The REAL DEAL Handbook:

Frameworks for citizen engagement in the European Green Deal
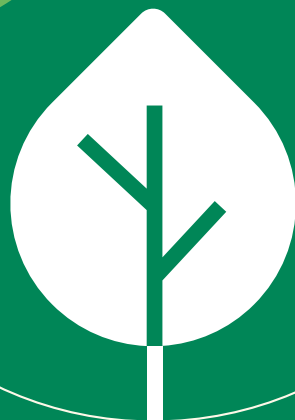
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active hyperlinks under:**
https://www.realdeal.eu/handbook

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This is an abridged version of a longer handbook which is available in the publications section of the Real Deal website. Here you can also find 13 Country Profiles, produced by the REAL DEAL, which examine the legal and institutional frameworks for participation, deliberation and consultation in relation to the EGD in each country.

Contents

List of figures

List of tables

Glossary of terms

TERM	EXPLANATION
Citizen engagement	Co-creation and information exchange between the public and authorities. In the context of sustainable development, a key element in the all-of-society transition.
Participation	The term participation refers to different mechanisms and processes for members of the public to represent their interests, express opinions and exert influence in policymaking, decision-making and other official processes. Participation is often based on legal frameworks granting rights to participate.
Deliberation	For a process to be called deliberative, it must rely on a mutual exchange of arguments and reflections rather than on decision-making based on the status of the participants, sublime strategies of persuasion or socio-political pressure. Deliberative processes should include a debate about the relative weight of each argument and a transparent procedure for balancing pros and cons.
Consultation	Deliberative processes managed by public authorities to gather information and public views as inputs to policymaking or decision-making processes.
Deliberative democracy	Measures including informed citizen recommendations on policy questions; citizen opinion on policy questions; informed citizen evaluation of ballot measures, and permanent representative deliberative models.
Environmental governance	An inclusive system of actors, institutions and norms that establishes responsibility and accountability, and builds trust and capacity to cooperate in policymaking, decision-making, implementation and enforcement, in the field of environment.
Governance	The totality of interactions in which government, other public bodies, private sector and civil society participate (in one way or another), aimed at solving public challenges or creating public opportunities.

Table 1 Glossary of terms

Introduction: What is this Handbook for?
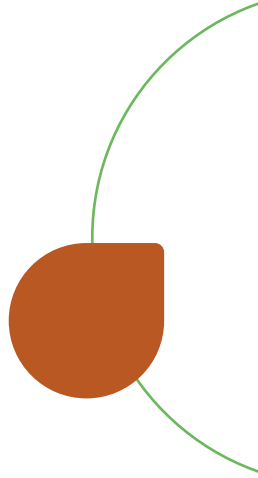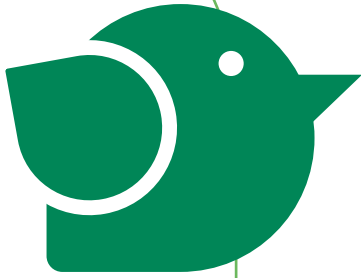
The international community recognised as early as the 1980s that citizen engagement in its various forms is a very important element for achieving sustainability.

This Handbook presents **general, practical guidance** for policymakers, agencies, civil society organisations, and other stakeholders engaged in consultation and participation related to the European Green Deal (EGD), **on legal and institutional aspects related to the prospective methods for achieving the goals of the EGD.**

The international community recognised as early as the 1980s that citizen engagement in its various forms is a very important element for achieving sustainability. In Europe, the connection between citizen engagement and the right to a healthy environment was expressly made through the 1998 Aarhus Convention on Access to Information, Public Participation in Decisionmaking, and Access to Justice in Environmental Matters (see section 2.3, below).

The EGD promises to transform the EU into the first climate-neutral region of the world by 2050 and catapult it to global leadership in sustainability. The **REAL DEAL ('Reshaping European Advances towards green Leadership Through Deliberative Approaches and Learning') project** strives to enhance direct citizen participation and deliberation in the EGD and sustainable development, and to bring this approach into a productive relationship with Civil Society Organisation (CSO) participation.

The REAL DEAL Handbook gives **a snapshot of the existing legal and institutional frameworks for citizen engagement in relation to the EGD**. It aims to provide a clear understanding of the legal, institutional and policy background for citizen engagement as a foundation for considering possible forms, formats, methods and tools for participation to use in the future.

The Handbook examines two main types of citizen engagement. The first is participatory-style engagement, which fulfils legal minimum requirements for policy makers to engage the public. Europe's quarter-century experience with the Aarhus Convention is invaluable in this regard. The second type explores innovative forms of engagement based on consultative and deliberative mechanisms such as citizen assemblies.

This handbook introduces the legal and institutional frameworks for these mechanisms and includes recommendations on how citizen participation and deliberation can be institutionalised to complement and strengthen representative democracy and existing forms of institutionalised dialogue at the European and Member State levels.

The focus of this Handbook is on legal and institutional frameworks, which are conservative in terms of their development over time; they do not change rapidly in response to the development of a new form, format or method. Rather, innovative approaches have to be tested against the existing legal and institutional frameworks. These forms, formats and methods are examined in depth through other REAL DEAL project outputs.

The Handbook is not proscriptive but examines a range of formats and methods that may be appropriate in various situations. In its analysis, the Handbook draws on examples from national legislation and practice. Consequently, the inclusion of a particular example of law or practice may not constitute a positive example in all respects and does not imply endorsement.

REAL DEAL

This Handbook is a first step towards the co-creation activities that will be undertaken under the REAL DEAL project. Other stages of the project include a large co-creation exercise that will develop, test, and validate innovative tools and formats to propel deliberative democracy to the next level. It will validate recommendations on how to design deliberative processes and how they can be applied by European institutions, Member States and neighbours, and civil society. Gender equality is embedded into the project's DNA. It pays specific attention to the leave-no-one-behind principle, fostering the engagement of disenfranchised groups that are disproportionally burdened by environmental damage.

The REAL DEAL project aims to co-create a comprehensive Protocol for meaningful citizens' participation and deliberation to turn the objectives of the EGD into political actions and social practice. The Protocol is designed to ensure joint ownership over this crucial transformation between a wide range of stakeholders and citizens and provides guidance on how to give a voice to citizens, especially those who are often neglected in the political process while being most affected by environmental damage and the necessary transformation. The REAL DEAL Protocol will also be sensitive to Europe's diverse social and political histories, cultures, and institutional arrangements, and the ways these factors shape different aspirations and challenges associated with the realisation of a green and just transformation.

In addition to the Handbook, the REAL DEAL has produced 13 Country Profiles – for Austria, Denmark, Germany, Greece, Hungary, Ireland, Italy, Lithuania, North Macedonia, Poland, Serbia, Spain and Ukraine – which examine the legal and institutional frameworks for participation, deliberation and consultation in relation to the EGD in each country. These are available in the publications section of the REAL DEAL website.

Lastly, this Handbook will underpin the REAL DEAL's testing of pan-European deliberative processes, with the aim to develop good practices that will be embodied in the REAL DEAL Protocol. The project will confront digital tools and their limitations, try to find ways to improve representativeness, seek to increase understanding of power dynamics, and most importantly, assess the substantive value of these tests' outcomes and the integrity of their processes.

LEARN MORE

- **REAL DEAL Criteria for assessing citizen participation in the European Green Deal**

- **REAL DEAL Assessment of participatory and deliberative techniques and processes relevant to the European Green Deal**

The background for the obligation to engage citizens in relation to the EGD

Modern notions of deliberative processes have embraced pluralism, participation, and due process as means of increasing the legitimacy of decision-making

KEY POINTS:

- Exercises in citizen engagement can be divided between two main channels: the participatory channel and the deliberative channel.

- Modern deliberative processes have embraced pluralism, participation, and due process to increase legitimacy of decision-making.

Exercises in citizen engagement can be divided between two main channels: the *participatory* channel, in which individuals and groups have rights to shape decisions that affect them; and the *deliberative* channel, which aims at the engagement of representative individuals and groups to increase discourse and consensus. Both channels lead to better and more inclusive substantive decisions and policymaking. The relative rights and powers of those engaged in participatory and deliberative processes can vary widely, which will affect which strategies are employed in each case. Many complex decision- and policymaking processes include aspects of both kinds of citizen engagement.

RIGHTS-BASED PROCESSES

All of society has a stake in the success of the EGD, but certain societal actors, individuals, groups and organisations may have more of a stake in a specific decision or policy than others. Where such stakeholders have legally recognisable rights and interests separate from the general population, the processes and procedures that are employed can be described as participatory processes. Because participatory processes are often rights-based (obligatory), they are relatively formal. Europe has decades of experience as a global leader in the development of rights-based participatory mechanisms in environmental and sustainability matters.

Participation standards in Europe are defined in the Aarhus Convention which will be covered in more detail in Chapters 3 and 4.

DELIBERATIVE PROCESSES

In parallel with the rights-based approach is the deliberative or consultative approach to citizen engagement that is less strictly defined in law or regulation. The Organisation for Economic Co-operation and Development (OECD) describes this as deliberative democracy.

Unlike rights-based participatory processes, deliberative processes engage various actors in argumentative discourse aimed at reaching a level of consensus. In such processes, the actors are empowered to engage in managed debates culminating in an optimal outcome. Modern notions of deliberative processes have embraced pluralism, participation and due process as means of increasing the legitimacy of decision-making. Such processes may enhance participation of societal actors who tend to be excluded or underrepresented in rights-based decision- or policymaking.

They may be designed to counter structural biases by addressing the conditions of certain groups or may take forms which attempt to overcome obstacles to engagement. Innovative forms of citizen engagement also try to confront problems such as zero-sum thinking (the perception that one person's gain implies another person's loss), conflict, and polarisation in discourse, and expose hidden assumptions and value judgments.

The OECD distinguishes between four categories of deliberative democracy:

(1) informed citizen recommendations on policy questions;

(2) citizen opinion on policy questions;

(3) informed citizen evaluation of ballot measures, and;

(4) permanent representative deliberative models.

In their literature review, the REAL DEAL researchers identified six concepts of stakeholder and public involvement which are useful to keep in mind when assessing or designing citizen engagement processes. These are described in the following table.

CONCEPT	MAIN OBJECTIVE	RATIONALE	FORMATS AND TOOLS
Functionalist	Improvement of quality of decision output	Representation of all knowledge carriers, integration of systematic, experiential and local knowledge	Delphi, workshops, hearing, inquiry, citizen advisory committees
Neo-liberal	Representation of all values and preferences in proportion to their share in the affected population	Informed consent of the affected population; Pareto-rationality plus Kaldor-Hicks (win-win solutions)	Referendum, focus groups, negotiated rule-making, mediation
Deliberative-Rational Discourse	Competition of arguments with respect to criteria of truth, normative validity and truthfulness	Inclusion of relevant arguments, reaching consensus through argumentation	Discourse-oriented models, citizen forum, deliberative jury
Anthropological	Common sense as ultimate arbiter in disputes (jury model)	Inclusion of non-invested laypersons representing basic social categories such as gender, income, and locality	Consensus conference, citizen jury, planning cell
Emancipatory	Empowerment of less privileged groups and individuals	Fostering agency of those who suffer most from environmental degradation and systemic inequalities	Action group initiatives, town meetings, community development groups, science shops
Post-modern	Demonstration of variability, plurality and legitimacy of dissent	Acknowledgment of plural rationalities, no closure necessary, mutually acceptable arrangements are sufficient	Open forums, open space conferences

Table 2 Concepts and features of stakeholder and public involvement

Whatever formats and methods are used, they should be effective, efficient, resilient, fair and legitimate (see Chapters 3 and 5). However, even if a process meets all of these meta-criteria and is supported by consensus, other considerations may come into play. One of the biggest challenges particular to EGD-related deliberative processes is achieving a measure of social justice, given the unequal distribution of costs and benefits in the transition towards sustainability. Another challenge is ensuring that the interests of the environment are fully considered, since social actors may reach a consensus that meets their own interests but fails to contribute to the ambitions of the EGD towards the environment. In these instances, the 2030 Agenda serves as a reference against which processes can be judged.

2.1 European Green Deal and the 2030 Agenda

KEY POINTS:

• The 2030 Agenda lays the foundation for achieving the SDGs.

• EU level action on SDGs came about with the European Green Deal which was the 2019 – 2024 European Commission's top priority.

The 2030 Agenda for Sustainable Development is an ambitious international framework with goals, targets, and actions adopted by the UN General Assembly in 2015. Its four main components are the Sustainable Development Goals (SDGs), the Paris Agreement on climate change, the Sendai Framework on Disaster Risk Reduction,[1] and the Addis Ababa Action Agenda on financing for sustainable development.[2] The European Green Deal is oriented towards achieving the SDGs and the goals of the Paris Agreement. The 2030 Agenda is broader than the EGD in certain respects, including governance. Requirements for participation feature heavily in the 2030 Agenda (see also pages 18, 27), including in the guiding principles for the implementation and follow-up (i.e., accountability).

Several EU member states committed to action for achieving the SDGs from the outset. At the EU level, there were some citizen engagement activities, such as deliberations within the Multi-Stakeholder Platform on SDGs. However, EU-level action on the SDGs was not proposed until the new Commission was in place in 2019. The 2019-2024 Commission adopted the EGD as its "number one" political priority. It stated: "The European Green Deal ... is our new growth strategy. It puts sustainability — in all of its senses — and the well-being of citizens at the centre of our action."[3]

The EGD's ambitions are translated into concrete targets and policies ranging from the climate policy ("Fit for 55" with a European Climate Law) to a comprehensive approach for food policy ("From Farm to Fork") (see Figure 1), laid out in a detailed roadmap with timelines. EU neighbourhood countries are also aligning their national policies with the EGD and are committed to achieving carbon neutrality by 2050.

Figure 1 The elements of the European Green Deal (European Commission, 2019[4])
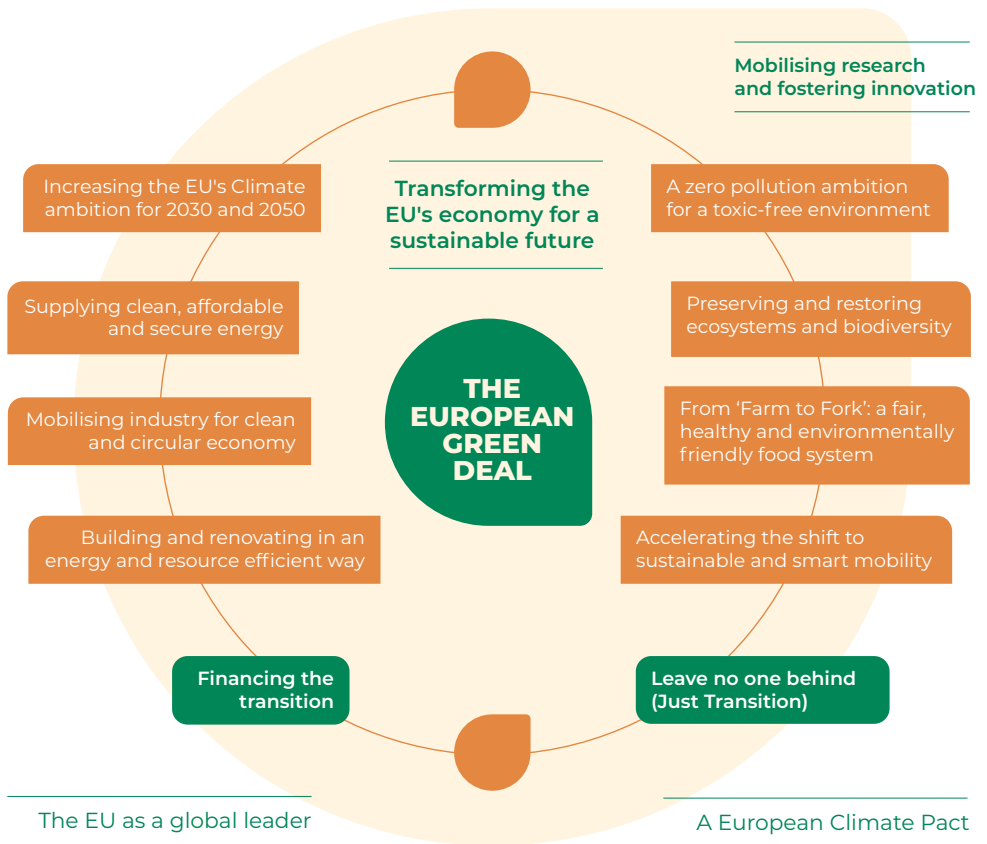
Alongside this general commitment are specific governance planning intentions, such as integrating the SDGs into the European Semester and mainstreaming sustainability in all EU policies. Each year a number of countries submit Voluntary National Reviews (VNRs) that "mark progress and identify obstacles in meeting their commitments." On a regional level, the EU will submit a "Voluntary Review" in 2023.

