



Federal Ministry  
of Transport and  
Digital Infrastructure

# Manual for Good Public Participation

Planning of major projects in the transport sector





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# 1 Objectives of the Manual

The events surrounding current transport projects that are especially controversial – Stuttgart 21, the Karlsruhe-Basel railway line, the Fehmarnbelt crossing or the expansion of Frankfurt/Main and Munich Airports – clearly illustrate that many members of the public want more participation in the planning and approval of major projects.

The existing legal regulations make provision for the public to participate at all procedural levels. These graduated levels are: federal transport infrastructure planning, which comes right at the beginning; the subsequent spatial impact assessment procedure; and the plan approval procedure, which concludes the planning process and gives permission to go ahead with a project. The purpose of participation, which is enshrined in law, is to safeguard the rights of the parties affected by the planning, to inform stakeholders and the public, to establish transparency and to disseminate the decision-making basis of the authority conducting the procedures (cf. BÖHM, 2011). Nevertheless, the public frequently get the impression that their participation is “too little too late”. They feel that they are inadequately involved in planning processes and that they are frequently poorly informed. A recent (2012) survey conducted by the TNS EMNID Institute on behalf of the Bertelsmann Foundation revealed that nine out of ten people would like more information and eight of ten would like a greater say on planned projects (TNS EMNID 2012).

Thus, the aim of policymakers, as well as of developers and public authorities, must be to facilitate transparent planning that allows better participation of the public and gives them an opportunity to get actively involved in the procedure by submitting proposals of their own. As a first step, the Federal Government has tabled a bill for the improvement of public participation and the standardization of plan approval procedures, thereby launching a regulation governing the introduction of public participation at an early stage. It requires the competent authorities to encourage the developer to involve the public before the plan approval procedure is launched.

In the future, the public are to be involved at an early stage and continuously at all procedural levels. The focus should be in the period prior to formal participation in the spatial impact assessment and plan approval procedures.

For this purpose, the Manual contains a comprehensive catalogue of proposals, which can be implemented directly and in the short term, for specific instruments and participatory methods in the individual procedural phases and in the run-up to them. This comprises, for instance, an analysis of the players to be involved, the citizen-friendly deployment of the media and the Internet, additional information events and surgeries for citizens and, if appropriate, the use of dialogue forums.

The measures that appear appropriate can be selected from this catalogue on a case-by-case basis. The basis for the proposals is the existing statutory framework. Application of the proposals is voluntary.

The proposals are intended primarily for major projects in the transport sector. They can, however, also be applied to smaller projects on a case-by-case basis.

Many of the projects are already being applied in the everyday planning of transport projects. For instance, information on several projects is already being published on the Internet. In addition, diverse guidelines, toolkits, guides and position papers already include information on participatory measures. However, the aim is, in the future, to achieve an even wider application of participatory instruments and to create a new culture of participation.

Comprehensive public participation going beyond the level required by law is also envisaged for the Federal Transport Infrastructure Plan (FTIP) 2015. This is described in Chapter 3.

The proposals in the Manual are addressed primarily to developers (e.g. federal state highway authorities, Deutsche Bahn AG, Waterways and Shipping Administration, private sector investors) and authorities conducting procedures (federal state planning authorities, spatial planning authorities, authorities that conduct public consultations and plan approval authorities) and are designed to provide guidance. At the same time, the aim is to describe the individual stages and subject matter of the planning process and procedural levels to citizens who are affected or interested and to other stakeholders and to inform them of their opportunities for participation.

Application of the proposed methods and instruments will make it possible to progress on a broad basis to a more open planning culture with the earlier participation of the public in the planning of transport projects. The aim is to consider the public's misgivings and suggestions in the planning wherever possible and to prevent delays to the planning through legal action. In this way, the transparency and legitimization of the planning and decision-making processes could be enhanced in the future and the duration of the planning and procedures could be streamlined or possibly even reduced. The proposals for improving public participation are based on an analysis of:

- fundamental factors for participation that is perceived as being fair;
- the forms of participation required by law at the various procedural levels of transport infrastructure planning;
- public participation exercises already conducted in practice for transport projects;



- proposals for improving public participation made by political parties and trade associations and from other research projects.

