



# **Public Participation in the Water Framework Directive Common Implementation Strategy Pilot River Basin testing exercise and in the implementation of the Water Framework Directive: An environmental NGO perspective**

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with contributions from WWF offices and other European environmental NGOs

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## **1 Rationale**

WWF is an organisation with a long tradition in applying participatory processes to environmental management issues, and considers that public participation is key to ensure a credible definition and an efficient implementation of any environmental policy.

A participatory approach is needed to ensure that management proposals are accepted, trusted and understood by stakeholders, who, in turn, can become key partners in the implementation of policies and measures based on a wide consensus. This is particularly true for the implementation of the Water Framework Directive (WFD).

WWF has been engaged in the development of the WFD since its earlier definition stages, through its negotiation and adoption. It has further participated, since the beginning, in the WFD Common Implementation Strategy (WFD CIS) to ensure that a common understanding on the needs for WFD implementation is reached and that good guidance is provided to assist the achievement of the WFD's objectives on the ground.

As part of its WFD-related activities, WWF is a member of the Pilot River Basin (PRB) Steering Committee. Since the beginning of the PRB testing exercise, WWF has voluntarily monitored the level of involvement of stakeholders (in this case environmental NGOs) in the process and informally reported back on this issue to the PRB Steering Committee as well as to the WFD CIS Strategic Co-ordination Group. This follow-up has shown gaps and flaws in the implementation of public participation practices and processes, even in PRBs that committed to test the WFD CIS "Public Participation" Guidance Document.

The lack of involvement of stakeholders was also recognised in the Outcome Report of phase 1a of the PRB exercise ("Outcome Report on PRB Testing on the Article 5-related Guidance Documents", April 2004), where the need to apply a participatory approach in the 'real' implementation of the Article 5 analysis was stressed.

In parallel to the PRB activities, the day-to-day work of WWF and other environmental NGOs (e-NGOs) actively involved in the 'real' implementation of the WFD in many EU Member States has often detected quite inadequate public participation practices.

As a contribution to the PRBs exercise and to the success of WFD implementation, WWF decided to carry out a survey to evaluate current participatory practices in the PRB testing exercise and in the 'real'

WFD implementation so far. This has been regarding the involvement of e-NGOs only, although it can be most probably extrapolated to other legitimate stakeholders. The reference for this assessment has been the actions suggested in the WFD CIS Guidance Document on “Public Participation”, the content of which should be used and capitalised by all the Member States that have spent time and resources on its elaboration.

The objective of WWF’s survey was not only to give a ‘snapshot’ of participation of e-NGOs in the PRB testing exercise for the WFD Article 5 analyses and in national WFD implementation, but also to give some hints on which are the most useful and most needed participatory tools in the opinion of several e-NGOs across Europe.

The analyses required under Article 5 of the WFD are the first important assessment of the situation of surface and ground waters in Europe. They include the characterisation of the river basin districts, the analysis of pressures and impacts from human activity as well as the economic analysis of water uses. In addition, the Article 5 analyses make a first screening assessment of whether or not the objectives of the Directive are met or likely to be met in 2015. This gives an indication of what further steps need to be taken and, most importantly, what intensity of monitoring is required from 2006 onwards in order to confirm the results of the analysis and have a basis for planning of measures. **Therefore, we can conclude that the Article 5 analyses are the basis for the whole WFD implementation.**

The content of this paper is based on a survey of WWF offices and other European environmental NGOs<sup>1</sup> involved in the PRB testing exercise and/or in the national implementation of the WFD. The questionnaires were completed in May 2004 and the answers received are based on the respondents’ best knowledge at that time.

Answers on the PRB testing were received from the following **11 Pilot River Basins**: Scheldt (Flemish part), Odense (DK), Oulujoki (Finland), Pinios (Greece), Shannon (Ireland), Tevere (Italy), Suldalsvassdraget (Norway), Guadiana (Portugal), Somos (Hungarian part), Júcar (Spain), and Ribble (UK).

Answers on public participation practices in the national implementation of the WFD were received from **15 countries**: B-Flanders (B-FI), Greece (HEL), Portugal (PT), Italy (I), Finland (FI), France (F), Spain (ES), Denmark (DK), Hungary (HUN), Ireland (EI), Norway<sup>2</sup> (NO), Poland (PL), Slovakia (SK), Northern Ireland (UK-N Irl) and England & Wales (UK-Engl/Wales).