2.2 EGD and the SDGs: a brief history of citizen engagement

The EGD was adopted as the 'number one' political priority of the current European Commission in 2019-2024—a powerful sign that solving the triple environmental crises of climate change, biodiversity loss and pollution had moved from the margins to the heart of EU policymaking.

KEY POINTS:

- The 1992 UN Rio Conference gave rise to the Rio Principle 10 and thus laid the foundation for citizen engagement in sustainable development.

- Sustainable development today adopts a "whole of society" approach which includes governance standards within the SDGs themselves.

- The EU constitutional and legislative framework provides ample tools to develop SDG compliant policies.

The SDGs are the most recent step in the international community's transition to sustainable development.

The first conceptual basis for sustainable development appeared in the Brundtland Report, published as "Our Common Future" in 1987. Concerning governance and citizen engagement, the report states that the law alone cannot enforce the common interest.

Instead, community knowledge and support, garnered through public participation in environmental decision-making, is needed, as is the strengthening of citizens' initiatives, peoples' organisations, and local democracy. The report concludes that citizens' groups, NGOs and the education sector will play a "crucial part in putting the world onto sustainable development paths."

The Rio Declaration and Agenda 21 action plan adopted at the UN Conference on Environment and Development in 1992 (also known as the "Rio Conference"), further elaborated on the importance of citizen participation, in particular in Rio Principle 10 (see section 2.3 below).

The Declaration calls for countries to develop national strategies and multi-stakeholder councils for sustainable development.

Through these initiatives, public participation has become embedded within the concept of sustainable development as an indispensable element in the transition towards sustainable societies.

SUSTAINABLE DEVELOPMENT

As a development paradigm, sustainable development adopts a "whole of society" approach, a governance concept in which stakeholder engagement is indispensable (see Figure 2). The three axes of this paradigm are multi-level (vertical), multi-sectoral (horizontal), and multi-actor (most notably stakeholder engagement, relevant for both axes). Underlying the whole structure is the knowledge dimension, including the science-policy-society interface, the practice of (impact) assessments, and monitoring. Leadership is another indispensable element.

Figure 2 Whole of society: the multi-level, -sector and -actor governance of sustainable development[5]
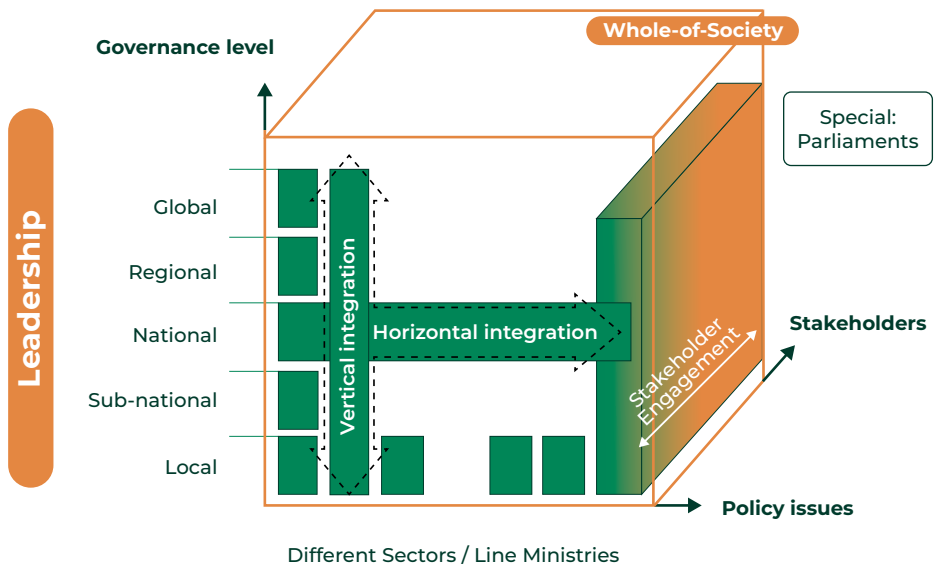
Governance level — Leadership — Whole-of-Society — Special: Parliaments — Global — Regional — National — Sub-national — Local — Vertical integration — Horizontal integration — Stakeholder Engagement — Stakeholders — Policy issues — Different Sectors / Line Ministries — Knowledge input | Science | Monitoring | Tools

Recent years have brought significant improvements in the involvement of civil society organisations in the adoption of sustainable development strategies and policies. It has become standard practice that consultations and other forms of engagement are conducted in collaboration with CSOs. These include citizens assemblies and public events such as the Conference on the Future of Europe.

The SDGs themselves have a strong governance component: all thematic SDGs (1–15) have governance targets, while SDG 16 (on institutions) and SDG 17 (means of implementation) are two dedicated cross-cutting governance SDGs.

The 2030 Agenda is also strong in CSO participation but does not include the direct language of the earlier UN frameworks on citizen participation for sustainable development. In SDG 4, "Citizenship" is a goal related to education; target 4.7 promotes the development of skills to advocate for sustainable living.

Participation features in several of the SDGs' policy and governance targets, for instance in 5.5 on the full and effective participation of women, 6.B on water and sanitation management, 11.3 on human settlement planning, and—most notably—in target 16.7 on peace, justice and strong institutions: "Ensure responsive, inclusive, participatory and representative decision-making at all levels."

SUSTAINABLE DEVELOPMENT COMPETENCY IN THE EUROPEAN FRAMEWORK

The Treaty on the Functioning of the European Union (TFEU) establishes Union-level competency over the environment and sustainable development through TFEU Articles 2, 3, 13, and 191. Public consultations within the European Union are enshrined through the TFEU, Article 2 Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality "Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged.
In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal."

The subsidiarity principle guarantees that decision-making will take place as closely as possible to the citizen, whereas action to be

undertaken at the community level is justified in relation to the possibilities offered by the national, regional, or local level (Article 5(3) TEU and Protocol (No 2)). In areas in which the EU does not have exclusive competence, the principle of subsidiarity seeks to safeguard the ability of the Member States to take decisions and action. It also authorises intervention by the Union when the objectives of an action cannot be sufficiently achieved nationally or regionally, and can be better achieved at Union level.

The Better Regulation Agenda has been adopted by the European Commission to assist Member States in designing effective legislation. **It includes guidelines and a toolbox that provide guidance on consultation processes** with stakeholders within the European Union system. Five key stages are required for consultation: 1) political validation, which includes a consultation strategy 12 months in advance of adopting the proposal; 2) an interservice group, which finalises the consultation strategy and necessary documents; 3) a roadmap for consultation, which is publicly released and adapted based on feedback; 4) the implementation of the consultation strategy; and 5) a report summarising the results of the consultation process.

The EGD states that the ecological transition "must be just and inclusive," and that **"active public participation and confidence in the transition is paramount if policies are to work and be accepted."** It therefore proclaims that "a new pact is needed to bring together citizens in all their diversity, with national, regional, local authorities, civil society and industry working closely with the EU's institutions and consultative bodies." It includes as a concrete governance proposal **the European Climate Pact,** which lays out three ways to engage with the public on climate action:

(1) Encouraging information sharing to increase public understanding of the challenges of climate change and environmental degradation and potential solutions.

(2) Creating both real and virtual spaces for collaboration on realising specific climate action goals.

(3) Building capacity to facilitate grassroots initiatives on climate change and environmental protection.

The EC considers its **European Climate Pact** to be "the EU's commitment to sustainable development" and a tool for "empowering citizens to shape a greener Europe." The Pact developed and tested a new format for participation and deliberation called **'peer parliaments'**.

In the context of the EGD, it is recognised that effective sustainability and climate action require consultative approaches on policies which are extended to all citizens in keeping with the 'no-one left behind' principle. Alongside the EGD principles, the Commission also follows the Better Regulation Guidelines when consulting stakeholders and builds upon existing engagement exercises including in Citizens' Dialogues, Horizon Europe Missions, cohesion policy, and green urban infrastructure.
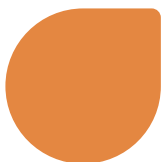
The European Commission considers its European Climate Pact to be 'the EU's commitment to sustainable development' and a tool for 'empowering citizens to shape a greener Europe.'

2.3 Participatory Rights in context: The right to a healthy environment and Rio Principle 10

KEY POINTS:

- The recognition of the right to a healthy environment has come a long way, and the Rio Principle 10 sets out how citizen participation enables the realisation of this right.

- Rio Principle 10 prepared the ground for the Aarhus Convention which secures environmental participatory rights across Europe.

The right to a healthy environment and the duty to protect the environment are intrinsically linked to citizen engagement on environmental policies. The global recognition of the right to a healthy environment and the duty of all persons to protect the environment dates to 1972, when the international community met in Stockholm at the first 'Earth Summit' in response to a growing awareness of threats to the environment from human activity.

The conference adopted the Stockholm Declaration, Principle 1 of which states:

"Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations."

While the gendered language is outdated, Stockholm Principle 1 still stands as the clearest articulation of the duty to protect the environment at the global level and has laid the foundation for progressively greater measures to protect the environment in national policies, law and, in some cases, constitutions.

In October 2021, the UN Human Rights Council Resolution 48/13 established the right to a clean, healthy and sustainable environment, calling on states to work together, and with other partners, to implement this right. The European Convention on Human Rights does not include an express right to a healthy environment, but certain provisions such as Article 8 and Article 10 have been interpreted in a manner that begins to approximate such a right.

Principle 10 of the Rio Declaration (1992) explains how the right to a healthy environment can be realised, stating:

*"Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. **States shall facilitate and encourage public awareness and participation by making information widely available.** Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."*

Many countries, including some in Europe, began developing national law and practice on the kinds of rights delineated in the Rio Principle 10 even before the international community adopted the principle.

This law and practice contributed to the development of the Aarhus Convention (1998) under the auspices of the United Nations Economic Commission for Europe.

The Aarhus Convention established the three areas of rights in Rio Principle 10 (access to information, public participation in decision-making, and access to justice) as fundamental pillars of environmental law, justice and human rights.
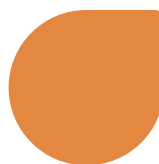
"Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being."

THE AARHUS CONVENTION IN EUROPEAN LAW

The Parties to the Convention (all EU Member States as well as the EU itself, plus 20 other states including Serbia, North Macedonia, and Ukraine) are required to make the necessary provisions in their law and practice for public authorities at all levels of governance to ensure that these rights are made effective.

The fact that the EU and the 27 Member States are all parties to the Convention is significant, implying a kind of "double ratification" and emphasizing the importance of the Convention in different levels of governance.

Thus, the public can make use of the Convention provisions wherever matters relating to the environment or sustainable development are under consideration, whether it be at the EU level or the Member State level or both. The proper level for consideration is determined by the EU Treaty and by the principle of subsidiarity, with the aim to produce integrated and coherent policy outcomes.

The Aarhus Convention legal dimensions are considered in Chapter 4 but below is a short overview of the rationale.

With respect to **the first pillar of the Aarhus Convention on**, access to environmental information, the EU adopted both a horizontal directive as well as many individual provisions guaranteeing transparency in EU legislation. It also extended the right of access to all documents held by an EU institution or body through the Aarhus Regulation.

Concerning **the second pillar**, public participation in environmental decision-making, European law has updated provisions on public participation in national procedures on environmental impact assessment and integrated pollution prevention and control. In addition, the Aarhus Regulation applies to environment-related plans or programs which are provided for by legislative, regulatory, or administrative acts at the EU level.

The third pillar relates to access to justice in environmental matters and provides for judicial enforcement of the rights in the first two pillars as well as opportunities for the public to participate in implementing and enforcing environmental law. However, attempts at harmonising access to justice in environmental matters at EU level have failed. The Commission identified the need to ensure access to justice by including specific provisions in EU legislative proposals related to environment. However, so far access to justice provisions have not been systematically included in EGD legislation.[6] This means that, legally speaking, access to justice in environmental matters must be achieved through national mechanisms implementing the Aarhus Convention directly, rather than through transposition of EU legislation.

The Court of Justice of the European Union (CJEU) is competent to interpret the Aarhus Convention text as it applies to the Member States, and its judgments tend to influence the interpretation of the Aarhus Convention in non-EU countries as well. The Aarhus Convention Compliance Committee also interprets the Aarhus Convention and will be further highlighted in section 4.1.
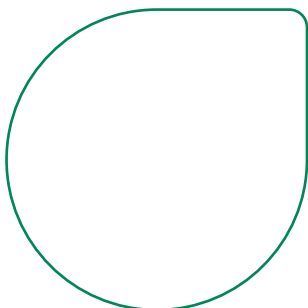
The case law of the CJEU has rapidly developed in areas that may be related to the EGD. NGOs have increasingly used the right to go to court in environmental matters, and the wider public has increased demands for the enforcement of environmental laws before the courts. The focus has been mainly on procedural rights, but the CJEU has also recognised that certain EU environmental legislation confers substantive rights to people and their associations. Despite this evolution, the interpretation of the CJEU has been very restrictive regarding the legal standing of natural and legal persons and does not allow them to take legal action in the general interest.

Importantly, the Aarhus Convention also obliges its Parties to promote Aarhus principles in international forums. However, taking climate change negotiations as an example, it is evident that European CSOs have to be vigilant in demanding that the EU institutions and representatives effectively advocate for better citizen engagement at the global level.

LEARN MORE

- **Aarhus Convention Implementation Guide**

- **Academic article on unpacking the diversity of procedural environmental rights: the European Convention on Human Rights and the Aarhus Convention**

Environmental governance in Europe

3
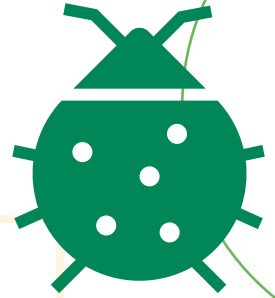
3.1 Governance approaches

- Governance approaches range from only providing information to the public to fully integrating the public in decision-making.

- Strong participation correlates with network governance thinking, and weak participation with a hierarchical governance mindset.

Governance is the complement of policy: it is the 'how' to implement the 'what.' This handbook uses the following definition of environmental governance:

"An inclusive system of actors, institutions and norms that establishes responsibility and accountability, and builds trust and capacity to cooperate in policymaking, decision-making, implementation and enforcement, in the field of environment."

This definition can incorporate a range of public participation approaches. As different kinds of policy challenges call for different responses, governance designs for participation must be tailored to assist with developing those responses.

BASIC GOVERNANCE STYLES

Every European country has a different governance tradition, linked to its national history and values. In all countries, legal solutions for societal challenges (hierarchical governance) are important, but in some, collaboration and informal partnerships among a range of stakeholders (network governance) are valued just as highly. Others prefer to rely on market mechanisms and financial incentives (market governance).

Every European country has a different governance tradition, linked to its national history and values.