The proposals on public participation outside the mandatory participation stipulated by the Environmental Impact Assessment Act and procedural law are based on an investigation and analysis of various transport projects with public participation. This was augmented by an analysis of forms of participation in Denmark, the Netherlands and Austria. The evaluation of the forms of participation already practised and of the lessons learned from and the structures of participation in other European countries focused on interviews with developers, public authorities and representatives of citizens' action groups and trade associations.

The Federal Ministry of Transport and Digital Infrastructure made the draft Manual available for discussion in a public, partly web-based consultation process over the period from March to June 2012. Numerous comments and proposals for amendments were made, and these were taken into account when the Manual was revised.

In all subsequent chapters, the masculine forms "he" and "his" are used for reasons of readability. However, they naturally refer to both genders.

## 2 Hallmarks of good public participation

### 2.1 Overview of the procedural levels of transport infrastructure planning

Transport projects are planned using a staged planning and permission system: from federal transport infrastructure planning through the spatial impact assessment procedure to the plan approval procedure. Table 1 provides an overview of the procedural levels and the public participation required by law (see also Chapters 3 to 8).

Table 1: Procedural levels of transport infrastructure planning and associated public participation

Procedural levels	Planning stage/ administrative procedure	Subject matter of decision-making	Public participation required by law
Requirement planning	Preparation of the Federal Transport Infrastructure Plan and project notification	Decision on requirements for target networks comprising new build and upgrade projects that are beneficial across the whole economy	Formal participation within the scope of SEA
	Procedure for drawing up the Federal Transport Infrastructure Plan up to adoption by the Cabinet		
	Preparation of requirement plans, road and rail upgrading acts		
Spatial planning	Scoping studies, preparation of the spatial impact assessment documents	Scoping study (scale usually 1:10,000 to 1:25,000)  Spatial impact  Usually environmental impact according to the state of play of planning of the project	Usually formal participation organized by the spatial planning authority
	Spatial impact assessment procedure	Procedure and basic technical design features  Comparison of alternatives and/or sites (if appropriate)	
	Determination of alignment	Determination of the alignment for federal trunk roads and federal waterways	Formal participation to address environmental aspects (if appropriate)
Approval	Outline design, preparation of planning application and plan approval documents	Draft design/detailed draft design of the preferred option (scale usually 1:5,000 to 1:10,000)  Extensive material legality	Formal participation organized by the authority conducting the consultation
	Plan approval procedure	Location and design of the project down to the individual lot level with the necessary ancillary installations and follow-on measures, stipulation of compensatory and replacement measures	

This table contains the formal procedures normally relevant to the planning of and granting of permission for major transport infrastructure projects. For the road and waterway modes, a procedure to determine the alignment is carried out in specific cases as an internal review by the Federal Ministry of Transport and Digital Infrastructure. Between the outline design work and the preparation of the planning application documents for federal trunk road projects, the Federal Ministry of Transport and Digital Infrastructure internally endorses the draft design.

The illustration shows the standard procedure. In certain cases, some of these procedures may be replaced by other administrative procedures (for instance preparation of a regional plan rather than a spatial impact assessment procedure, plan consent or local plan procedure rather than a plan approval procedure).

These procedural levels with their statutorily required participation form the framework for wider public participation. Requirements that are crucial to the decision to grant permission are stipulated during federal transport infrastructure planning and during the spatial impact assessment procedure. However, it is not until plan approval is granted at the permission level that the developer is given the right – subject to any subsequent judicial proceedings – to implement his project and go ahead with construction work. The individual phases make provision – in each case within the framework of the formal participatory procedures – for informing interested citizens and for providing affected citizens with the opportunity to submit their concerns in writing and within the framework of a public local inquiry.