## 2 Overall situation

Since the start of the PRBs exercise, WWF has been periodically – every 3/4 months – monitoring the public participation in the PRBs mentioned above. This follow-up has shown that, in general, there has been a poor level of involvement of e- NGOs and that, although the situation is improving, it is doing so very slowly.

The table below shows an up-date referring to the situation in the PRBs in May 2004, while the following pages report on the most significant results of the survey about the use and usefulness of a number of participatory tools in the PRBs and in Member States.

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<sup>1</sup> VOICE (Ireland), Bond Beter Leefmilieu Vlaanderen vzw (B-Flanders), LPN (Portugal), Daphne (Slovakia), Tisza Club (Hungary), Danish Union for the Conservation of Nature (Denmark).

<sup>2</sup> Norway is obliged to transpose the WFD only after it is included in the European Economic Area Agreement, the signature of which is expected by the end of 2004. Nevertheless, Norway is an active member of the European WFD Common Implementation Strategy and has stated its commitment to implement the Directive in accordance with the WFD schedule.

Following the definition of the “Public Participation” Guidance Document, participatory practices have been assessed distinguishing them as information, public consultation and active involvement tools.

PRB	Information	Consultation	Active involvement
Scheldt (BE, FR, NL)	😊	😊	😐/😞
Odense (DK)	😊	😊	😊
Oulujoki (FI)	😊	😐	😐/😞
Pinios (HEL)	😐/😞	😐/😞	😞
Shannon (EI)	😐	😞	😞
Cecina (I)	😐	😞	😞
Tevere (I)	😐	😊	😞
Suldalsvassdraget (NO)	😐	😞	😞
Guadiana (PT)	😐/😞	😞	😞
Somos (HUN, RO)	😊	😐	😐/😞
Júcar (ES)	😐	😐	😞
Ribble (UK)	😊	😊	😊

Table 1. Level of involvement of e-NGOs in the PRB testing exercise in May 2004. No updated information could be gathered for the following PRBs: Moselle-Sarre (F, LUX, DE), Marne (F), Neisse (DE, PL, CZR). Key: 😊= Good; 😐= Limited; 😐/😞= Very Limited; 😞= None.

## 2.1 Information

Using the “Public Participation” Guidance Document as a reference, the following information tools were considered for the purpose of this survey:

- Brochures
- Fact sheets
- Presentations at conferences
- Exhibitions
- Internet site
- Intranet site
- Local/national guidance documents
- Access to background documents
- Personal or by phone interviews
- Corridor/informal chats
- Informative e-mails

### 2.1.1 *In the PRB exercise...*

On average, in the surveyed PRBs there is a fair use of tools to inform e-NGOs about the PRB work.

Among the PRBs, the Ribble river basin makes the highest use of information tools, followed by the Odense, the Scheldt, the Oulujoki and the Tevere river basins, while the Guadiana and the Suldalsvassdraget PRBs are particularly non-communicative with e-NGOs. It is important to notice, however, that the number of instruments and opportunities is not a guarantee of good quality and

usefulness of these tools. For example, information activities in the Scheldt PRB were judged to be sometimes poorly focused, which reduced their real usefulness for e-NGOs.

The survey showed that the PRB leaders use mostly presentations at conferences and internet sites to inform e-NGOs. All the surveyed PRBs have an internet site – specially dedicated or as part of a general web page – except for the Somos and Guadiana PRBs.

When asked to judge the real usefulness of existing instruments, on average respondents identified **presentations at conferences** and **informal chats** as the most effective in providing information about the PRB work.

As for the potential usefulness of information practices – when properly designed and applied – most of the respondents selected the **access to background documents** as the most useful one. This practice is common in the Scheldt, Odense, Oulujoki, Somos and Tevere PRBs, while so far there has been no access to these documents in the Júcar, Shannon and Pinios PRBs (the latter mainly due to the slow progress of the testing works).

### 2.1.2 ...And in the ‘real’ WFD implementation at a national level

The choice of tools to inform e-NGOs in the national WFD implementation is similar to the one described for the PRBs. The most used instruments are internet sites, presentations at conferences and access to background documents. The less used ones are intranet, fact sheets and exhibitions.

On average, the tools deemed most useful are **internet sites** and **access to background documents**. The latter was found as poor or non-existent in Greece, Ireland, Italy, Poland, Slovakia and UK-Northern Ireland.