Today, governance is dynamic, as governments combine and switch between different governance approaches. At least 50 variations have been described between the three basic styles. Strong participation correlates with network governance approaches, and weak participation with those of hierarchical governance. Figure 3 displays a continuum of types of public participation, ranging from weak to strong on the value they give to participation.

Figure 3 Different participation types and links to mindsets
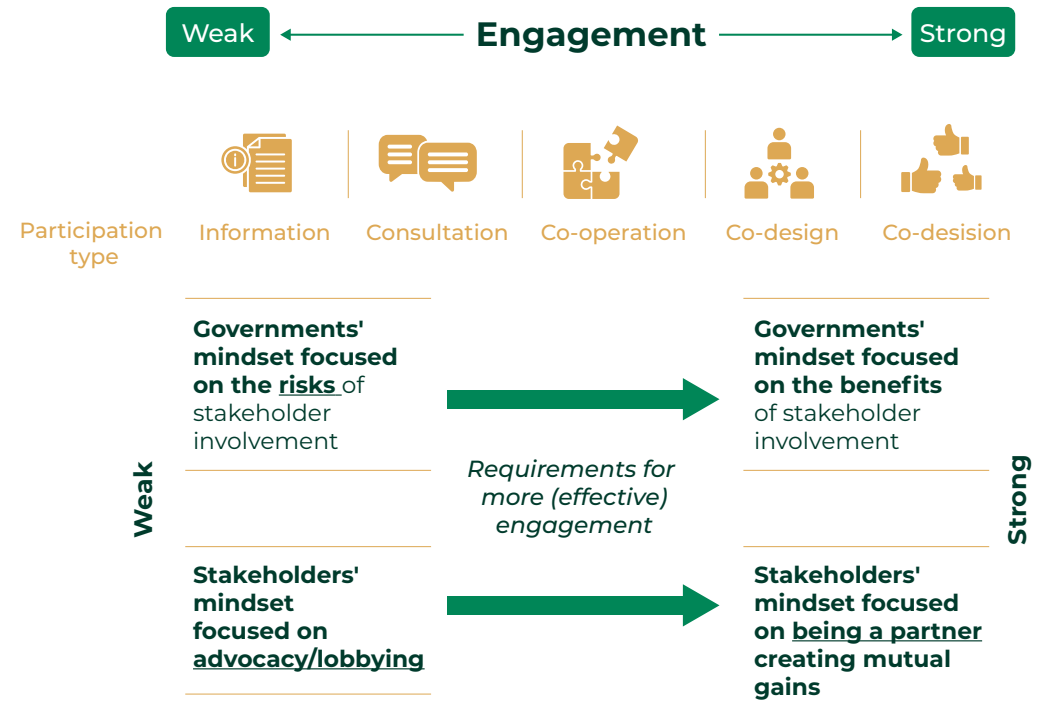
METAGOVERNANCE

Overarching EU policy frameworks like the EGD need to be effective in all countries and usually combine elements from all three basic governance styles. For example, the 'Fit for 55' climate package and the EU's biodiversity strategy combine legislation, partnership creation, communities of practice and expert networks, awareness-raising activities, and financial incentives and/or disincentives. This EU approach can be described as "metagovernance," or "governance of governance."[7]

The European Commission "plays a key metagovernance role in organizing parallel power networks, providing expertise and recommendations, developing benchmarks, monitoring progress, exchanging best practices."[8] Defining metagovernance in a broad way makes it possible to analyse and design governance frameworks beyond the network paradigm. For example, the EU's Environmental Implementation Review, explained in the following chapter, can be seen as a metagovernance intervention itself.

SITUATING PARTICIPATION IN GOVERNANCE APPROACHES

To conclude, stakeholder participation and deliberation is part of a broader picture: there is always a certain governance pattern in the background that may be more or less supportive of participation. This is relevant for environmental governance and for more complex policies like the EGD and the SDGs. Extensive efforts are made to improve stakeholder participation to support SDG implementation in many countries, but stakeholder participation remains low in some.[9] The EU's use of policy packages that include different governance tools typically includes requirements for stakeholder participation.

Where insufficient government support to citizen or stakeholder participation (legal or otherwise) exists, it could be useful to remind government representatives that the 2030 Agenda has a strong inclusiveness principle.

For example:

- SDG 16 (6) defines good public institutions as being effective, accountable and inclusive.

- Inclusiveness features in five of the eleven principles of effective governance for sustainable development as formulated by the UN Committee of Experts on Public Administration (CEPA)[10] endorsed by the UN member states in the Economic and Social Council (ECOSOC): (7) Leaving no one behind; (8) Non-discrimination; (9) Participation; (10) Subsidiarity; (11) Intergenerational equity.

- Promotion of citizen involvement and stakeholder participation is also key to one of the most important governance frameworks, policy coherence for sustainable development (PCSD). It is an official SDG indicator (17.14.1) with eight sub-indicators, one of which is participation. UNEP and OECD are jointly promoting the application of PCSD in all countries.

LEARN MORE

- **Book: Kuhlmann et al., Introduction to Comparative Public Administration, https://www.e-elgar.com/shop/gbp/introduction-to-comparative-public-administration-9781786436702.html**

27

3.2 Dimensions of environmental governance

KEY POINTS:

- **The Environmental Implementation Reviews (EIR) are useful assessments of EU Member States' performances on environmental policy which include a governance assessment.**

- **The dimensions of environmental governance are: transparency, participation, rule of law, compliance assurance and accountability, and effectiveness and efficiency.**

Closing the implementation gap in the field of EU environmental policy was already an important priority for the European Commission under the **7th Environmental Action Programme 2014 - 2020.**

The **periodic Environmental Implementation Review** (EIR) reports complement environmental legislation by allowing the Commission to design programmes which help Member States improve their environmental performance. The EIR reports are also useful for citizens and stakeholders, as they raise public awareness about the importance of implementing environmental rules and provide useful information so that citizens can take action to ensure that authorities are applying rules correctly. In recent years, the review found significant and systemic non-compliance of national law with EU environmental legislation.

The thematic areas addressed in the EIR are:

- Circular economy and waste management
- Biodiversity and natural capital
- Zero pollution (namely air quality, industrial emissions, major industrial accidents prevention, noise, water quality and management)
- Chemicals
- Climate action

The EIR includes a chapter on environmental governance structured according to the below dimensions of environmental governance. These dimensions and their sub-themes were developed by the Commission in 2019 as part of an assessment framework for assessing environmental governance in Member States.

The **dimensions of environmental governance** are:

- **Transparency**
- **Participation**
- **Rule of law**
- **Compliance assurance and accountability**
- **Effectiveness/Efficiency**

Within these five dimensions, 21 themes were identified. Twenty of the themes are allocated to the dimensions. The last theme is overarching: the context and characteristics of environmental governance (on the national level).

CONTEXT	TRANSPA-RENCY (Aarhus dimension 1)	PARTICIPA-TION (Aarhus dimension 2)	ACCESS TO JUSTICE (Aarhus dimension 3)	COMPLIANCE ASSURANCE AND ACCOUN-TABILITY	EFFECTIVE-NESS AND EFFICIENCY
The context and characteristics of environ-mental governance	Evidence and reporting	Public participation	Practical information	Promotion, monitoring, enforcement	Enabling financing
	Access to information	EIA/SEA	Access to justice	Liability	Administra-tive capacity
	Reliability/ Quality	Public confidence	Effective remedies	Complaint Handling	Cross-sectoral coordination
		Equitability/ Inclusiveness	Judicial capacities		Integrated assessment
			Corruption		Flexibility/ Adaptability

Table 3 Summary of themes and their allocation to dimensions

Considerations of both the rights-based participatory approach, and the consultative approach can be found in this framework. The dimensions of Transparency, Participation, and Access to Justice are closely related to the Aarhus Convention, but also extend into areas that are less rights-oriented, such as the theme of Equitability/Inclusiveness.

Compliance assurance and accountability involves legal mechanisms such as citizen engagement in enforcement and working in cooperation with enforcement authorities, which also connect to the Aarhus Convention (Article 9.3).

The theme of Effectiveness and Efficiency is perhaps the most flexible in terms of making use of consultative and cooperative mechanisms, but it too has legal elements, such as the use of management tools including integrated assessment.

The EIR country dialogues—convened on the national level by national authorities—facilitate communication between governments and administrations and other stakeholders, including civil society, on the findings of the EIR. The Commission strongly encourages these exchanges to find solutions to the challenges identified in the EIR reports. The Commission has published guidelines on organising EIR dialogues.

This handbook uses the structure of the EIR dimensions to explain the rationale behind different quality standards of citizen engagement in this chapter and the legal framework and available redress mechanisms in chapter 4.

Transparency

KEY POINTS:

- **The Aarhus Convention definition of environmental information is very broad.**

- **While transparency in development of policies is a principle in its own right, it is also a means to enabling public participation and deliberation.**

The first dimension of environmental governance is '**Transparency**'. Transparency is an essential precondition of citizen engagement. Transparency and openness in governance are now among the fundamentally distinctive traits of contemporary public administration. It can be broadly defined as 'the opposite of secrecy' and encompasses mechanisms that facilitate the release of information about policies, capabilities, and preferences to outside bodies and the public. **Access to information** covers (1) the 'passive' or reactive aspect of transparency, i.e., the obligation on public authorities to respond to public requests for information, and (2) the 'active' aspect, which responds to other obligations relating to providing environmental information, such as collection, updating, and public dissemination.

Transparency in the development of environmental policies is a principle in its own right, but it is also the main tool that enables public participation and deliberative discourse. Without access to information, public consultations and deliberative processes become meaningless. Neither ordinary citizens, nor civil society organisations, scientists, or academics can meaningfully contribute to public policy discourse without sufficient access to information.

Studies have shown that transparency has benefits across all stages of public participation and deliberative processes. Transparency in the process of selecting participants determines, in part, the credibility and legitimacy of the overall process. Studies suggest that during later stages of decision-making, transparent and extensive reviews increase credibility, not least because such activities tend to expand the number of stakeholders involved.
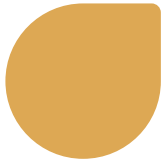
Transparency is therefore essential to effective participatory processes, and for the public's ability to influence political agendas. To overcome mistrust, processes must provide open access to information to all participants to the greatest extent.

Access to environmental information is often subject to higher transparency standards than other categories of information.

Access to environmental information is often subject to higher transparency standards than other categories of information. The right to access to information in an environmental governance context may be understood in part as giving citizens a right to know details about the general state of the environment, selected parts of the environment, and on the environmental impact of government-authorized activities.
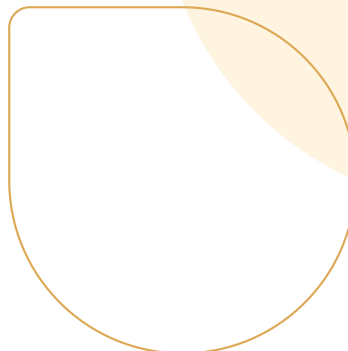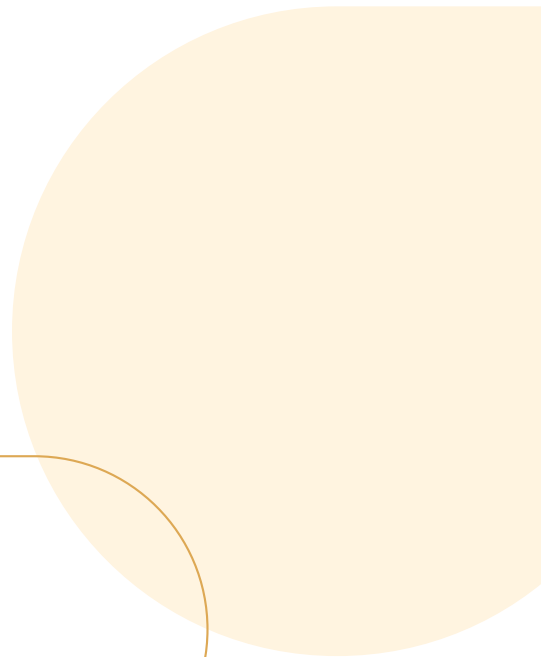
Participation

KEY POINTS:

• **The Aarhus Convention's standards for public participation are supplemented by the Maastricht Recommendations on their use in practice and the Almaty Guidelines on their use in international forums.**

The success of youth activism over the last years has raised awareness of the impact of climate change and the need to incorporate climate initiatives into national and international laws and policies. Public participation in issues related to sustainable development is not a new concept; the second dimension of environmental governance, participation by the public in environmental decision-making, is at the heart of the Rio Declaration and the Aarhus Convention. The Aarhus Convention provides significant detail on how public participation is to be facilitated depending on which type of decision. Furthermore, in recent years regional agreements promoting public participation have been adopted, such as the 2018 Escazú Agreement in Latin America and the Caribbean.

The Aarhus Meeting of the Parties has adopted several sets of guidelines to support states' implementation of the Aarhus Convention. These include **the Maastricht Recommendations,** detailed recommendations for implementing the public participation provisions of the Convention, and **the Almaty Guidelines** on promoting the application of the principles of the Aarhus Convention in international forums which recognises the need to eliminate barriers to participation in international climate initiatives and Multilateral Environmental Agreements. Such barriers include the limited possibilities for non-state actors to attend meetings, intervene, or submit documentation, and the specific difficulties minority groups and affected communities face when trying to access decision-making at the international level.

LEARN MORE

• **Here are three cases of the Aarhus Convention Compliance Committee dealing with different failures of national authorities in guaranteeing the right to public participation: Lithuania, Spain, Poland.**

The right to seek redress

KEY POINTS:

- **Access to justice is the right to have a decision reviewed by a court of law or a similar authority.**

- **The Aarhus Convention sees three avenues of access to justice: review of access to information requests, review of decisions which were subject to public participation, and a general review of environmental decisions.**

Access to justice is a set of rights which allows the public (individuals and NGOs) to seek action through the courts or other tribunals when laws have been violated. Access to justice is fundamental to the rule of law in a functioning democracy, and questions of who can seek redress and when are central to discussions about the accountability of public authorities. While access to courts can take the form of civil law claims for environmental damages or criminal prosecution for environmental crimes, access to justice in the context of environmental governance focuses on the avenues by which citizens and NGOs can challenge the decisions of public authorities on substantive or procedural grounds. Access to justice can be a form of private enforcement giving individuals and NGOs the agency to litigate to protect the environment.

Principle 10 of the Rio Declaration, and later the Aarhus Convention, crystalized the notion of access to justice as a pillar of environmental governance, one which is ancillary to the other two Aarhus pillars, access to information and participation in decision-making. Access to justice guarantees that judicial recourse procedures can be called upon if a party violates the rights enshrined in the Convention. As previously mentioned, there is no specific European Directive or regulation at the community level that requires all Member States to adopt a series of uniform measures; rather, it is up to each state to guarantee access to justice in accordance with its own internal legal order.

From the perspective of the Aarhus Convention, there are **three distinct avenues to access to justice** which must be guaranteed: Firstly, individuals or NGOs must be able to request a legal review of a request for access to environmental information; Secondly, if one's participatory rights were infringed upon, they must be able to seek access to the courts; Thirdly, the Convention protects the general right to bring decisions and omissions affecting the environment to court if they fail to comply with other (environmental) laws. In practice, the third avenue is often the most problematic as it demands a review of the substantive parts of a decision.

The legal recognition of the right of a person to appear before a tribunal and to have his or her case heard is referred to as **legal standing (*locus standi*)**. According to the Aarhus Convention, in certain cases, legal standing should be extended to the so-called '**public concerned**,' which includes the public affected (or likely to be affected) by environmental decision-making. Much discussion and case law defines

the concept of the 'public concerned,' but the most important is article 2(5) of the Aarhus Convention, which states that NGOs which promote environmental protection and meet national law requirements are automatically assumed to have an interest in environmental decision-making. This means that NGOs have a privileged legal position in the area of environmental decisions and policy.