Nevertheless, many members of the public feel that they are insufficiently involved in planning processes and that they are frequently poorly informed. The following chapters therefore formulate hallmarks and parameters of good public participation.

**Formal public participation can be augmented by informal measures at all procedural levels.**

## 2.2 Objectives and functions of public participation

The objective is that public participation exercises should, in the future, be conducted in a timely and continuous manner at all procedural levels. This is designed to place public participation on a permanent footing, from federal transport infrastructure planning through the spatial impact assessment procedure to the plan approval procedure. The focus of participation should be during the staged planning and decision-making process, in each case before the formal participation exercise in the spatial impact assessment and plan approval procedures.

Good public participation should be timely and continuous as well as transparent and comprehensible.

The following objectives and functions can be attributed to public participation:

- The public are integrated into the planning and decision-making process. They are given an opportunity to understand and influence the planning and decision-making process, for instance by being allowed to inspect the documents.
- The public can voice their concerns and contribute their ideas to the planning process in the run-up to formal participation, thereby helping to optimize planning.
- Participation makes it possible for the public to better understand the context and backgrounds underlying the procedure.
- The legitimization of the planning and decision-making is enhanced if the objections raised by the public are taken into account when decisions are made or – if they are not taken into account – good reasons are given for why other interests carried more weight in the overall assessment.
- Judicial disputes can be avoided by identifying conflicts at an early stage and adapting the plans accordingly, thereby reducing procedural delays due to modifications becoming necessary at a later date.

Over and above these functions, public participation processes as part of planning procedures and procedures for granting permission can also help to enhance the public's confidence in the public authorities and policymakers, to foster their notion of democracy and to improve the level of knowledge and information among the general public.

### 2.3 Players and levels of participation

The term “participation” refers to the public participating in or helping to shape planning and decision-making processes. The players within transport infrastructure planning are the “affected parties” and other “stakeholders” on the one side and the “involvers” on the other side.

Any person on whose interests the project is likely to impact is deemed to be “affected” by the planning. The term “affected public” is used to describe any person whose interests may be affected by a decision to grant permission or by planning, and also includes (environmental) associations.

“Stakeholders” are citizens and collective players such as societies, trade associations, pressure groups and local authorities, which are included in the planning and decision-making process of the project development to varying extents, at different times and on different issues.

“Involvers” are players such as developers, public agencies or authorities that are in a position to extend offers of participation and that are thus responsible for ensuring inclusion (LÜTTRINGHAUS, 2003). In public consent procedures,

the involvers are either the planning bodies (e.g. airport operators, Deutsche Bahn AG, Waterways and Shipping Administration, federal state highway authorities) or the authorities responsible for the administrative procedure (e.g. spatial planning authority, public consultation authority in a plan approval procedure).

The following diagram illustrates this fundamental distinction between stakeholders and involvers and their possible activities at different levels of participation.

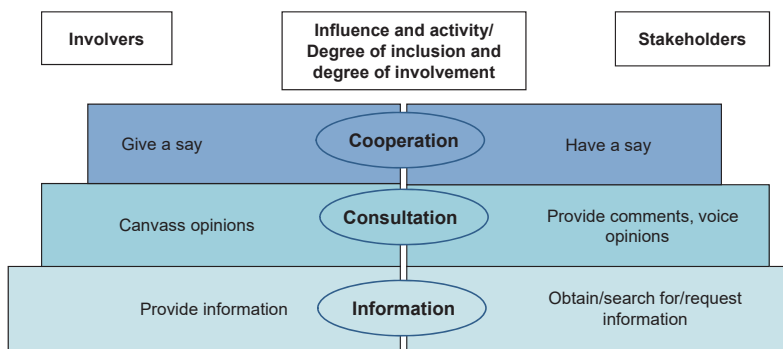


Fig. 1: Possible levels of participation

Various levels of participation can be distinguished. The higher the level, the greater the extent of inclusion permitted by the involvers and the greater the scope for the stakeholders to exert influence (cf. RAU et al., 2011). The scope for participation ranges from information through consultation to cooperation. However, when permission is granted for transport projects, it is always the competent authority conducting the procedure that is responsible for taking the actual decision, which means that there are formal limits to direct “co-decision” (see also Chapter 2.7 and Chapters 3 to 8).