When considering the average use of all the information instruments in each country, the survey concluded that UK-England & Wales, B-Flanders and France are those that are using more means to inform stakeholders. A fair use is done in Denmark, Finland, Greece, Hungary; while the information practices identified by the WFD CIS “Public Participation” Guidance document are poorly used in Ireland, Italy, Norway, Poland, Portugal, Slovakia, Spain and UK-Northern Ireland.

Use of information tools		
Good 😊	Fair 😐	Poor 😞
B-Flanders France UK-Engl&Wales	Denmark Finland Greece Hungary	Ireland Italy Norway Poland Portugal Slovakia Spain UK-N. Ireland

Table 2. Level of use of tools to inform e-NGOs in the framework of the current implementation of the WFD at a national level (regional for Belgium, England & Wales and Northern Ireland).

## 2.2 Consultation

The survey assessed the use and effectiveness of the following consultation tools:

- Request for written comments
- Request for oral comments
- Expert meetings<sup>3</sup>

Moreover, it was checked whether documents for oral consultation are delivered with sufficient time to prepare reasoned comments before meetings and whether there is any reimbursement or expenses covered when attending consultation meetings.

### 2.2.1 *In the PRB exercise...*

The survey concluded that, on average, public consultation in the context of the PRB exercise is poor.

Undoubtedly, the Ribble and the Odense are the PRBs where more consultation activities are organised (request for oral and written comments, holding of expert meetings...). These consultation opportunities were judged to be of good quality and useful to obtain opinions and contributions from e-NGOs.

In the Scheldt PRB, NGOs are consulted (upon NGO's request) on specific issues and documents and are allowed to attend expert meetings. Moreover, some isolated/one-off consultation initiatives have been also held so far in the Júcar, Oulujoki, Pinios, Somos and Tevere PRBs while in the Shannon, Suldalsvassdraget, and Guadiana PRBs, public consultation activities have been almost non-existent.

Consultation practices that were evaluated to be, potentially, the most useful ones are the **request for written comments** and the **involvement in experts meetings**. The former has a "high" use only in the Ribble and Odense PRBs and the latter only in the Ribble, the Scheldt and the Odense.

Documents are usually delivered with sufficient time before meetings only in the Ribble, the Odense, the Somos and the Júcar PRBs.

Reimbursements of meeting expenses or payments for time spent on consultation activities exist only in the Odense, the Scheldt and the Somos PRBs.

### 2.2.2 *...And in the 'real' WFD implementation at a national level*

On average, the use of public consultation tools in the surveyed countries is poor. B-Flanders, Spain and UK-England & Wales represent an exception to this since they offer a good number of opportunities for e-NGOs to express their point of view and give comments to documents. However, in Spain the quality and usefulness of these instruments was judged as being poor because they give e-NGOs very limited opportunity to influence on the decision-making processes: for example, the National Water Council composition is strongly dominated by representatives of the Public Administration, who have full control on the meetings' agenda and on the decisions taken in the forum.

As for the other countries, Denmark, Finland, Hungary and UK-Northern Ireland give a fair number of opportunities, while the use of consultation practices was judged as poor or very poor in Ireland, Italy, Norway<sup>4</sup>, Poland, Portugal, Slovakia. Greece which currently offers limited opportunities for real

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<sup>3</sup> Meetings for collection of comments/observations from experts on ideas or proposals.

<sup>4</sup> The Norwegian government has not yet appointed the ministry that will have the main responsibility for implementing the WFD in Norway. This unsettled situation makes the WFD implementation process unclear and hampers the information and active involvement of stakeholders.

consultation is expected to improve within the new approved legal framework that has not been in practice yet.

When assessing the real usefulness of the existing consultation opportunities, in Poland, Spain and Italy they were considered as poor – mainly because the Authorities are obliged by law to ask for comments, but, in most of the cases, they disregard them without any explanation -; in B-Flanders, Finland, Greece, Hungary and UK-Northern Ireland the usefulness of current consultation was judged as fair and in UK-England & Wales as good.

Only B-Flanders, Denmark, Spain and UK-England & Wales deliver the documentation for oral consultation with plenty of time before meetings.

Use of consultation tools		
<i>Good</i> ☺	<i>Fair</i> ☹	<i>Poor</i> ☹
B-Flanders Spain UK-Engl.&Wales	Denmark Finland Greece Hungary UK-N. Ireland	Ireland Italy Norway Poland Portugal Slovakia

Table 3. Level of use of tools to consult e-NGOs in the framework of the current implementation of the WFD at a national level (regional for Belgium, England & Wales and Northern Ireland).