Legal standing is a complex area of law that takes many forms around the world. In certain parts of the world, standing requirements are more relaxed than they are in Europe; for example, open standing is sometimes granted in the context of recognising rights of nature, such as in Ecuador or New Zealand, where any person can go to court to protect nature without needing to prove a specific legal interest.
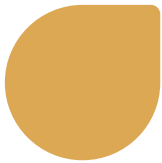
Examples of citizen science include phone apps that track pollution, transportation patterns, and species migration, or that provide a platform for real time detection and reporting of violations of environmental law.

Compliance assurance, and accountability

KEY POINTS:

- **Compliance can be supported through promotion and education as well as monitoring and enforcement.**

- **Individuals, NGOs, or companies can support compliance through gathering evidence, filing complaints, or going to court.**

Compliance with EU environmental policies and laws occurs on two levels. Firstly, there is **compliance by private individuals and companies**. Secondly, there is **compliance of EU Member State governments and public authorities** with environmental laws. This section focusses on the first element of compliance assurance.

The EU encourages Member States to further compliance by **promoting, monitoring, and enforcing** it.

PREVENTION AND PROMOTION

An important approach to preventing compliance problems from businesses and individuals involves efforts from Member States to provide information and advice about compliance. These efforts are referred to as **'compliance promotion'** and can take the form of guidance, frequently asked questions (FAQ) pages, or helpdesks, and are increasingly reliant on online tools and information sources. A good example is <u>the host of guidance documents on the REACH regulation</u>.

To discover compliance problems, Member States can take actions ranging from traditional environmental inspections, investigations, audits, and collection of data from reporting obligations. Detection may also include investigations based on **complaints from the public** and data collected through **citizen science**. Besides courts, complaint handling institutions often take the form of ombudsman services or specific offices set up in local government. More on complaints can be found in Section 4.1. Examples of citizen science include phone apps that track pollution, transportation patterns, and species migration, or that provide a platform for real time detection and reporting of violations of environmental law.[11]

Site inspections are required to be systematic for industrial installations, and may also include police or other criminal investigations into environmental crimes. Earth observation and geo-spatial intelligence are is used as an additional monitoring tool in most of the Member States, although this is mostly limited to specific environmental issues.

EDUCATION

Public-awareness raising initiatives can help citizens understand how they can alert or inform national authorities about potential environmental damage, situations which seem to violate environmental laws, or provide other information which could help the authorities to fulfil their environmental responsibilities.

Effectiveness and efficiency

KEY POINTS:

- **Effective environmental governance relies on effective participation.**

- **The quality of implementation of public participation methods can significantly influence the effectiveness of a given policy.**

The fifth and final dimension of environmental governance is 'effectiveness and efficiency.' This dimension broadly encompasses financial, technical, and human resources as well as the quality of decision-making structures. It measures input against output. But this dimension can also be applied as criteria for citizen engagement.

Effective environmental governance usually relies on effective participation. Effective governance should increase acceptance of and identification with decisions and improve trust between state and non-state actors. As such, public participation in environmental decisions in the European policy context is expected to improve policies and the legitimacy of the decisions underpinning them.
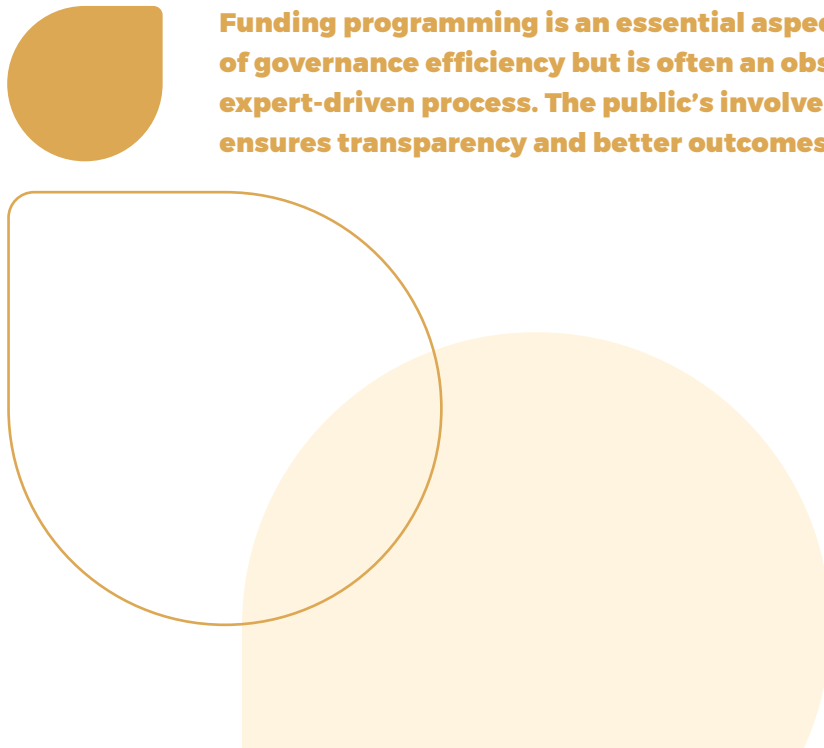
Effectiveness and efficiency, strictly speaking, refer to the extent to which a given policy goal is reached; environmental effectiveness

refers to the extent to which a policy is likely to achieve environmental improvements in the sense of sustainable use of resources, protection of ecosystems and human health, and prevention of environmental degradation. But effectiveness and efficiency can also be evaluation factors describing how citizens perceive the outcome of participation processes. Effectiveness measures the impact of a participation process, while efficiency may be understood as 'cost-effectiveness.'

The quality of implementation of public participation methods can significantly influence the effectiveness of a given policy. Accordingly, any modifications to legislation should be accompanied by enhanced guidance on good public participation practice to ensure that it is defective and adds value. Such guidance should focus not only on the types of techniques that can be used to engage the public but also on careful preparation for their use and how to use them properly.

Funding programming is an essential aspect of governance efficiency but is often an obscure, expert-driven process. The public's involvement ensures transparency and better outcomes. The EGD involves extensive financing of environmental policies on the EU and Member State level. Citizen engagement in funding and uptake of available funds may relate to the following: how public authorities encourage absorption of available funds for environmental investment (e.g., access to information about funding opportunities); the existence of domestic environmental finance tracking; systems of earmarking funds collected though fiscal and other market-based instruments for environmental protection; the institutional approach to distributing funding and its quality (e.g., expertise of staff in charge). In addition, the public should have the opportunity to take part in identifying financing needs through ex ante evaluations and assessments of selected policies and programmes. Citizens should

Funding programming is an essential aspect of governance efficiency but is often an obscure, expert-driven process. The public's involvement ensures transparency and better outcomes.

3.3 Non-EU Member States (European Neighbourhood)

KEY POINTS:

- **The EU exports its environmental and governance standards through setting standards for itself which other countries have to follow to gain access to the EU market.**

- **Direct cooperation is guided by EU accession rules, multilateral agreements, and collaboration in international organisations other than the EU.**

also be able to monitor the administrative capacities of public authorities involved in matters related to implementation of the EGD.

The environmental ambition of the EGD will not be achieved by the EU acting alone. The drivers of climate change and biodiversity loss are global and are not limited by national borders.

The REAL DEAL project includes actions in three non-EU states: North Macedonia, Serbia, and Ukraine. All three countries are candidates for EU membership and parties to the Aarhus Convention and subject to its compliance mechanism.

The EU pursues **external action** (foreign policy) through different kinds of legal mechanisms and regulatory techniques, including unilateral measures that extend its regulatory power to processes taking place abroad.

These measures are proliferating in many EU policy areas, including environmental law.

The use of domestic measures with extraterritorial impacts enables the EU to indirectly regulate activities and behaviour that do not take place within its territory, thus influencing the content and direction of foreign legal systems and the development of international law.[12]

The **Internal Environmental Measures with Extraterritorial Implications** (IEMEIs) are an example of this extraterritorial impact, which is an important manifestation of the exercise of EU global regulatory power. Examples of IEMEIs include the sustainability criteria for biofuels, the inclusion of aviation emissions in the EU Emissions Trading System (EU ETS), regulation of ship recycling, exports of waste of electrical and electronic equipment, imports of timber, and imports of fish and

fishery products. By their legal design, IEMEIs regulate conduct or processes taking place, at least partly, in third countries and influence business practices and regulatory approaches abroad, thus having important impacts on third countries.

One of the main factors in the relationship between the non-EU Member States and EU governance on environmental law is whether the state is a candidate to become a member of the Union and therefore is in the process of harmonising EU legislation into national law. A state candidate has to meet the conditions of membership known as the "Copenhagen Criteria." The state candidate needs to adopt, implement and enforce the environmental chapter of the acquis (chapter 27) which comprises over 200 major legal acts covering multi-sectorial horizontal legislation, and requires significant investment and a strong and well-equipped administration at a national and local level.

Connected with EU's Instrument for Pre-Accession Assistance III,[13] Serbia and North Macedonia are among the countries which committed to reach climate neutrality by 2050 pursuant **to the Green Agenda for the Western Balkans**, adopted under the auspices of the Regional Cooperation Council.

Particular emphasis is placed on supporting the ecological transition in the EU's immediate Neighbours, namely the Western Balkans, the Southern Neighbourhood and the Eastern Partnership countries. In concrete terms, the proposal to gear EU trade policy to support the ecological transition, including commitments to sustainability in EU trade agreements, is one of the most consequential measures. The EU also has great effect through the **Energy Community Treaty**, which concerns Ukraine, as well as Serbia and North Macedonia. The EU will put emphasis on supporting its immediate Neighbours by establishing innovative forms of engagement, such as the Commission's proposal for a Neighbourhood, Development, and International Cooperation Instrument.

LEARN MORE

• **Check out the Regional Cooperation Council**
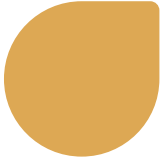
The EU will put emphasis on supporting its immediate Neighbours by establishing innovative forms of engagement, such as the Commission's proposal for a Neighbourhood, Development, and International Cooperation Instrument.
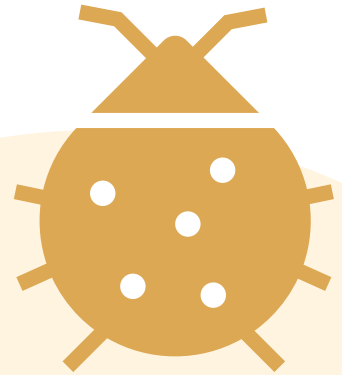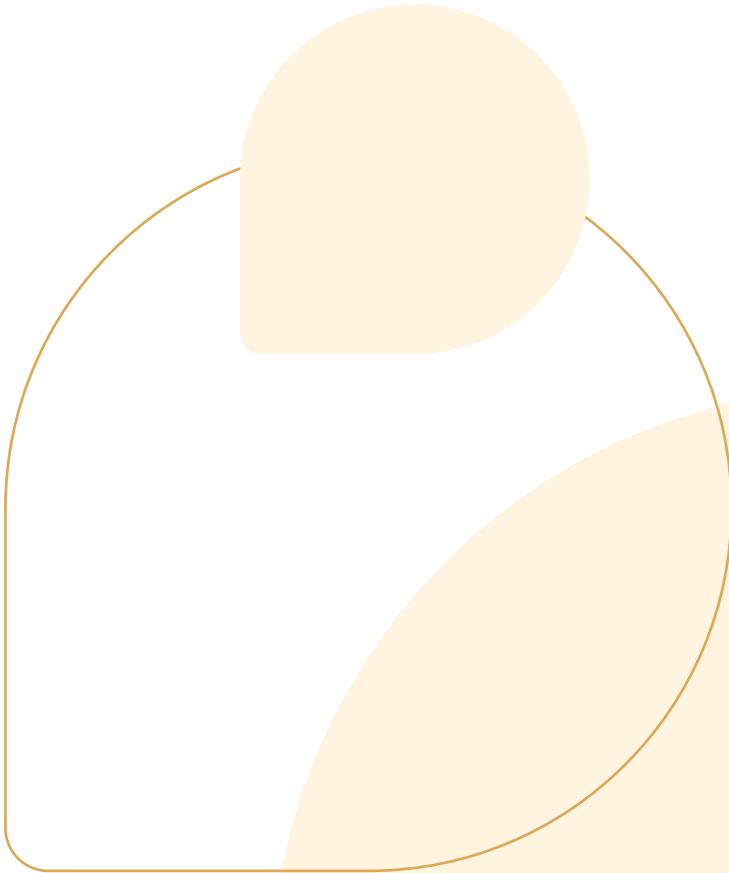
Mechanisms for citizen engagement in relation to the EGD

4.1 Legal standards for participatory mechanisms

Transparency and access to information

KEY POINTS:

- **The Aarhus Convention includes obligations on proactively publishing environmental information and on how to handle access to information requests.**

- **In the EU, the Directive 2003/4/EC regulates the Member States and the Regulation 1049/2001 the EU institutions themselves.**

AARHUS CONVENTION

As stated in Chapter 3, the right to access information is guaranteed by the UNECE Aarhus Convention. The Aarhus Convention definition of environmental information is broad, including a wide range of information held by public authorities that pertains in any way to the environment or related human health. Whereas article 4 sets out the active right of the public to obtain information upon request, article 5 sets out the obligations for public authorities to collect and proactively publish environmental information. What constitutes environmental information can be deduced from the EU's **directive 2003/4/EC on public access to environmental information.**

Besides the examples listed in the Aarhus Convention article 2(3), the EU directive also specifically spells out different forms of decisions, legislation, and reports on the implementation of environmental legislation. In addition to the Directive on public access to environmental information, there are also **separate sectoral EU and national laws** with specific information requirements in areas such as water, waste, and emissions policy.

ACCESS TO NATIONAL DOCUMENTS

As studies show, there are large differences between the level of access to information in one country to the next and room for improvement remains across the board. The Aarhus Convention provides a minimum baseline for access to environmental information. Regarding the active right to file a request for access to documents, many states have failed to implement the Convention's obligations properly. The obligations for proactive publication by public authorities are less strong and, therefore, much easier to comply with. Ideally, all environmentally relevant data should be accessible by the public in user-friendly online formats that are accessible and machine readable.

Some national legal systems have dedicated public authorities for access to information or have tasked Ombudsman institutions with reviewing such requests. A challenge access to environmental information faces in many national systems is that it is treated in the same way as access to information in any other policy area.

ACCESS TO EU DOCUMENTS

Article 15 of the Treaty on the Functioning of the European Union (TFUE) and article 42 of the Charter of Fundamental Rights of the European Union state that citizens and residents of the European Union have a right of access to the documents of Union institutions, bodies, offices and agencies, whatever their medium. Furthermore, NGOs and other legal persons registered in an EU Member State have the same right as individuals to ask for documents. The rules about public access to documents are set in Regulation (EC) No 1049/2001.

These transparency rules apply to the European Commission, the European Parliament, and the Council of the European Union, as well as other offices, bodies, and agencies. When it comes to the European Central Bank, the Court of Justice of the European Union, and the European Investment Bank, this right only applies to their administrative functions. There is a website dedicated to the exercise of this right of access to documents: **AsktheEU.org**.
After a request, EU institutions have the obligation to answer within 15 working days. If the requester is not happy with the information provided, the request was fully or partly denied, or when the EU has failed to answer the request within the specified deadline, a confirmatory application (appeal) can be submitted.

PRTR PROTOCOL

The **UNECE Kyiv Protocol on Pollutant Release and Transfer Registers** (PRTR Protocol) is a legally binding instrument with the objective "to enhance public access to information through the establishment of coherent, nationwide pollutant release and transfer registers (PRTRs)." This protocol is an 'open' global treaty, meaning that any UN Member State can join, irrespective of whether they have ratified the Aarhus Convention.