**Information** is the form of participation that includes the provision and receipt of information. Communication is predominantly a one-way street from the developer and authorities to the public. Suitable means of providing information include project brochures, unaddressed mail, posters, websites, telephone information services, information events and exhibitions of plans.

**Consultation** means that stakeholders can actively provide comments and express their opinion. Communication between decision-makers and the public is a two-way street. Participation in a narrower sense presupposes that the communication between the involvers and stakeholders is bidirectional or takes the form of feedback. Useful tools for consultation include comments, written and oral surveys, Internet forums and public meetings.

It is important to make clear which form of participation is involved: information, consultation or cooperation.

**Cooperation** means that the stakeholders are given a say in the planning process to the extent that the relevant procedural level allows. However, the actual trade-off decision is taken during the spatial impact assessment and plan approval procedures. As regards cooperation, it is especially important that the public be informed at an early stage what issues are to be resolved in the planning process so as not to raise any unrealistic expectations and preclude misunderstandings among the public. Communication between the persons involved, i.e. stakeholders and involvers, is intensive. Possible methods include round tables and dialogue forums plus mediation procedures.

## 2.4 Continuous and early participation

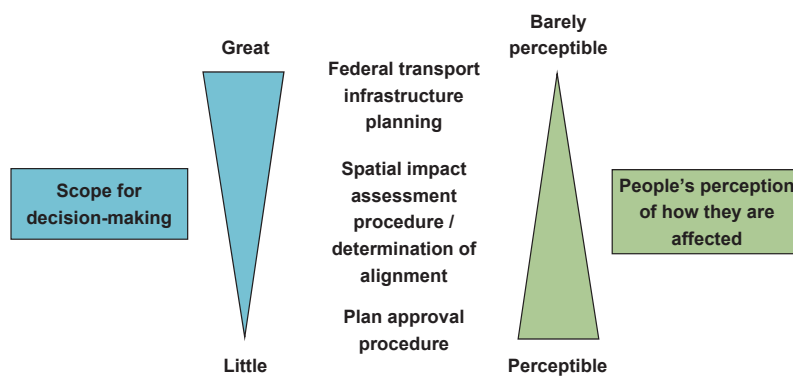
Although current legislation provides for formal participation at all three procedural levels of transport infrastructure planning, the affected or interested citizens consider this to be inadequate in many cases. The main shortcomings criticized by citizens, trade associations and political parties are as follows:

- The public are not directly involved in the fundamental decision on the need for a project.
- Participation comes too late, i.e. at a point in time when the project has already assumed a definite form spatially and in terms of design and the developer is not very willing to make changes.
- The public are not involved continuously over all procedural levels of transport infrastructure planning. The planning periods between the procedural levels are usually too long to establish continuous participation relating to all major decisions.
- Restricting participation to the formal and fixed-term procedures results in a situation where there is no frank and serious discussion with the public about the advantages and disadvantages of a project or alternative projects.
- Outside formal procedures, the public do not have an opportunity to inspect planning documents, to obtain information on and understand the need for the planning and decision-making process, to ask questions about things they do not understand and to get involved.

Thus, exclusively formal participation of the affected public within the procedural requirements is insufficient, especially in the case of projects where there is a great potential for conflict, to ensure participation in relevant planning decisions that is appropriate and timely from the public's point of view. This is to be ensured in the form of informal participatory steps between the different formal procedural levels. Dovetailing and integrating informal and formal procedural steps (before, within and between the different procedural levels) will produce a process of continuous public participation.