### 2.3 Active involvement

The following instruments for active involvement were considered:

- Established communication mechanisms for a fluid exchange of data and information
- Discussion groups in the internet
- Establishment of a Public Participation Task Force including stakeholders
- Building of a common vision of future water management
- Steering Group meetings
- Bilateral meetings
- Advisory Group meetings<sup>5</sup>
- Workshops, meetings and seminars to generate solutions and define measures
- Feedback/justification given of how expert/public/stakeholder comments have been taken up in final decision

#### 2.3.1 In the PRB exercise...

Except for the Ribble and the Odense PRBs, mechanisms for active involvement of e-NGOs in the PRBs testing exercise are almost non-existent.

The Ribble PRB is using most of the above-mentioned tools and, undoubtedly, is an example to be followed for its level of active involvement of stakeholders. Up to now, the most useful instruments applied in the Ribble have been the establishment of a **Public Participation Task Force** including stakeholders and **bilateral meetings** between the authorities and the e-NGOs (and others) to exchange ideas and opinions.

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<sup>5</sup> Body that advises on a specific subject on request or out of their own initiative.

In the Odense, e-NGOs are involved in the testing exercise through several meetings and workshops, which enables a good collaboration with the County of Fyn, who is leading the process.

There are also some initiatives to foster active involvement of e-NGOs in the Scheldt and the Oulujoki river basins. An International Commission was created in the Scheldt PRB but, unfortunately, it has very limited decision-making powers. In the Oulujoki PRB some meetings of an Advisory Group where e-NGOs are involved have been organised. Italy plans to start a pilot project in a sub-basin of the Tevere river basin to involve local stakeholders but no active involvement has been carried out so far.

When asked about the potential usefulness of active involvement tools in the PRBs and at a national level, the respondents from e-NGOs have positively valued all the tools, except for discussion groups in the internet. The better valued tools are:

- **Building of a common vision** of future water management
- **Feed back/justification** given of how expert/public/stakeholder comments have been taken up in final decision
- **Workshops, meetings and seminars** to generate solutions and define measures
- **Established communication mechanisms** for a fluid exchange of data and information

### 2.3.2 ...And in the ‘real’ WFD implementation at a national level

So far, active involvement in the implementation of the WFD has been poor in all the surveyed countries, except for UK-England & Wales, where the Government is making several efforts to actively involve e-NGOs in the WFD implementation; and B-Flanders and Hungary where there are some activities to take into account the e-NGOs point of view.

The most used tool for active involvement are Advisory Group meetings (B-Flanders, Spain, Greece, Finland, Poland, Portugal, Slovakia and UK-England & Wales), which, on average, are considered to have a moderate usefulness.

Feed-back or justification on how expert or stakeholder contribution have been taken up in final decision is poor or non-existent, except for UK-England & Wales, where it was judged as ‘good’, and UK-Northern Ireland (fair).

Use of active involvement tools		
Good ☺	Fair ☹	Poor ☹
UK-Engl/Wales	B-Flanders Hungary UK-N.Ireland	Denmark Finland Greece Ireland Italy Norway <sup>6</sup> Poland Portugal Slovakia Spain

Table 4. Level of use of tools to actively involve e-NGOs in the current implementation of the WFD at a national level (regional for Belgium, England & Wales and Northern Ireland).

<sup>6</sup> The Norwegian government has not yet appointed the ministry that will have the main responsibility for implementing the WFD in Norway. This unsettled situation makes the WFD implementation process unclear and hampers the information and active involvement of stakeholders.

### 3 Conclusions and recommendations

In the Outcome Report of phase 1a of the PRB work (May 2004) on the Article 5 analyses, most European countries recognised that public participation in the PRB testing exercise has been poor. This has happened even in those PRBs that committed to test the WFD CIS “Public Participation” Guidance Document<sup>7</sup> because, in most of the cases, the testing was carried out without the real involvement of any e-NGOs (and probably no other stakeholders either). According to the Outcome Report, only two out of these nine PRBs had involved stakeholders as part of the testing exercise during phase 1a.

These facts are confirmed by the survey carried out by WWF, which concluded that public participation practices, as recommended by the WFD CIS Guidance Document on “Public Participation”, are poorly used in most of the PRBs, especially to consult and actively involve environmental NGOs.