PRTRs bring information on polluting emissions into the public domain, and thereby raise awareness about major sources of threats to human health and the environment. By **increasing transparency**, they enable the public to play a more effective role in influencing the decision-making processes related to such threats and, hopefully, create pressure on companies to reduce the pollution arising from their activities. The Protocol requires its Parties to establish and maintain a publicly accessible and structured national register or database.

The information contained in the PRTR is to be supplied through mandatory periodic reporting by the owners or operators of certain types of potentially polluting facilities, such as refineries, thermal power stations or chemical and mining industries, among many others. These should report annually on releases (into the environment) of certain types of pollutants as specified in the Protocol, as well as off-site transfers of waste (to waste disposal sites or recovery facilities) and pollutants released in wastewater from the facility. The Protocol also requires that PRTRs progressively contain information on pollution from other diffuse sources, such as pollution from traffic to air, from agriculture to water and from small polluting enterprises to land, water or air.

The information contained in the PRTR must be searchable and identifiable according to categories such as companies, facilities, or geographical locations; types of activity, pollutant or waste; and the environmental medium into which the pollutant is released (air, water, land). Each Party must promote public awareness of its PRTR and provide assistance and guidance to the public in accessing the register and in understanding and using the information contained in it. Article 11 of the PRTR establishes the right of public access to information through direct electronic access through public telecommunications networks, such as an open website on the Internet, as the primary means of public access (free of charge) and also through "other effective means" for members of the public who do not have direct electronic access to the PRTR.

LEARN MORE

• **Guidance to the Protocol on Pollutant Release and Transfer Registers**

As studies show, there are large differences between the level of access to information in one country to the next and room for improvement remains across the board.

Public participation in EIA, SEA, etc.

As well as participation in the EIA and SEA process, members of the public can utilise litigation under administrative law within EU Member states to challenge the EIA process where they consider themselves to have a significant interest in the development or an impairment of an individual right.[14]

KEY POINTS:

• Environmental Impact Assessments (EIA) and Strategic Environmental Assessments (SEA) are under specific obligations for public participation.

The Aarhus Convention establishes minimum standards for certain decisions, plans, programmes, and laws. It provides significant detail on how public participation is to be conducted and facilitated, from the public notification of a proposed decision to the logistics of completing the public consultation.[15] In European environmental governance certain environmental decisions require a previous environmental assessment.

Environmental Impact Assessments (EIAs) have specific public participation obligations which are implemented via different methods in the Member States. In order to meet their obligations under Article 6 of this Directive, Member States must evidence public consultation as part of the EIA process. Member States are given independence to establish consultation mechanisms as long as (1) there is an opportunity for public contributions and (2) information about proposed developments is made available to the public. EIAs have attracted international academic and civil society attention relating to their efficacy. This research has indicated that conformity in standards regarding EIAs has

improved since the 1990s and that consultation is impactful at various stages of the EIA. NGOs can improve EIA consultation processes as they can represent the interests of structurally excluded communities, although this should not be automatically assumed, and individual actors should not be excluded because of the participation of NGOs.

The **International Association for Impact Assessment** (IAIA) has developed training resources on the inclusion of the public in EIAs. Once the relevant authority has identified a proposal which requires an EIA, consultation with the public should be embedded in all stages of the assessment. The benefits of public participation include the improved quality of decision-making, the inclusion of traditional, local knowledge and experience, the strengthening of local impacts and the increase of confidence in the EIA process. EIAs must include a prediction of the impacts of a development or intervention. These impacts should be considered based on their projected duration and severity, as well as whether they are permanent or temporary.

While EIAs are carried out in the final approval stage of a project, **Strategic Environmental Assessments** (SEAs) are carried out at the planning stage and set the strategic foundation for further action. Article 2, para. 8 of the SEA Directive requires public participation from an early stage of development. This includes ensuring the aims and process of the consultation are clear and transparent, that the scope of consultation is proportionate to the aim, support is offered to facilitate participants' meaningful engagement, and ethical and professional standards of engagement are enforced and adapted to the relevant cultural context.

As well as participation in the EIA and SEA process, members of the public can utilise litigation under administrative law within EU Member states to challenge the EIA process where they consider themselves to have a significant interest in the development or an impairment of an individual right.[16] The procedures involved in this litigation will be influenced by the domestic legal system. You can read more about SEAs in Section 5.2.

The right to seek redress

"National environmental courts range from fully developed, independent judicial branch bodies with highly trained staffs and large budgets all the way to simple, underfunded village environmental courts that handle environmental cases one day a month with rotating judges."

KEY POINTS:

- **Rulings from courts and tribunals are legally binding, whereas findings from bodies such as Ombudsman offices carry political and ethical weight.**

- **There are still numerous hurdles to access to justice in EU Member States and access to regional or international courts is often only granted if very specific conditions are met.**

On 6 October 2021, the European Union amended the Aarhus Regulation to bring EU law into greater compliance with the Aarhus Convention. The improvements focused on the scope and characteristics of the internal review, making it fairer and more effective.

These amendments mark an important development towards EU law's full compliance with the Convention.

This section will thematise legal and non-legal redress mechanisms available to individuals and CSOs. As outlined in Section 3.2.3 above, **access to justice** in the context of the

EGD is a set of procedural mechanisms which enable members of the public to go to court or another tribunal to enforce certain rights or to seek justice when public authorities violate the law. It is complementary to other rights related to environmental decision-making by guaranteeing their enforceability. While access to justice implies a legal review procedure with a legally binding outcome, there are other mechanisms to hold public institutions to account. As outlined in Section 3.2.4 compliance with environmental law, including citizen engagement obligations, can be incentivised, guided, or enforced by the state. Where this is not happening effectively, individuals and CSOs can attempt to enforce compliance through legal or quasi-legal redress mechanisms. Besides the direct route through court, **the best tool for individuals and CSOs to engage in compliance assurance is by filing complaints to public authorities and oversight bodies**. Filing a complaint is different from going to court for several reasons. Complaint handling can often be free of charge, quick, and can take non-legal arguments into account. However, the results of a complaint procedure can be less impactful than a court case and issues such as damage compensation are usually left unresolved.

Beyond providing three avenues to access to justice, the Aarhus Convention further specifies that in order for access to justice to be granted, the remedies for violations have to be adequate and effective (Art 9(3) Aarhus Convention), including injunctive relief possibilities, they have to be fair, equitable, timely and not prohibitively expensive (Article 9(4)), and there has to be some form of dissemination of information about the access to court and a system of legal assistance mechanisms (Article 9(5)).

Regarding non-court redress mechanisms, the minimum standards in Europe are less prescriptive and there is no overarching legal norm like the Aarhus Convention. Complaint handling is subject to good governance principles and can generally be subdivided into the stages of reception, analysis, action, and finalisation. The below non-exhaustive list of principles may be found in codes of conduct or good administration standards: proportionality, consistency, objectivity, information on the procedures, duty to give reasons, possibilities for appeals, timely handling, and costs.

This sub-chapter will examine different redress mechanisms at four distinct levels. Firstly, the access to national level courts and Ombudsman institutions. Secondly, the access to review of acts and omissions of European Union institutions as well as their supervisory role on Member States. Thirdly, the role of the Aarhus Convention Compliance Committee. Fourthly, the role of the European Charter of Human Rights and the Council of Europe. Lastly, the sub-chapter will list minimum standards for complaints handling.

NATIONAL LEVEL

The European Commission's **Environmental Implementation Reviews** (EIRs) as well as several research projects have identified systemic shortcomings concerning access to justice in many national legal systems. Although highlighting successful practices in some EU Member States, the European Commission's Environmental Implementation Reviews have called on Member States for more effective access to justice in environmental matters in national courts. Particularly, they bring attention to hurdles NGOs are facing to obtain standing to bring legal proceedings to court. Similar shortcomings have also been identified outside of the EU Member States.

This does not, however, make litigation at national level an unsuitable tool to enforce the public participation rights of individuals and NGOs. In those cases where legal standing is established, the impact that litigation can have is enormous.

Globally, there are over 1,200 specialised Environmental Courts and Tribunals in at least 44 countries, including 8 EU Member States, at the national and state/province levels. National environmental courts "range from fully developed, independent judicial branch bodies with highly trained staffs and large budgets all the way to simple, underfunded village environmental courts that handle environmental cases one day a month with rotating judges."[17]

Usually, successful Environmental Courts a) are recognised by governments, stakeholders and the wider community alike as the appropriate and legitimate forum for resolving environmental disputes and b) have a comprehensive jurisdiction to hear, determine and dispose of matters and disputes arising under all environmental laws enacted by the government of the land. Like all courts, they are independent of government, but they are specially composed of judges with environmental experience and often scientific expertise.

Besides launching a court case, there are numerous different complaint handling opportunities and avenues at the national level. Complaints may be handled by local, regional, or national institutions and the mandates of each institution may be difficult to navigate. Important to bear in mind is that **any public authority that receives a complaint that is not under its competence should either direct the complainant to the correct authority or transmit the complaint itself.**

A helpful guide is the separation of complaint handling bodies into 1) those that deal with environmental complaints against others, 2) those that deal with environmental complaints against themselves, and 3) general oversight bodies.

Commonly, general oversight bodies are committees on petitions and ombudsman institutions. Ombudsman offices mostly issue non-binding recommendations and, therefore, do not replace opportunities to grant access to courts, but in practice they are often effective and impactful.

EUROPEAN UNION LEVEL

For individuals and NGOs, access to justice for acts or omissions of environmental relevance of institutions of the EU is mostly regulated by the Aarhus Regulation. The Aarhus Regulation details rules on an internal mechanism to review EU administrative acts or omissions alleged by members of the public to contravene EU environmental law. The system of internal review allows an EU institution to remedy or address the subject of the challenge first, before the matter may be taken to the EU courts. While revisions of the Aarhus Regulation in 2021 largely improved access for both individuals and NGOs, standing with regard to EU institution decisions in the area of state aid policy remains limited.

Another avenue to consider for obtaining access to justice is **through the Court of Justice of the European Union (CJEU)**. It has been extremely difficult for individuals or NGOs to access EU courts on environmental matters. Traditionally, EU measures are addressed to specific individuals who then have standing to challenge the measure at court.

In environmental matters, however, measures by an EU institution or body are rarely addressed to a specific person, as they concern the environment which is of general interest. In those cases, individuals or environmental associations must prove that they are directly and individually concerned (according to the so called Plauman criteria) with the measure.

There is in theory also the possibility to access the CJEU via a challenge brought at national level. This process is called the 'preliminary reference procedure' (article 267 TFEU). However, this route does not work adequately in practice. The procedure gives a large amount of discretion to national courts and can therefore not be seen as an adequate alternative to a direct right of review at EU level.

There are two main non-court avenues to address a complaint to the EU institutions. Firstly, addressing a complaint about the conduct, acts, or omissions of an EU institution itself. This is the case for filing for an **internal review procedure or addressing a complaint to the European Ombudsman.** Secondly, there is the possibility to complain to the European Union about Member States.

This most often takes the form of seeking **recourse to the European Parliament's Committee on Petitions**, or filing a complaint to the European Commission in the hopes of triggering an **infringement proceeding**. An infringement proceeding is an inquiry by the Commission into the compliance or lack thereof of a Member State with its obligations under relevant EU law.

AARHUS CONVENTION COMPLIANCE COMMITTEE

As a last line of defence for public participation rights stands **the Aarhus Convention Compliance Committee**. While not a traditional complaint-handling institution, it is also not strictly speaking a court of law and its decisions do not have direct legally binding effect. They only become binding once endorsed by the Meeting of the Parties. The ACCC considers submissions, referrals, communications or requests in order to examine compliance and implementation of the Aarhus Convention, as per article 15 of the Convention and the decision setting out the compliance mechanism.

It is also one of only a few review mechanisms in environmental law which are open to members of the public without the need to be represented by a lawyer (although legal support may be recommendable). However, the Committee is currently under-resourced, and a complainant must exhaust remedies on the national level first. This means that the Aarhus Convention Compliance Committee should not be relied upon as the main review body for issues with access to justice at national level. National courts need to provide the standard avenue for review, while the Compliance Committee should tackle more complicated issues of interpretation of the Aarhus Convention. The form for communications is available on the Committee's website.

As a last line of defence for public participation rights stands the Aarhus Convention Compliance Committee.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Separately from the Aarhus Convention system, **the European Convention on Human Rights** (ECHR) has a history of safeguarding a number of human rights which are connected with environmental democracy. The most relevant provision is the ECHR's Article 8, roughly a privacy right that has been extended to environmental issues. Despite the fact the Convention does not cover environmental human rights per se, a will has emerged within the European Court of Human Rights to accommodate environment-based claims.

This identification of environment-based claims requires a certain amount of judicial creativity and recognition of the Convention as a living document.

The court's approach acknowledges environmental issues as established core human rights concerns, while sidestepping the conceptual and practical difficulties of an explicit right to a healthy environment.

Nevertheless, complaints related to environmental harm can succeed before the European Court of Human Rights. Guidance on how to make a complaint can be found here.

LEARN MORE

- **Legal guide on access to justice from ClientEarth**

- **Complaint handling and citizen engagement vade mecum from the European Commission**

4.2 Spotlight on EU laws with specific citizen engagement obligations

This section highlights two examples of far-reaching EU law which entail particular obligations that can be enabling factors for citizen engagement.

INSPIRE

The INSPIRE directive is a legal framework that tries to standardise public recording of geospatial information. The framework covers 34 different themes of spatial data including themes on geology, transportation networks, land use, river flows, and natural disaster risk zones. These data themes have a major potential to support the priorities of the EGD. Geospatial data is crucial to environmental decision-making and monitoring and should, therefore, be accessible between different countries' public authorities and transparent to the general public. The directive does not prescribe specific data formats but tries to guarantee interoperability.

In the context of deliberative processes, the main relevance of the INSPIRE directive has to do with the quality of accessible environmental information.

Harmonisation of standards of geospatial data increases the digestibility of the raw data. Ideally **the geospatial data should be published proactively and not upon request and should adhere to the FAIR principles: Findable, Accessible, Interoperable, Reusable**.

While the INSPIRE framework is relatively weak on the dissemination and request-ability requirements of the data, it must be read in conjunction with the **EU directive on Access to Environmental Information** which arguably includes the right to access environmentally relevant geospatial data. The evaluation of the INSPIRE directive has, however, shown that most EU Member States tend to implement national environmental information systems and the INSPIRE directive separately.

At the time of writing, the INSPIRE directive was part of the 'GreenData4all' revision package within the European Strategy for Data.

EU BIRDS AND HABITATS DIRECTIVES

The EU Birds and Habitats Directives (EU Nature Directives) are the cornerstones of EU nature protection policy and have brought about the creation of Natura 2000, the world's biggest network of protected areas. These directives implement two Council of Europe conventions, **the Bern Convention** and **the Bonn Convention.** Together, the Directives protect over 1,000 species and more than 200 habitats in the EU.

The Birds Directive defines the guidelines at the European level for the protection and the management of the bird species living in the wild, first and foremost with respect to human activities (hunting, disturbance etc.). Through its five Annexes, the Directive covers the designation of protected areas, habitats for wild birds, species protection and hunting regulations. As many other species are endangered, and the quality of natural and semi-natural habitats quickly recede, **the Habitats Directive** was adopted. The Habitats Directive ensures the conservation of a wide range of rare, threatened or endemic animal and plant species, by requiring Member States to, inter alia, keep or restore the protected habitats and species and establish special areas of conservation for these species and habitats.

To check whether the measures set out in these Directives are achieving their objective, Member States monitor progress and report back to the European Commission every six years on the status of the species and habitats of European importance that are present in their country. The European Commission then aggregates the information to determine the overall trend for each species and habitat across the EU and whether they have reached, or are on the way to reaching, a favourable conservation status.