It is already possible for the parties involved in the procedure, especially the developer and the public consultation authority, to make improved and more extensive offers of participation that go beyond the procedurally required public participation and the minimum standards stipulated by law. However, there is the fundamental problem that the perception of problems by affected parties at the upstream planning levels, where there is greater scope for decision-making, is frequently not sufficiently pronounced (see Fig. 2).

**Closely dovetailing informal and formal participatory steps will enable a continuous process of participation.**



**Fig. 2: Link between the scope for decision-making at specific levels and people's perception of how they are affected**

For this reason, encouraging the public to engage in active participation at the upstream planning levels plays an important role. Various successful examples of transport projects and examples from development and urban planning confirm that early and more open participation can enhance the transparency and acceptance of planning decisions.

Table 2 presents the principle of continuous public participation with reference to the individual procedural levels (orange) and to the planning stages for delivery of the project (beige). The diagram illustrates that formal participation (dark green fields) is limited to the respective administrative procedures. In the phases (sometimes lasting several years) between the administrative procedures, during which outline design work is undertaken, impact-related studies are conducted and procedural documents are prepared by the developer, there are no formal public participation steps. However, not insignificant planning decisions are taken during these phases, and the public should participate in them. Thus, especially in these planning phases, it is recommended that additional informal offers of participation be made (light green fields), the outcome of which can be taken into account by the developer when fleshing out the project and preparing the procedural documents.



Table 2: Overview of the procedural levels in the planning, approval and delivery of federal transport infrastructure

Procedural levels	Planning stage/ administrative procedure	Public participation
Requirement planning	Preparation of the FTIP and project notification	Informal participation organized by the Federal Ministry of Transport and Digital Infrastructure and/or federal states
	Preparation of the FTIP up to adoption by the Cabinet	Formal participation within the scope of SEA
	Preparation of requirement plans, legislative procedures for road/rail upgrading acts	
Spatial planning	Scoping studies, preparation of the spatial impact assessment documents	Informal participation organized by the developer
	Spatial impact assessment procedure (SIAP)	Usually formal participation organized by the federal state planning authority
		Informal participation organized by the developer
	Determination of the alignment (for federal trunk roads and federal waterways)	If appropriate, participation within the scope of EIA (if there has been no SIAP or an SIAP without EIA)
Approval	Outline design, preparation of planning application and plan approval documents	Informal participation organized by the developer
	Plan approval procedure	Formal participation organized by the public consultation authority
		Informal participation organized by the developer
Construction	Detailed design	Informal participation organized by the developer
	Construction	Informal participation organized by the developer

This would result in participation being placed on a permanent basis, which would mean that the affected parties could follow and, wherever possible, support all major preliminary decisions and that the project and its implementation would not be repeatedly questioned. The basic principle of early public participation prior to the formal procedure is – at least for the level of plan approval – also an element of the current bill for the improvement of public participation and the standardization of plan approval procedures (see chapter 6).

Should it not be possible to evolve a project continuously across the procedural levels, resulting in delays to the progress of planning or procedures, this will cause breaks in the participatory process that are undesirable from the perspective of public participation. If such a break

in planning lasting several years occurs, the public should be informed accordingly, at least through the Internet or the press. If planning recommences, the public should be informed.

The likelihood of the supplementary offers of informal public participation achieving their objectives will increase in line with the extent to which the basic success factors and rules formulated in Chapter 2.5 are taken into account and the level-specific scope for decision-making and the constraints on participation are communicated.

However, participation is not a “universal panacea”. Care should be taken to make the offers of participation on an appropriate scale, depending on the subject matter and procedural level, so as not to overburden the procedures and to deploy all players’ resources in a targeted manner so that they are not wasted.