In order to account for this deficiency, the Outcome Report of phase 1a of the PRB testing exercise states that *“considering the importance of the involvement of stakeholders for the success of the WFD implementation and considering that the testing exercise should help to gain expertise in relatively ‘new’ subjects like public participation, it is recommended that the involvement of stakeholders is tackled in the ‘real’ implementation of Article 5 and in the remaining part of the PRB exercise”*.

The ‘snapshot’ obtained from WWF’s survey on the public participation practices in the process of the real WFD implementation at a national level so far reveals that the level of public participation is also generally poor there. Hence, Member States will have to significantly increase efforts on public participation to put into practice the recommendation of the PRB Outcome Report.

The resulting picture shows that up until now neither PRBs nor Member States have fully applied the principles and recommendations of the WFD CIS “Public Participation” Guidance Document, though the Ribble Pilot comes closest to it. This is despite efforts for its elaboration in the last years, and the crucial role of public participation to ensure a successful implementation of the WFD on the ground. WWF stresses that the finding of this survey to e-NGOs, can most probably be extrapolated to other stakeholders.

The survey allowed the identification of some constraints that are hampering the application of a participatory approach both in the PRBs and in the ‘real’ WFD implementation:

- ***Lack of knowledge and expertise.*** The actual meaning of public participation and what needs to be done about it is still poorly understood, despite the existence of the WFD CIS “Public Participation” Guidance Document. In some PRBs, good will is hampered by lack of expertise to set-up and run an efficient public participation process. In particular, it is still necessary to stress that information is not consultation nor active involvement of stakeholders.
- ***Non-prioritisation of public participation by the competent authorities:*** Both in the PRBs and in the ‘real’ WFD implementation, competent authorities are catching up with WFD implementation deadlines. They prefer to concentrate their efforts in producing fast ‘results’ instead of getting to proper conclusions and outcomes by involving stakeholders, which is seen as requiring too much time and know-how, which they are not willing to ‘invest’. This is a mistake as results without stakeholders buy-in will not be achievable on the ground.

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<sup>7</sup> Cecina, Júcar, Moselle/Sarre, Odense, Oulujoki, Pinios, Ribble, Scheldt, Suldalsvassdraget, Tevere.

- **Lack of resources by e-NGOs.** Due to their very limited resources, e-NGOs have to prioritise the fields where they can work. Thus, if a PRB testing exercise has been seen as not working properly or has been too virtual or not resulting in direct decisions, some NGOs have been obliged to focus on other activities where their lobbying work is seen as more ‘effective’.

WWF considers that the involvement of stakeholders should have been a key ingredient of the WFD CIS PRB testing exercise and regrets that an opportunity was missed to gain expertise on public participation, under the theoretically favourable conditions of the Pilot River Basins. This is made worse by the fact that the testing was on WFD obligations regarding the Article 5 analyses, i.e. the basis for WFD implementation. Many States and pilot basins have therefore missed a golden opportunity to develop workable public participation techniques to ensure successful delivery of the WFD requirements.

Several PRBs justified lack of public participation on the basis that this was just a technical exercise with no political implications. This so-called “justification” is negated by the fact that some PRBs have tried harder than others on their public participation efforts - meaning that they clearly saw an “added value” - ; that some (few) e-NGOs have been supporting the current stages of the development of the extremely technical WFD intercalibration exercise; and that the WFD CIS paper currently called “Common understanding on the principles and communication of results of the first analysis under the Water Framework Directive” stresses that *“the involvement of stakeholders in the gathering and the communication of the results to a wider public is as important as the technical elaboration of the (Article 5) analysis itself”*.

Indeed, in WWF’s opinion, working with stakeholders allows to validate many technical choices that, at a certain point of the process, will probably have a ‘political implication’. Moreover, it makes it possible to get stakeholders’ technical inputs on methodologies and when there are no or scarce data available on a certain issue.

**For these reasons WWF urges:**

- PRB leaders to consider e-NGOs and other stakeholders as “partners” and to actively seek their participation and involvement in the second phase of the PRB testing exercise. This is especially important taking into account the high relevance of the future PRBs activities not only with regards the development of programmes of measures but also for “conflict resolution” between the WFD objectives and other policies.
- Governments to take action and give due priority to public participation approaches in the context of WFD implementation. They need to ‘invest’ now to ensure that the WFD’s objectives of “*good ecological and chemical status*” are actually achieved by 2015. This must start with the ‘real’ Article 5 analyses.
- The European Commission and the European Parliament to ensure that the participatory spirit of the WFD is respected and effectively implemented by Member States, as a crucial tool to achieve the environmental objectives of the WFD on the ground.