A study of implementation of the Directives in the EU found that stakeholder engagement, public participation and communication either could do better or was unsatisfactory in the Member States analysed. Most Member States provide online information of some sort on the Birds and the Habitats Directives, but this information is mostly general, or simply reproduces the applicable national laws and ordinances. The information is often dispersed on websites and in brochures of several ministries and other institutions and thus not easily accessible. Many Member States have established some form of intermediaries, such as farm advisory systems, nature conservation agencies or research institutes for agriculture, which sometimes offer the services of dedicated experts to be contacted via phone or e-mail in case of questions.

The geospatial data should be published proactively and not upon request and should adhere to the FAIR principles: findable, accessible, interoperable, reusable.

Practices for consultative and deliberative mechanisms for citizen engagement

- **From a legal point of view participation is often differentiated between three categories of decision-making: specific decisions; plans, programmes and policies; and laws and rules.**

- **Deliberative formats of participation are especially suited for formulation of laws and policies.**
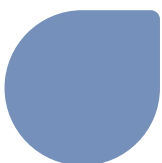
The challenge of sustainability which the EGD tries to address is that it requires an all-of-society approach. As explained in previous chapters, citizen engagement can range from reactive consultative exercises to proactive deliberative formats. Participatory mechanisms that are based on enforceable legal rights are often more consultative. While they are essential to a functioning democracy, they are not appropriate to all forms of citizen engagement. For example, the legal standards in the Aarhus Convention are quite different when it considers plans, programmes and policies, to the processes that are involved in the development of legislation or legally binding rules. Participation in decisions on specific activities are not thematised in this chapter.

When it comes to the development of plans and programmes, the Convention incorporates some of the legal standards which are applicable to public participation in specific decisions, including those concerning the time frames and the effectiveness of opportunities for public participation, as well as the obligation to ensure that public participation is actually taken into account.

In the case of the development of broader policies and laws, the Convention is less specific with regards to whether members of the public can enforce their right to participate. In the case of policies, it only requires States to "endeavour" to provide opportunities as appropriate and to identify who will be affected. Similarly, with regard to legislative and other normative acts, great discretion is maintained for countries to decide on their own ways and means.

This is where the deliberative mechanisms come in. As such processes increase in volume, they are gradually taking on more formality. It is too early to make firm conclusions as to legal norms or institutional frameworks in these areas. However, it is important to examine the most common of these forms, formats, methods and tools against the backdrop of the legal framework that has been examined in this Handbook.

In Chapter 1, we mentioned the OECD's four categories of deliberative democracy. Here we will look a bit more into these since the experience on each of these categories is relevant for the furtherance of the EGD. But first, setting the stage, we look at the complexities of multi-level governance.

The challenge of sustainability which the EGD tries to address is that it requires an all-of-society approach.

5.1 Complexities of multi-level governance: The example of the Nexus approach

KEY POINTS:

- **Multi-level governance considers different geographical levels and different thematic sectors.**

- **The Nexus dialogue is a novel way to discuss complex resource use questions.**

Multi-level governance (MLG) refers to the collaborative policy-making process of multiple actors from multiple tiers of governance, such as the international, regional, national, and subnational levels of governance, as well as non-state arenas of political decision-making. At each level of governance, moreover, there are specific characteristics of multi-stakeholder involvement. MLG can be looked at from two perspectives: vertical and horizontal. The vertical dimension requires the integration of insights from various spatial or geographical levels (e.g., local and regional authorities and communities) to enhance and align decisions with the needs at other levels and is closely aligned with the subsidiarity principle discussed above.

Horizontal integration, on the other hand, engages peers at the same level from parallel ministries, relevant public agencies, and sectoral stakeholders to ensure synergies and avoid misalignment. MLG is most often used as an analytical framework but can be helpful for the design of citizen engagement as well.

Complex issues such as climate change, use of natural resources, or pollution present classic MLG challenges because policy responses need to be implemented at all levels and depend on the behaviour of multiple actors across sectors and with overlapping stakes. One possible tool to address these is the 'Nexus approach'. Developed as a research concept for the use of natural resources it is increasingly being applied in practice.

The Nexus approach applies an assessment framework to take into account the complex interactions and connections among several sectors (e.g., energy, water, food, land, climate, environment and ecosystems) at different levels of governance. Applying the Nexus approach involves assessment of the links and dynamics of the different sectors to harmonise their outlook and management as well as taking account of potential conflicts and synergies across sectors and boundaries. The purpose of Nexus assessment is to support policy making and coherence between sectoral policies by investigating how the governance setting supports coordinated resource management, including addressing intersectoral issues and accounting for the environment. Nexus issues and Nexus solutions are defined, respectively, as a problematic situation that affects more than one sector and an intervention that would benefit more than one sector (including environment at large). A **'Nexus Dialogue'** is the citizen engagement element of the Nexus approach. So far, Nexus has been applied in several river basins inside and outside Europe and has the potential to be applied in other EGD contexts.

LEARN MORE

- **Charter for Multilevel Governance in Europe**

- **Report on multi-level governance by the Council of Europe.**

> **Nexus issues and Nexus solutions are defined, respectively, as a problematic situation that affects more than one sector and an intervention that would benefit more than one sector.**
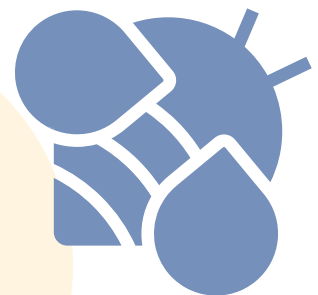
5.2 SEA: Strategic Environmental Assessment

KEY POINTS:

- **Strategic Environmental Assessments include public participation obligations.**

The most institutionalised procedure for the consideration of public participation in connection with the development of plans and programmes related to the environment is Strategic Environmental Assessment (SEA; see also above under 3.3). SEA is required under the 2003 Kyiv SEA Protocol to the Aarhus Convention and in the European Union by the SEA Directive.

Under the EGD, however, SEA is neither required nor appropriate for all consultative processes. This is especially true in broader policy-level discussions or in activities aimed at promoting sustainability or achieving social consensus around certain complex issues. SEA can still be an important tool in conjunction with the other consultative mechanisms (discussed below). It is also a means of translating the outcomes of other consultative mechanisms into a mandatory legal process where they can be taken into account to influence plans, programmes and policies.

An overview of the consultation requirements where SEA is legally mandated is set forth in the table below (adapted from the Commission guide on implementation of the SEA Directive).

STAGE OF SEA	CONSULTATION REQUIREMENTS IN DOMESTIC SITUATIONS	ADDITIONAL REQUIREMENTS IN TRANSBOUNDARY SITUATIONS
Determination if a plan or programme requires an SEA	Consultation of authorities (Art. 3(6)) Information made available to the public (Art. 3(7))	
Decision on scope and level of detail of the assessment	Consultation of authorities (Art. 5(4))	
Environmental report and draft plan or programme	Information made available to the public (Art. 6(1)) Consultation of authorities (Art. 6(2)) Consultation of the public concerned (Art. 6(2))	Consultation of authorities in the Member State likely to be affected (Art. 7(2)) Consultation of the public concerned in the Member State likely to be affected (Art. 7(2))
During preparation of plan or programme	Take account of environmental Report and opinions expressed under Art. 6 (Art. 8)	Take account of results of transboundary consultation (Art. 8)
Adopted plan or programme; statement according to Art. 9(1)(b), measures concerning monitoring	Information made available to authorities (Art. 9(1)) Information made available to the public (Art. 9(1))	Information made available to the consulted Member State (Art. 9(1))

Table 4 Consultation requirements under the SEA Directive

LEARN MORE

• **European Commission Guidance on SEAs**

• **Guidance on the UNECE SEA Protocol**

5.3 SDG consultations and similar processes

KEY POINTS:

- **SDG stakeholder and public discourse has existed in numerous formats since 1992, one of them being National Councils for Sustainable Development.**

The 1992 Rio Conference called on all countries to develop for the implementation of its outcome document Agenda 21 **National Sustainable Development Strategies (NSDS)** and introduce related governance, including stakeholder involvement. The EU adopted its first **EU Sustainable Development Strategy** in June 2001.

Many countries have National Sustainable Development Strategies and have established **National Councils for Sustainable Development** (as well as sub-national councils) to combine the two functions: a) (co-) developing and following-up the respective national SD strategy and b) facilitating stakeholder participation – in the first place via representation in the SD Council, but also beyond, through outreach to the whole spectrum of CSOs, the business world, academia, grassroot organisations, the interested and the wider public.[18]

This can be seen as a first wave of a 'whole of society' approach (see Figure 2 above). Hence, these SD Councils are typically multi-stakeholder bodies, while the other tradition for advisory councils, also common in the environment field, are such bodies with an academic or expert composition.

An overview of strategic processes for sustainable development, which nowadays includes SDG implementation, is provided by the European Sustainable Development Network (ESDN), in which the sustainable development officers of the national governments are engaged, together with associates from civil society or other walks of life.

In countries with SD strategies the involvement of organised civil society, other stakeholders, and the wider public has become the norm, and governance arrangements improved over time in sometimes several rounds of strategy revisions including the SDGs.

In countries with SD strategies the involvement of organised civil society, other stakeholders, and the wider public has become the norm.

5.4 Other methods including citizen assemblies and related experience in Europe

KEY POINTS:

- Citizen assemblies using a random representative sample of the population have shown promising results in recent years.

The global policy response to the challenges of sustainability acknowledges that public authorities alone cannot solve these complex problems and an all-of-society mobilisation is required. It is worth briefly mentioning that, when public authorities require a democratic check on their policies, a referendum is the closest mechanism to direct democracy. **The referendum** as a mechanism of direct democracy has a very long history. Referenda may be binding or non-binding. Examples include referenda for EU decisions (see 'Deliberative polling weekend' on joining the Euro in Denmark in 2000), the Irish abortion referendum, and Brexit.

So-called **co-decision processes** that directly involve citizens in decision-making processes also have a long tradition most notably in urban planning for example through planning cells. These are attempts for an enhanced way of participation that goes beyond more traditional forms of (legally required) consultations or stakeholder participation in strategic processes, most notably in sustainable development processes (see chapter 4.2).

The global policy response to the challenges of sustainability acknowledges that public authorities alone cannot solve these complex problems and an all-of-society mobilisation is required.

In the realm of sustainable development, the call for the involvement of the whole of society has not yet explored formats for direct democracy. Nevertheless, increasingly complex challenges, most notably the climate crisis, have generated quite a number of new examples of citizen deliberation at the EU and national level in recent years.

The REAL DEAL project has surveyed the literature related to these various forms of consultative mechanisms.

Twelve types of deliberative democratic processes were identified and are described in the table below.

FORMAT	DESCRIPTION
Planning cells (or: Citizens' panel, citizens' juries)	Random selection of citizens, to learn and deliberate on a topic and produce recommendations for decision-making; plus quest for consensus
Focus group (or: study group, community panel)	Semi-structured group discussion with invited persons with the goal of elicitation of different viewpoints.
Citizen assembly (or: citizen parliament)	Assembly of citizens based on random selection, get informed and deliberate about a topic, and provide recommendations on policy making and policy.
Participatory modelling	Co-creation process engaging stakeholders in bringing in their knowledge into the development of "formalised and shared representation(s) of reality."
21st Century Town Hall meeting	Public forum where citizens meet at different locations to deliberate simultaneously about a pre-defined issue in small groups; Voting.
Delphi method	Sample of different expert communities giving their opinion on the future development of a relevant topic, calibration of consensus and dissent.
Public participation network	Network of local authorities and community groups where local authorities can profit from community and voluntary expertise and civil society members can have their voice heard and provide input into decision-making processes.
Roundtable (or: stakeholder panel, negotiated rulemaking, mediation, arbitration)	Assembly of stakeholders, equal powers at the table, consensus or consensus on dissent.
Stakeholder Salons	Experts with different backgrounds, experiences and viewpoints enter into creative exchanges and debates about a specific socially relevant topic in a relaxed atmosphere.
Analytic deliberative discourse (or: cooperative discourse)	Combination of an expert driven analytic part and a deliberative process.
Public-expert hearing (or: public inquiry, panel discussion)	Experts as well as public officials representing the various perspectives as panellists, audience for raising questions could be representatives of stakeholders or the affected public.

Table 5 Types of deliberative democratic processes

CITIZENS' ASSEMBLIES

Citizens' assemblies are emerging as a popular format for reaching goals of citizen consultation. For example, the European Climate Pact makes specific mention of Climate Citizens' Assemblies. This format can be considered in connection with the OECD's first and second categories (informed citizen recommendations and citizen opinions). The OECD in 2020 spoke of "catching the deliberative wave", and, for the topic of climate change, a unique practice and network has been established – the Knowledge Network on Climate Assemblies (KNOCA). There are cases where citizens' assemblies have led to the introduction of progressive regulation at various levels, better governance and better public satisfaction with policymaking.

Citizens' assemblies received quite a bit of attention in connection with the Conference on the Future of Europe (CoFoE). A panel on 'European democracy/values and rights, rule of law, security' recommended that the EU hold periodic citizens' assemblies and that EU institutions be required to justify any cases in which they do not follow the proposals reached in the assemblies. The Commission President at the conclusion of CoFoE stated that such mechanisms should become a part of the way that EU policy is made.[19]

Most experiments and practice of citizen deliberation so far have taken place at local and subnational level, but the number of national level cases has increased (examples here).

PRINCIPLES OF CITIZENS' ASSEMBLIES

Across multiple organisations, key principles have been developed for establishing citizens' assemblies. The OECD guidance on the evaluation of deliberative democracy processes highlights the need for independent evaluation, the need to evaluate the process design, the experience of participants and the potential for impact of the process.

Involve, a UK based organisation, has postulated 10 core elements of a citizens' assembly. These are:

(1) Clear purpose

(2) Sufficient time

(3) Representative

(4) Inclusive

(5) Independent

(6) Open

(7) Generative learning

(8) Structured deliberation

(9) Collective decision-making

(10) Evaluated

For each of these elements, the NGO presents 'essential' and 'desirable' features. An example of essential features is that representativeness should be ensured through random stratified sampling based on demographic criteria. An example of desirable features in collective decision-making is that a "minority report" representing dissenting views should be produced.

SORTITION AND REPRESENTATION

Sortition is the selection of participants from a population by targeting persons based on their demographic to ensure a degree of representativeness and guarantee that particular perspectives are included in the process. There are multiple guides on using sortition to organise deliberative democracy mechanisms. The German "Allianz Vielfaeltige Demokratie" highlights the role that sortition plays in increasing the legitimacy of deliberative democracy processes. Sortition facilitates opportunities for engaging communities that are harder to reach or that tend to avoid participation. It eliminates self-selection of those with biases and facilitates a wider range of perspectives which are reflected in society.

The selection process in citizens' assemblies must be carefully managed. It is important to understand and limit the biases of the organising committees, particularly in countries with less transparency or democratic processes. Practices must ensure the inclusion of particular members of society such as women or people with a disability, and care must be taken to ensure that eligibility criteria are not discriminatory.

Assemblies must be attentive to the relative powers and entitlements of majoritarian voices and must give platforms to minority opinions to avoid further embedding marginalisation.

For all their proponents, citizens' assemblies also have critics. They have been criticised for the fact that outside of the members of the public selected for participation in the assemblies, the rest of the public is largely removed from these mechanisms. Another criticism has been that while recognising the optimism of citizens assemblies to progress the climate agenda, they distract from the more systemic overhaul that is required to realise the changes necessary for climate justice.

The Sortition Foundation has prepared simple guidelines for the organisation of citizens' assemblies, from the recruitment of participants to the decision-making process. It boils down the organisation of a citizens' assembly into five simple steps:

(1) Select a broadly representative group of people by lottery.

(2) Bring them together in an assembly, typically at small tables or groups, and let everyone have their say.

(3) Have those most knowledgeable about or affected by the issue address the assembly, bringing in diverse viewpoints and proposals.

(4) Get the participants to discuss, listen and talk to each other – and give reasons for their opinions.