## **2.5 Factors determining the success of good participation**

The quality and general framework of the process are crucial to successful public participation. Simply creating more scope for participation is not, in itself, sufficient to achieve the desired positive effects.

The accessibility and dissemination of high-quality information are one of the basic prerequisites for ensuring that third parties can engage with the project. The information should be carefully selected and presented. It is advisable to use various media to disseminate the information in order to reach different groups, possibly via information channels that are specific to individual target audiences.

Other fundamental factors determining successful participation are a sound basis of trust and a procedure that is perceived as being fair in terms of the approach, interpersonal relations and the outcome. If the parties treat each other with mutual respect, this not only has a positive impact on the trust between the players but is also a major foundation for a relationship between stakeholders and involvers that is perceived as being fair. Accurate and comprehensible information plus a transparent approach make it more likely that people will perceive the process as being fair and equitable. Likewise, a distribution of costs and benefits that all the parties involved believe to be balanced is the basic prerequisite for ensuring that the outcome of the process is perceived as being fair.

The selection of the stakeholders should not exclude any interest groups. It should include not only those parties on which the project will have an adverse impact, but also those parties who are basically in favour of the project. Involving project proponents can, through the exchange of interests and concerns, establish mutual understanding, thereby improving the

quality of a process. A balanced discussion of the pros and cons should be the objective of a participatory process.

However, acceptance cannot be achieved unless the affected parties are actually enabled to participate. This includes not only the provision of suitable information, adequate resources (in terms of both time and money) and the admission that they have a say in the matter, but also an understanding of the subject matter and the ability to move and express themselves in “expert circles” so that their own concerns are actually heard. A lack of these skills, combined with a perception that they are affected by the project, can often result in the affected parties feeling powerless. Measures designed to empower people to participate include information events, citizens’ surgeries, question-and-answer sessions and the appointment of a facilitator, who makes complex issues easy to understand for members of the public without specialist knowledge.

**Timeliness, sincerity, fairness, no predetermined outcomes and approaching the right target groups are factors determining the success of good participation.**

To summarize, the following factors should be taken into account in public participation.

- Participation is based on mutual trust among the players and is characterized by respectful, polite and correct interpersonal relations. The involvers show that they take the public seriously and are willing to discuss with them on an equal footing. This also helps make the involvers more credible.
- Sincere participation presupposes a corresponding attitude among the involvers. The stakeholders can tell the difference between whether the involvers are genuine and are seriously offering participation or whether they are doing so solely as an instrument of pacification.
- The selection of stakeholders is based on a well-founded identification of the potential target groups (analysis of players). No interest group is left out.
- The public are made aware of the opportunities in a timely manner. They are encouraged to get involved in the participatory process.
- Participation takes place at an early stage, when there is still scope for decision-making, and over the entire course of the planning and permission-granting process.
- Participation is transparent in terms of information relating to the process, the objectives, the questions of the respective procedural level that are relevant to decision-making, actual scope for exerting influence, decisions already taken at upstream procedural levels and the deadlines for participation. It must disclose the scope for decision-making, and thus also the constraints on participation, and must not raise any unrealistic expectations.
- The necessary information is accessible to everyone and is presented such that it is intelligible to all, taking care to adopt the right approach when targeting specific groups.

- Participation is without a predetermined outcome wherever possible and provides actual scope for exerting influence, within the constraints of what is economically and legally feasible.
- The stakeholders and involvers should have communication and participation skills so as to successfully shape the process, or they are assisted in developing these skills.
- The participatory process is planned such that it is outcome-driven and forward-looking. Responsibilities, venues, funding, administrative processes and players are identified/organized at an early stage.
- The expected positive effect and the effort/costs that participation involves are in a ratio that is acceptable to all stakeholders.

