuit, its unprecedented nature may, in fact, be a redeeming factor: It may heighten the awareness of public authorities to their obligations with respect to both the general public and NGOs in the decisionmaking process.

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Background

LABECO, the Center for Ecological Research, was founded in 1994 and has 10 members. Its basic activity is education, seminars, courses and consultations for NGOs, primary and secondary schools (pupils and teachers) and for the general public.

One of LABECO’s most important programs, “ECOLAB 1.0,” is an environmental computer network providing access to information and promoting networking among NGOs, other civic organizations and the general public. LABECO established the ECOSVET project to carry out legal and nonformal advisory service activities.

Project Goals

- To stimulate a higher level of legal culture within the NGO community, including an understanding of basic legal concepts and the application of basic legal skills
- To improve nonformal public participation along with knowledge of its strategic use in the environmental protection process, with a special emphasis on coalition building
- To contribute to positive political thinking by establishing arenas where political forces and civil society can communicate with each other
- To accomplish the above goals by collecting data and materials on environmental legislation and by providing an advisory service

Objectives

- Provide legal and nonformal advisory services to the NGO community
- Improve public participation capacity of NGOs with input from experts on law and social issues and by stimulating the process of learning with the input of Slovenian and foreign NGOs
- Improve communication between top decisionmakers and NGO representatives
- Link environmental NGOs on the national level by enabling them to use the Internet

Amount Awarded

9,518 ECU

Implementation

A survey and analysis was completed of developments in environmental legislation and other fields of legislation influencing public participation in environmental decisionmaking. This included national documents and international conventions signed by Slovenia. Furthermore, staff specialists have contributed to the drafting of bills and legislative amendments. The compilation thus included documents on valid regulations and drafts of those pending. The task of continuous updating was assigned to a staff lawyer.

A similar database was compiled on both state and local organizations engaged in environmental protection. This database also listed specialists from various environmental fields, environmental journalists, scientists, public officials, and NGO resource people and included their fields of specialty and spheres of competence.

A legal advisory service was also set up to consult NGOs and the general public, to facilitate their more effective participation in environmental decisionmaking and to coordinate
their efforts. Help will be given in using non-formal (non-legal) methods of public participation. Information is also provided on valid regulations and legislative amendments.

Networking activities have been undertaken to promote the participation of law and social science students in the work of NGOs. To this end, contacts are also being established with experts in various fields of environmental policy on the national and international level.

A workshop, “Environmental Coalition-Building and Lobbying,” was organized for NGO activists. The workshop’s aim is to strengthen cooperation among Slovenian NGOs, acquaint them with basic rules of lobbying, and let them share their experience.

Materials have been compiled on current cases that have received assistance from LABECO’s advisory service. This collection includes a set of books, booklets, newsletters and other materials published in Slovenia and abroad, and it serves as a resource library for the advisory service.

The advisory service spent close to 400 hours consulting with the help of three experts during phases I and II of the project. The legal advisory service is also supported by a library containing major literature on environmental law. Library users are free to use our computer databases.

A computer database was made available on the Internet at http://www.kud-fp.si/retina/okolje/ecosvet/index.html. This database includes, among other information, a register of current domestic environmental regulations, multilateral international treaties and conventions ratified by Slovenia, the jurisdiction of local and state environmental agencies, a listing of experts and the text of cases. Short abstracts of Slovenian legislation and cases will be provided in English as well.

As indicated by the above accomplishments, most objectives were met during the project’s implementation phase.

Target Groups

The project’s two major target groups were environmental NGOs and citizens involved in environmental decisionmaking.

Relationship with NGOs, the Public and the Government

As evident in the legal case detailed below (see case example), the organization enjoyed good cooperation with NGOs during the project. Numerous NGOs came forward to request legal advice or other types of assistance regarding public participation.

Experience has shown that some local governments are ambivalent because they could earn substantial income from certain investments. They have been compelled, however, by pressure from the community or from NGOs to oppose such plans.

Lessons

Major Problems

The major problems encountered by the project generally stemmed from the fact that while threats to the environment are often immediate and substantial, legal procedures to stop questionable activities and alleviate impacts are too slow to guarantee quick intervention.

Major Successes

Considering the number of requests received by the organization, the setup and operation of the advisory service was fully successful. The contribution of the organization was of help in further cases that saw our participation.

Overall Evaluation

The project carried out by LABECO’s advisory office, ECOSVET, marked the first instance to date that an NGO has provided legal and nonformal help to NGOs in Slovenia on environmental issues. The project’s main achievement was the establishment of this service; furthermore, many environmental problems have received more attention and now have a better prospect of being resolved because of the legal and nonformal support provided by ECOSVET.

Case Example

Below is a summary of one of the project’s two cases, which shows how NGOs stand to benefit from the legal advisory service and what
problems the service and the NGOs are facing.

The Vransko-Arja case concerns a constitutional complaint by an environmental NGO against a particular section of the highway now being built in Slovenia. The highway crosses the country from the Hungarian border to the Slovenian coast and to the border with Italy. The section at issue passes through an environmentally sensitive area that is also the site of a water reservoir for the city of Celje. ECOSVET argues that the authorities failed to fulfill their obligation to prepare an EIA in the matter. The case is presently before the Constitutional Court, which has yet to make a decision.

The first problem ECOSVET encountered was that the environmental threat was immediate and quite substantial. The environmental inspector was contacted, and after his intervention, work was halted on this part of the highway. But construction of the rest of the highway continues, which means that ultimately, no matter what the Constitutional Court decides, no feasible alternative will be left but to construct the highway in such a way that it passes through the area, as originally planned. The most that can thus be hoped for is that the project will be modified to render it more environmentally sound. If an EIA is not carried out in sufficient time and the project is implemented anyway, any later modifications will be more or less cosmetic no matter what the Court decides.

The second problem is the slow-moving pace of the legal procedure. Although the Constitutional Court was petitioned to impose a restraining order, it has not even considered the request yet. More than half a year has elapsed without a single hearing or consideration of the case, even though the Court itself had classified the matter as urgent. Given that the Constitutional Court works at a snail’s pace, this is not an effective forum for such cases. Once the Court makes a decision, the project will have progressed so far that no matter what the decision, the environmental damage will to a large extent already have occurred.

On the positive side, ECOSVET managed to obtain support for the constitutional complaint from more than 30 Slovenian NGOs. This is a good example of collaboration and mutual support among environmental NGOs.

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The Regional Environmental Center for Central and Eastern Europe (REC) is an independent, international organization established in 1990 by Hungary, the United States and the Commission of the European Communities. Twelve countries have since joined these founding sponsors.

All of the REC’s programs are unified in their resolve to promote regional cooperation among diverse interest groups in Central and Eastern Europe, to build the capacity of stakeholders to solve environmental problems, and to promote the development of a civil society.

Beneficiary countries include Albania, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, FYR Macedonia, Poland, Romania, Slovak Republic and Slovenia. In these countries, the REC supports environmental nongovernmental organizations (NGOs), local authorities, national governments, the media, businesses and academic institutions.

Advising Citizens