(5) Decide on what is the best way forward.
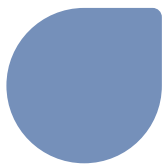
Practices must ensure the inclusion of particular members of society such as women or people with a disability, and care must be taken to ensure that eligibility criteria are not discriminatory.

Sortition does not always work in practical terms – the problem of 'no-shows' (people not showing up on the day of the deliberation) leads towards a constellation of participants that may not be that different from the self-selected participatory processes.

EXAMPLES OF NATIONAL LEVEL CITIZENS' ASSEMBLIES

Irish Citizens' Assembly

The Irish Citizens' Assembly was established in 2016 to engage the public on pre-determined issues which would influence legal and policy reform. Ninety-nine members of the public, broadly representative of Irish society based on census data, were selected and one independent chairperson was appointed. The Irish Citizens' Assembly succeeded in engaging the principles of openness, fairness, equality of voice, efficiency, respect and collegiality. The Assembly met at various intervals over a weekend period. Contributions from the public and experts were provided to the Assembly members to support their technical knowledge of oftentimes legalistic and scientific topics such as abortion and climate change. Compensation for costs incurred in participation was made available.

Spanish Citizens' Assembly

A climate specific citizens' assembly was established in Spain as a permanent body in 2021. The first process under this body was an assembly conducted between December 2022 and May 2023 comprised of 100 people repre-senting Spanish demographics. Participation was non-compulsory but participants were re-munerated a fixed fee for any costs incurred in their participation.

Austrian Climate Assembly

Between January and June 2022, a citizens' assembly was established in Austria to consider questions relating to transport, energy and realising carbon neutrality for the country by 2040. The Assembly met across 6 weekends and was comprised of 100 participants. An advisory board supported the Assembly and this consisted of Austrian Federal Economic Chamber, the Austrian Federation of Trade Unions, the Austrian Chamber of Agriculture and the Federation of Austrian Industries.

EXAMPLES OF OTHER MECHANISMS

Some examples of other mechanisms scrutinised in REAL DEAL publications include citizen panels and citizen chambers. Besides those mentioned, the major participatory methods with regard to the EU level include consultations by the Commission, and the European Citizens' Initiative (Article 11(4) TEU and Article 24 TFEU).

The **European Citizens' Initiative** allows EU citizens coming from seven different Member States to suggest new policy initiatives where the EU has competency, upon the collection of one million signatures in support.

Also at the EU level, the **Conference on the Future of Europe** (CoFoE) engaged four **Citizens' Panels** to deliberate on thematic areas. Each panel was comprised of 200 people and designed to reflect Europe's demographic diversity. Panel 3 related to climate change, environment and health.

The report and its 51 recommendations included those on undertaking reforestation measures across the EU, removal of unsustainable packaging, incentives for longer use of consumer products and promoting investment in production and use of green hydrogen as a fuel.

Another interesting mechanism, recently tested in Poland, are **Citizens' Chambers,** a third body in government comprised of those eligible to vote which has the power to pass bills. A chamber is established on a topic specific basis and members are randomly selected. The bills passed by the chamber are drafted by legal experts under guidance of the findings of the chamber. The bills do not require acceptance by the two other houses of government but can be verified for Constitutional compliance.

LEARN MORE

- **Centre for Blue Democracy's paper on a European Citizens Assembly**

- **Community of Practice of the JRC Competence Centre for Participatory and Deliberative Democracy https://cop-demos.jrc.ec.europa.eu/**

- **European University Institute: A 'Democratic Odyssey' for a European Citizens Assembly https://democraticodyssey.eui.eu/home (with a modular framework for all relevant aspects https://democraticodyssey.eui.eu/knowledge-hub)**

- **A practical guide on using random selection by the Bertelsmann Foundation**

- **A series of academic articles discussing sortition.**

REAL DEAL analysis and recommendations

Citizen participation and deliberation can be further institutionalised to complement and strengthen representative democracy and existing forms of organised dialogue at the European and Member State levels. This section explains how they can be harnessed and gives recommendations for doing so.

REAL DEAL CRITERIA FOR MEANINGFUL CITIZEN ENGAGEMENT

The REAL DEAL project has established five groups of high-level criteria with 16 sub-criteria for meaningful citizen participation and deliberation in the EGD. These criteria serve as the background for the recommendations found here in the Handbook. They are presented as follows:

a. Be aware of power imbalances

(1) Policymakers should not lose sight of examining who benefits most from the policy, give attention to current and historical power asymmetries, and empower the disempowered.

(2) Legislators and policymakers need to consider inequalities (such as racialised group, gender, and class) in the design of the legal framework and deliberative and participative tools.

(3) Civil society in the Global North must reflect on its relationship with civil society in the Global South and build movements based on solidarity.

(4) Alternative spaces that address power imbalances should be created to foster more equal participation from structurally excluded groups.

b. Promoting and ensuring inclusiveness

(4) While policymakers often need to find a compromise about what citizens deem acceptable, sometimes they need to make difficult decisions to achieve environmental objectives.

(5) Citizens should not be left out based on the false assumption that they are unable to reason and debate as strongly as others. Group deliberation should not be the only form of participation.

(6) While being pragmatic about participation and deliberation on environmental policy is often effective, it is fundamental that the values of citizens are not lost along the way.

(7) The participation of local and indigenous groups - in particular women - within the scientific community should be promoted (their participation is often hindered by structural barriers).

c. Work with and protect nature

(8) Human beings should not view ourselves as the only thing of moral considerability. The needs of other species and the environment should be recognised within environmental policy.

(9) Non-human organisms, species, and the environment cannot voice their concerns politically, so human citizens need to represent them within a policy that impacts them.

d. Collaborating with bottom-up activism and cultivating environmental citizenship

(10) Policymakers should incorporate the views of environmentalists in environmental policy.

(11) Bottom-up climate activism initiatives should contribute to political dialogue.

(12) Institutions like the United Nations and the European Union should consult with grassroots groups and promote their full participation in decisions that affect their environment.

(13) Decision-makers need to create the conditions to foster environmental citizenship and to improve the environmental awareness of citizens.

e. Transitioning the economic model to a green economy

(14) Transitions are not only driven by politics and the market. Civic and cultural mobilisation should become the main advancing agents of change.

Societal groups could create new institutional forms, or new lay-expert modes of, engagement to build new design ecologies.

(15) The role of the individual citizen needs to be extended beyond that of a consumer of the environment, and they need to be involved in active participation based on collective action.

(16) A conceptualisation of well-being that moves away from the current economic focus on growth and instead centres care for people and the planet should be promoted.

REAL DEAL OUTCOME AND PROCESS CRITERIA

The REAL DEAL project, furthermore, carried out a literature review which collected a set of main outcome and process criteria which can be helpful guides when assessing or designing citizen engagement processes.

OUTCOMES

Effects on policy/government

1	Citizen engagement should help to legitimise governments
2	Citizen engagement should have effects on political or technical decision making
3	Citizen engagement should lead to more public support for policy/government

Effects on participants

4	Citizen participation should lead to more agreement (or consensus) between citizens about policy decisions
5	Citizen engagement should lead to more mutual understanding between people who have different opinions or who belong to different interest groups
6	Citizen engagement should lead to informed and deliberative citizenry
7	Citizen engagement should empower citizens

Effects on environment

8	Citizen engagement should have effects on sustainability outcomes (and/or help participants to consider the interests of non-human agents)

Table 6 Outcome criteria

PROCESS

1	Any citizen participation process should respect normative principles (such as equality, equity, fairness, transparency), which are key to democracy
2	The selection of individuals that will engage in a participation process (the articipants) should be representative of the population affected by the topic under consideration
3	Citizen participation should be inclusive: everyone should have the opportunity and ability to equally contribute to the process.
4	Citizen participation should contribute to realising meaningful deliberation
5	Goal of the process should be clearly defined & decision process should be structured (and citizens should have a role in that)
6	Citizen participation should be coupled to policy from the beginning onward/should be integrated into policy
7	Citizen participation strategies should take context into account and accept that there may be contingency
8	Citizen participation procedures should be cost-effective

Table 7 Process criteria

The literature review further identified inclusion and closure as meta-objectives for consultative forms of citizen engagement.

STRUCTURING RECOMMENDATIONS

In this final chapter, our concrete recommendations are aimed at further institutionalising citizen engagement in two main areas: **strengthening the existing legal and institutional framework for participation and consultation** and **encouraging the incorporation of state of the art in deliberative and consultative citizen engagement**.

The first area has two parts. One, the Aarhus framework is confirmed and validated through practice, yet there are still persistent issues in implementation. Two, attention should be paid to the relationship between innovative consultative mechanisms and participatory rights in a legal sense.

That is, the lessons learned from experience with innovative consultative mechanisms may point to how legal and institutional norms should be developed and fashioned. Examples of lessons learned can relate to methodologies for citizen engagement, representativeness and inclusiveness, conflict resolution and establishment of complex procedures, among other matters.

Not all goals related to citizen engagement with the EGD can be achieved through legal and institutional frameworks. This is why, in the second area, consideration should be given to the development of practical norms and principles that will address the potential risks and problems associated with consultative mechanisms. The reader should keep in mind, however, that recommendations in this area are subject to revision; although the number of cases of innovative consultative mechanisms is rising, there is still little empirical data in this area.
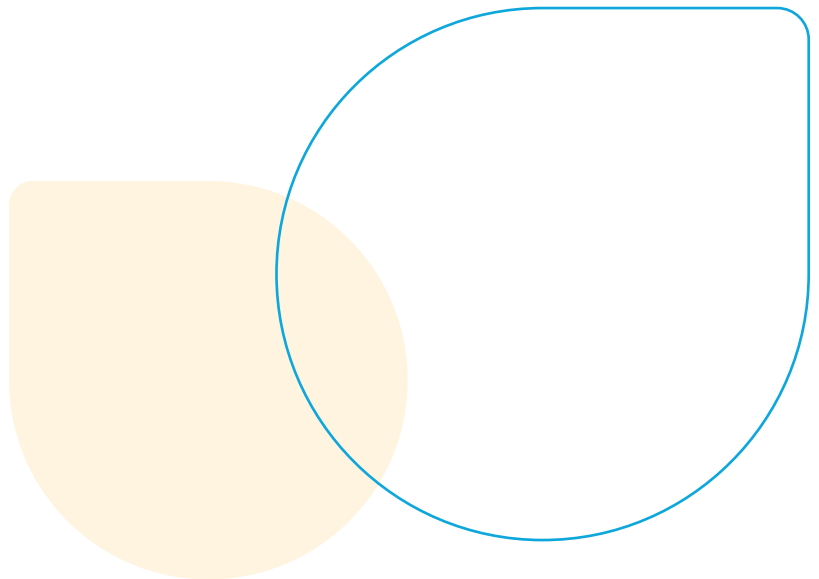
6.1 Improving implementation of environmental governance standards

While much attention is being aimed at consultative mechanisms, **the refinement and upholding of the existing legal and institutional standards in the area of public participation are equally important as a complement to and foundation for deliberative democracy.**

The rights-based approach is perfectly suited to ensuring transparency and works effectively in decision-making that is closest to the people affected and concerned. There is now such a substantial body of practice in mechanisms such as EIA and integrated permitting that the framework of the three pillars of the Aarhus Convention – access to information, public participation, and access to justice – is validated repeatedly. However, some EU and neighbouring countries experience continued gaps in implementation of these standards. The Aarhus Convention Compliance Committee's findings still hold the EU in ongoing non-compliance with the Convention.

In the area of access to justice, further analysis should be conducted concerning the adequacy of existing institutional arrangements in the EU judiciary system, and in particular further consideration should be given to the examination of examples of specialised environmental courts around the world, with a view towards the possible establishment of a European Environmental Chamber, taking note of the fact that the last reform of the CJEU kept open the possibility of specialised courts in the EU.

Across the EU, as identified by the REAL DEAL country profiles, there are big national differences in terms of implementation of the legal minimum standards and practical application of citizen engagement. In quite a few countries, practices are well advanced, and consultation is relatively sophisticated. However, in about half the countries studied, certain kinds of issues repeatedly crop up as being obstacles to participation, including:

(1) The lack of capacity for the implementation of the Aarhus Convention at all levels of government, especially local ones, combined with inefficient institutional structures.

(2) Lack of cooperation between authorities, and problems in coordination of activities between competent authorities and organisations, complicated by overlapping and poorly defined competencies and jurisdictions.

(3) Insufficient training of civil servants and administrative staff.

(4) Lack of technical equipment necessary for adequate functioning of competent authorities.

(5) Chronic understaffing in certain critical authorities.

(6) Low participatory literacy on the part of stakeholder and the public.

(7) Poor capacities of CSOs, especially in maintaining public profiles and communications with the public.

(8) Insufficient cooperation among NGOs.

(9) Weak links between NGOs across borders and inability to coalesce on the European level.

Addressing structural disparities (discussed further below) is also important in regard to participatory rights. Unequal access to legal redress undermines legitimacy and deters participation.

Some of these capacity building issues are addressed through **the Aarhus Convention Maastricht Recommendations**. The implementation of the Maastricht Recommendations in EU countries should be further supported.

Another important mechanism for enhancing capacities across the board is to ensure that participatory forms, format, methods and tools are taught in schools and are also included in programmes for lifelong learning.
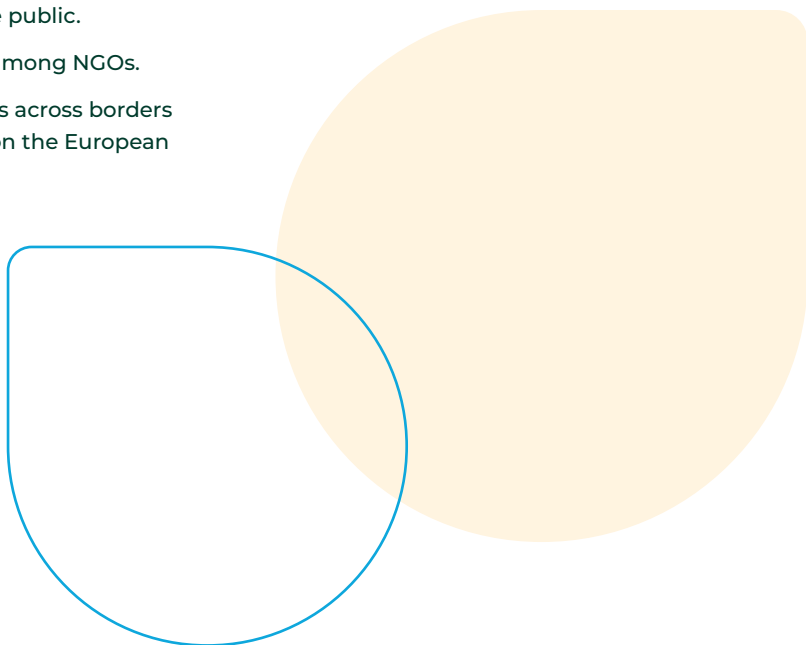
6.2 Institutionalising consultative mechanisms

The EGD presents a unique opportunity for improving citizen engagement.

On the EU level, institutionalisation of consultative mechanisms faces special obstacles. For example, there are no true Europe-wide political parties that would foster the development of a cohesive, deliberative 'EU public.' Similarly, the European media space is not conducive to the formation of an EU public, but rather to a family of Member State-based publics. Discussions have taken place about the institutionalisation of a kind of **permanent or semi-permanent series of Citizens' Panels adjunct to the existing EU institutions**. The European Citizen Panels represent a first step in that direction.

The EGD presents a unique opportunity for improving citizen engagement. In considering the institutionalisation of citizen consultation mechanisms at the EU level, some of the questions that commonly arise are answered by the EGD itself. For example, the scope and purpose of the deliberative format would be the scope and purpose of the EGD. The size and duration of the EGD, moreover, would help to determine the contours and the duration of one or more deliberative bodies, and might influence a more permanent body. Practice and trial-and-error would determine where and when in various policy cycles such a body should get involved. Other issues to be determined, however, would include the authority of the deliberative body, especially in conjunction with the powers of the existing EU institutions.