## 2.6 Preparatory measures by the developer for the participatory process

It is imperative that the timely public participation outlined in Chapter 2.4 be prepared by taking appropriate measures in a dedicated phase, because good public participation, like the project itself, requires good planning. This is also advisable because the developer can also use the outcome of the preparatory measures in the formal procedure. If appropriate, the competent authorities can also draw on it.

The preparatory measures for informal public participation include:

- the analysis of players, which identifies the addressees and group of people to be involved in the public participation exercise and ensures that all relevant players (e.g. citizens, action groups, associations) with their different attitudes towards the project and planning (affected parties, project proponents and opponents) can be included (see Chapter 9.1).
- activation of the public (project proponents and opponents) by providing appropriate information with the aim of promoting balanced and representative participation. Here, it is important that information about the project be provided at an early stage by means of, for instance, the Internet, leaflets and active press activities (see Chapter 9.4).
- clarification of the general framework, which comprises the scope for public consultation exercises in terms of time, funding and manpower, and clarification of the objectives of the participation exercise, which will be used to determine the time and target groups plus the instruments and methods of participation (see Chapter 9.2).
- planning the participation exercise, which includes firstly participation management, i.e. answering the question as to how the process of participation is to be integrated into overall project planning, and secondly the “process architecture”. The purpose of this is to answer the question: Who will be involved, when and how? (see Chapter 9.3).

**Good public participation has to be planned just as well as the project itself.**

## 2.7 Scope for and constraints on public participation, binding character of the outcome

Good public participation can improve and, in some cases, accelerate planning and promote acceptance of any given project, or at least help people appreciate why it is necessary. Chapters 3 to 8 describe the scope for participation that exists at the various levels. Early identification of the scope for participation and subject matter of decision-making at the various procedural levels is especially important so as not to raise any unrealistic expectations and to preclude misunderstandings among the public.

Transparent public participation also means clearly communicating the scope for and constraints on participation.

However, there are also constraints on public participation:

Informal public participation in the run-up to a consent procedure cannot replace the actual formal procedure. This procedure ensures legal certainty and the right to take legal action, because only the official plan approval can be contested in court by affected citizens. Compromises reached in the informal participatory procedure are not legally binding. It is incumbent on the plan approval authority to weigh the various interests against one another neutrally. Thus, it may happen that a solution is reached with the public but that this decision does not prevail in the formal procedure for legal or financial reasons or that it is invalid due to a court ruling. The developer and/or authority conducting the procedure should explain this to the public in a timely fashion so as not to raise the expectation that a solution can be negotiated that is legally binding. They should also make it clear at an early stage what the general legal and financial framework is, so that a solution reached on an informal basis stands as good a chance as possible of surviving the formal procedure.

In this context, it is crucial that the outcome of the informal participation exercise be documented in the procedural documents and that it be taken into account in the planning decisions in a way that the public can understand.

Public participation can only address those items that are the subject of any given procedural level. Thus, at the level of spatial impact assessment and plan approval, the need for a project ascertained by the German Bundestag at the level of requirement planning can no longer be challenged.

In addition, consensus reached with interested parties during the run-up will not automatically be accepted by the legally affected parties in the formal procedure. The interests of the public, too, are frequently divergent. Even if the public is involved, it is not always possible to satisfy all interests and wishes. For this reason, it is important that citizens who are legally affected, in particular, be included at an early stage in order to minimize as far as possible the number of subsequent law suits.

Another problem is that the general framework frequently changes over the course of time (group of affected parties, opinions of the affected parties, financial and human resources, etc.). A compromise reached at the spatial impact assessment level may no longer be accepted by the public at the plan approval level.

Finally, additional costs may be incurred as a result of demands being made, through public participation, for measures that go beyond the plans to date and make the project more expensive (for instance tunnel solutions or additional noise mitigation). Here, on a case-by-case basis and wherever possible before the public are involved, the extent to which such measures are legally permissible and fundable should be considered. Because the existing legal specifications, for instance on reasonable noise levels, are binding on the public authorities. In addition, it should be taken into account that the additional costs might jeopardize the positive benefit-cost ratio of a project. No unrealistic expectations must be raised among the public in this respect. Rather, the developer and/or authority should inform the public in a timely manner if an alternative solution or mitigation measure is not feasible for legal or financial reasons.