For example, would the body examine and criticise the actions of the EU institutions, or could it also help in agenda-setting? There are also a range of issues in connection with the composition of such bodies – not only representativeness, but also whether deliberations would include public authorities, parliamentarians, etc., and if so, at what stages of its proceedings.

6.3 Safeguards for possible risks/ problems of consultative mechanisms

Consultative mechanisms face many possible, often interconnected risks. Organisers of participatory processes must be cognisant of such risks. Below we present several areas which should be considered carefully when planning citizen engagement processes to ensure the risks are minimised.

DEMOGRAPHIC REPRESENTATION

Studies have shown that the climate crisis affects different members of our societies in different ways. How people contribute to, are prepared to cope with, and experience climate change will vary based on their gender, race, age, sexuality, and socio-economic status, among other factors. The overlapping of several social and political identities must also be taken into account by applying an intersectionality lens. The REAL DEAL has developed a Gender Glossary which can support this approach. It has been posited that the status quo of 'pale, male and stale' in governance structures is damaging trust in public institutions. It is therefore necessary that conscious effort be made to remove the socially constructed barriers to

the engagement of marginalised groups in participatory democratic processes. Inclusion of all groups must be considered at the planning stages, never as an afterthought. All stages of planning and implementation, from recruitment to evaluation, must recognise and counter barriers to participation.

Where selection and recruitment processes are random or anonymous, they must be complemented with proportional representation of the society being served.

Time and resource constraints prevent people with caring commitments or those with inflexible work situations where the loss of income would be prohibitive. These are disproportionately women in all their diversity. To counter these issues, participation should be scheduled as flexibly as possible and remunerated adequately, including coverage of travel costs. On-site childminding or funding to cover caring costs or loss of income should be made available. Limitations on numbers of participants need to take into account whether persons with disabilities require a personal attendant to be able to participate effectively.

Similarly, organisers should be alert to politics within representative groups and impose their

own standards about what representative groups must adhere to in order to be included. An example of this is the concept of 'Disabled People's Organisations' as opposed to 'disability service providers': Disabled People's Organisations are comprised of a majority of disabled people in leadership roles, whereas disability services are typically comprised of health and social care professionals and are not appropriate to represent disabled people.

ACCESSIBILITY

Heavily connected to the addressing of demographic exclusion, accessibility of participatory processes must be carefully constructed. Consider how the process will select and recruit participants. Merely hosting a public event does not mean all members of the public will be able to attend. Awareness about the process will depend on the advertising and call for participants – utilise local and national media (print, radio, social media), alert local community and sports clubs, identify local government structures who can promote the event and factor in timeliness. Many people will need adequate notice to be able to attend due to the need to rearrange obligations. Online and offline forms of communication can attract different kinds of participants.

The overlapping of several social and political identities must also be taken into account by applying an intersectionality lens.

The location and timing of the consultation process will also dictate who is included. Should the event be during weekends, at daytime or evenings? Is the venue physically accessible for all? Is the venue served by public transport at the time of beginning and ending of the event? Are there appropriate parking options? Are there facilities such as accessible bathrooms and family changing rooms? If the event is online, will all social groups have access to the technology to be able to participate? Accessibility issues must be balanced with skillsets as well as generational preferences and facility.

The OECD has highlighted the limitations of technology in facilitating public consultation, it should be considered a tool rather than an end. Have comfort breaks and refreshments been factored in? Sign language interpretation and language translation services should be offered as a standard, rather than only being provided on demand, which can be a deterrent.

All issues of legal, economic, or scientific relevance must be presented in a manner that is understandable to lay people. Prior knowledge should not be assumed on any topic. Where experts are addressing the participants, they should be required to adjust their language from academic to accessible and to make their presentations available afterwards for further consideration. Representative groups, such as intellectual disability services, should be consulted to ensure language meets a basic standard of accessibility through Easy-to-Read documentation.[20]

SAFE SPACES

Individuals and groups may be hesitant to identify themselves as a minority group or to participate in spaces where individuals and groups opposing their beliefs, lifestyles and equality rights will be present. This might include members of the LGBTQI+ community or of ethnic minorities who have experienced homophobia, transphobia and racism in public spaces previously, or even civil society organisations who have faced discrimination in the past. Where public authorities have taken stances against certain groups, even more has to be done to establish the possibility of dialogue. The content of discussion might also pose dangers for some groups; minorities such as asylum seekers and refugees, for instance, are often scapegoated for poor social economic conditions. Consultations must ensure a safe space for discussion is established. Ground rules for engagement can alleviate reluctance to contribute only to an extent. Positive and proactive facilitation is vital to prevent discussions being over-borne by one viewpoint or a discriminatory perspective.

The phrasing of questions or discussion topics must be as neutral as possible. The role of facilitation and the importance of establishing ground rules and rules of procedure cannot be overstated. Experienced facilitators should be adept at tackling issues that arise where power imbalances play a role.

EXPERIENCE OF INSTITUTIONS/POLICY MAKERS

The institution or organisation seeking public consultation must be willing and prepared to ensure meaningful consultation and to incorporate feedback into future initiatives. Capacity building should be foreseen for consultation and for deliberation processes.[21] The aims and objectives of the consultation process must be clear. Sufficient budget and human resources should be allocated from the outset. Adequate time should be allowed for advertising and recruitment of participants and organisation of the event itself. The institution should be sensitive to power imbalances between itself as organiser and the public and between the participants themselves. Knowledge acquired about accessibility and inclusion processes should be shared across the institution for future uses. Independent and experienced facilitators should be engaged. Anonymity must be ensured for participants and appropriate data protection measures must be implemented. Organisers must seek feedback about their performance from an inclusion and accessibility perspective. Participants must be made aware of how their contributions will be used and how they can gauge the impact their contribution has had on future deliberations or a final initiative. Commitment to improvements and adjusting approaches based on feedback will increase confidence in the consultation process.

Consultative mechanisms which fail to recognise the barriers above will continue to exclude the perspectives of members of society most adversely affected by the Triple Planetary Crisis.
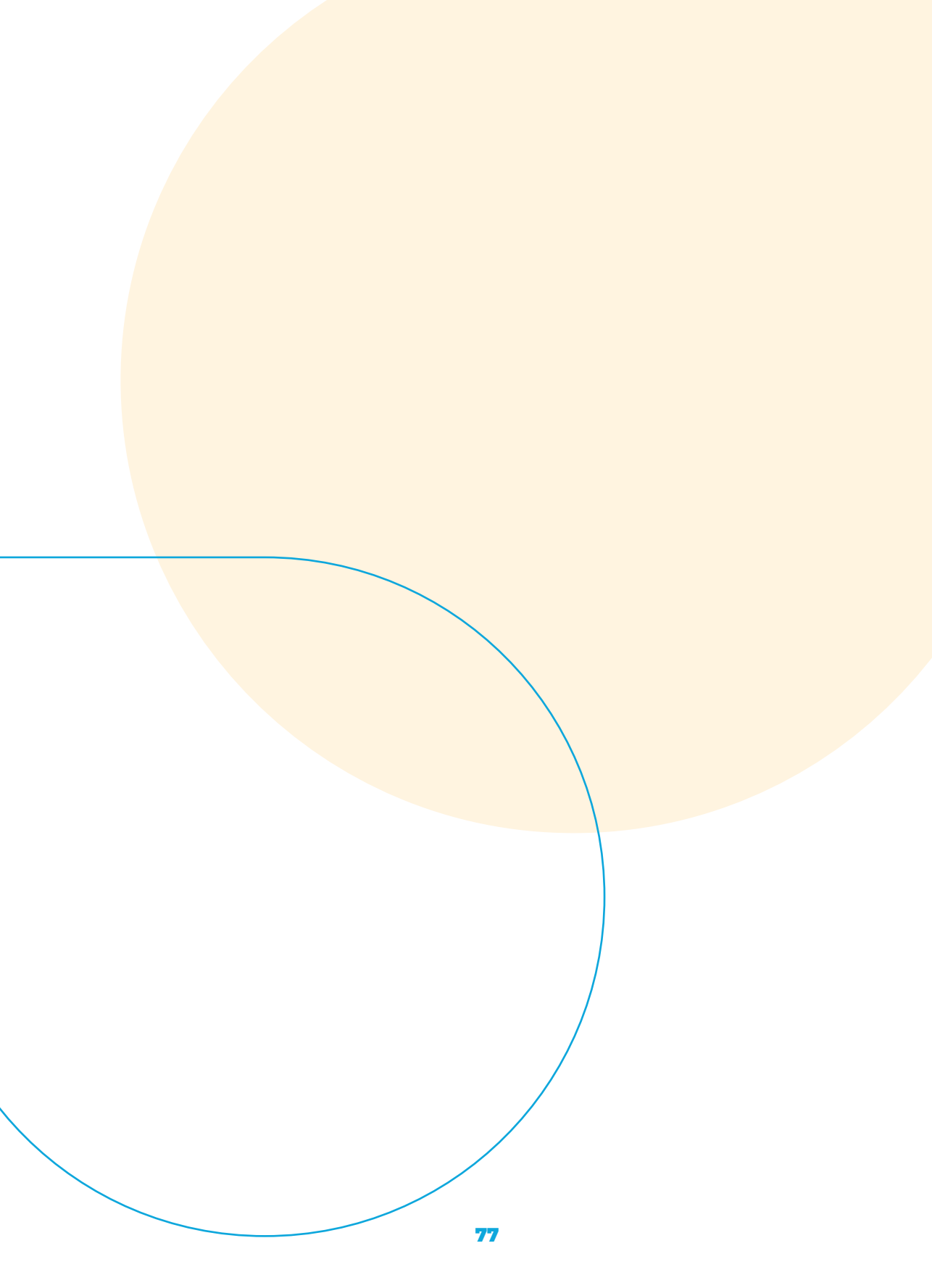
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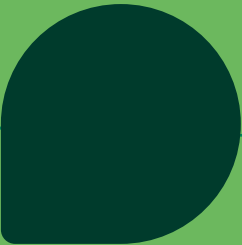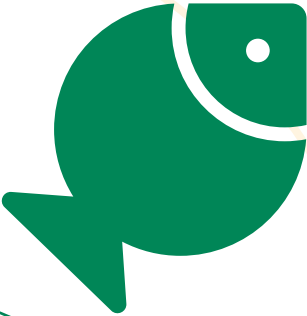
1 The Sendai Framework was endorsed by the UN General Assembly following the 2015 Third UN World Conference on Disaster Risk Reduction, and advocates for the substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries. United Nations Office for Disaster and Risk Reduction, https://www.undrr.org/implementing-sendai-framework/what-sendai-framework

2 The Addis Ababa Action Agenda was adopted at the Third International Conference on Financing for Development and subsequently endorsed by the UN General Assembly in 2015. The Action Agenda establishes a strong foundation to support the implementation of the 2030 Agenda for Sustainable Development with over 100 concrete measures that draw upon all sources of finance, technology, innovation, trade, debt and data, in order to support achievement of the Sustainable Development Goals. United Nations, Sustainable Development Goals Knowledge Platform, https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=2051&menu=35

3 Commission Communication (COM(2019) 650 final), Annual Sustainable Growth Strategy 2020, p.1

4 Commission Communication (COM (2019) 640 final): The European Green Deal, p. 3.

5 Niestroy, I. (2021). SDGs as a compass for pathways to sustainability, and framework for cooperation of Civil Society Organisations. Presentation at the Dialogue for Future 2021- Networking conference of the program 'Expanding Cooperation with Civil Society in the Eastern Partnership Countries and Russia' https://civilsocietycooperation.net/; after Niestroy et al. 2019 (see previous footnote).

6 Instead of developing a Directive on the subject, the Commission decided that **an interpretative communication on access to justice in environmental matters** would be the most appropriate means to address the problem. The Commission Notice (2017/C 275/01) clarifies how individuals and associations can challenge the decisions, acts and omissions of public authorities related to the relevant environmental law before the Member States.

7 E.g., Jessop, B. 2011. Metagovernance. In: Bevir, M. (ed.) The Sage Handbook of Governance. London: Sage. Caviedes, Alexander, and Willem Maas. 2016. 'Sixty-Five Years of European Governance'. Journal of contemporary European research 12(1): 395–405; Meuleman, 2018; Tömmel, Ingeborg. 2016. 'EU Governance of Governance: Political Steering in a Non-Hierarchical Multilevel System'. Journal of Contemporary European Research 12(1); Roe, M. (2020). Metagovernance. In: Governance, Policy and Juxtaposition. Springer, Cham. A different school of political scientists defines governance as only network governance, and therefore metagovernance as the coordination or steering of network governance. See e.g., Torfing, J. (2016). Metagovernance. In C. Ansell & J. Torfing (Eds.), Handbook on Theories of Governance (pp. 525–537). Edward Elgar Publishing.

8 B. Jessop, Multi-level Governance and Multi-level Metagovernance: Changes in the European Union as Integral Moments in the Transformation and Reorientation of Contemporary Statehood (2004)

9 Niestroy et al. 2019.

10 UNCEPA is a subsidiary body of UN ECOSOC with the task to advise the UN and its member states on public administration and governance for the SDGs.

11 Citizen science makes it easier for Member States to get useful scientific and other information from the public (form of citizen engagement). Bio Innovation Service, "Citizen science for environmental policy: Development of an EU-wide inventory and analysis of selected practices", report for European Commission, November 2018

12 Extraterritoriality and the Impact of EU Regulatory Authority: Environmental Protection as Soft Power, Jamile Bergamaschine Mata Diz and Hélio Eduardo de Paiva Araújo In N. Cunha Rodrigues (ed.), Extraterritoriality of EU Economic Law, European Union and its Neighbours in a Globalized World 4, https://doi.org/10.1007/978-3-030-82291-0_15..

13 Regulation (EU) 2021/1529 of the European Parliament and of the Council, September 15, 2021

14 Keller, M. EU Environmental Impact Assessment: frequently asked questions by domestic legal practitioners. ERA Forum 19, 551–560 (2019). https://doi.org/10.1007/s12027-018-0542-3

15 Article 6, Aarhus Convention

16 Keller, M. EU Environmental Impact Assessment: frequently asked questions by domestic legal practitioners. ERA Forum 19, 551–560 (2019). https://doi.org/10.1007/s12027-018-0542-3

17 Morrow, K (2019). The ECHR, Environment Based Human Rights Claims and the Search for Standards. In S. Turner, D. Shelton, J. Razzaque, O. McIntrye, & J. May (eds.) Environmental Rights: The Development of Standards (pp. 41-59).Cambridge: Cambridge University Press.

18 Niestroy (2005): Sustaining Sustainability – a benchmark study on national strategies towards sustainable development and the impact of councils in nine EU member states. EEAC series, Background study No.2. Lemma, Utrecht. 308p; Niestroy (2007): Stimulating informed debate – Sustainable Development Councils in EU Member States. A compilation of tasks, capacities, and best practice. Study commissioned by the German Council for Sustainable Development (RNE); EEAC network (2019): Serving the science, society, policy interface for a better world. An overview of Advisory Councils on the Environment and for Sustainable Development in Europe.

19 See also Commission Communication on CoFoE, "Putting Vision into Concrete Action," COM(2022) 404 final, Brussels, 17.06.2022

20 The UK's National Health Service supports a publicly available Easy to Read preparation resource, https://www.england.nhs.uk/wp-content/uploads/2018/06/make-it-easy-easy-read.pdf and EasyontheI, https://www.learningdisabilityservice-leeds.nhs.uk/easy-on-the-i/

21 For example, by the Technical Support Instrument (TSI) of the European Commission (DG Reform)

Notes

Notes

Find the full report with active hyperlinks under:
https://www.realdeal.eu/handbook

REAL DEAL

RESHAPING CITIZENS'
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