Whether it is possible to achieve broad-based acceptance of a planned transport infrastructure project ultimately also depends on factors that are not directly related to the quality of participation. These include, for instance, the nature and extent of people's subjective perception of how they will be affected, the nature and extent of environmental impact and an identifiable positive benefit of the project for the (perceived) reality of the affected citizens' lives. However, these factors can be positively influenced by making targeted offers of participation.

## 2.8 Project decisions through referendums

With the exception of the first sentence of Article 29(2) and the second sentence of Article 20(2) – which has so far taken little effect in practice –, the Basic Law contains no plebiscitary elements that involve the public deciding directly rather than via representatives. However, the constitutions and municipal codes of the federal states provide for popular petitions / referendums, and therefore do contain procedures that provide scope for the public to take direct decisions.

If, in the transport sector, there were a wish to add plebiscitary elements to the existing administrative procedures for the issuing of a plan approval, the provisions governing competence at federal level would also have to be observed. The sectoral planning acts in the transport sector are, without exception, federal acts that are implemented either by the authorities of the Federal Government or by the federal states acting as agents of the Federal Government. The federal state lawmakers are not empowered to introduce

plebiscitary elements for the level of Federal Government legislation. The Federal Trunk Road Upgrading Act and the Railway Infrastructure Upgrading Act state that the Federal Government has sole responsibility for drawing up the Federal Transport Infrastructure Plan and the requirement plans. The planning decisions taken here cannot be made the subject of a plebiscite under federal state law. There is thus a difference between sectoral planning projects, which are always of a supraregional character, and local authority construction projects, which can be the subject of referendums.

At federal state level, plebiscitary decisions usually require the electorate to vote “yes” or “no” to bills. On the other hand, provision is not normally made for the possibility of an ex post ballot on contractual obligations of the federal state vis-à-vis third parties.

Municipal codes – for instance Article 18a of the Bavarian Municipal Code – allow citizens of the municipality to request a referendum (public petition) on matters concerning the municipality’s own sphere. The term “own sphere” is defined in, for instance, Article 83 of the Bavarian Constitution. Nevertheless, no provision is made here, either, for an ex post ballot on company law obligations of the municipality vis-à-vis third parties.

**Referendums and public petitions cannot replace the existing procedures for granting permission.**

Plebiscitary decisions on transport projects through referendums do not represent alternatives to comprehensive administrative procedures, because they are limited to a “yes/no” vote and they cannot be contested. The major characteristic of planning in the transport sector is the continuous identification and assessment of the issues involved. Since referendums do not do this, they are not a suitable way of remedying shortcomings in administrative procedures, nor can they be a substitute for a review of legality by the administrative courts.

Alongside the fact that plebiscitary procedures – unlike plan approval procedures, for instance – do not involve trade-off decisions that have to be justified and that can be reviewed by the courts, it is also unclear which persons would definitely have to be involved within the framework of plebiscitary elements. The participation of affected parties under sectoral planning law is linked to the concept of interests. However, this very link is not possible for participation in the case of plebiscitary procedures.

Thus, for major projects in the transport sector, public petitions/referendums cannot, as the law stands now, replace the existing planning procedures and procedures for granting permission, including the possibility of judicial review.



## 2.9 Time, expenditure and manpower requirements

### 2.9.1 Scale of the additional time, expenditure and manpower requirements

Timely and continuous public participation, as advocated in this Manual, raises the question as to whether, and if so on what scale, additional costs will be incurred and whether the procedure is likely to last longer. The answer depends essentially on the course of planning that would be likely without early public participation. In the case of projects where there is a great potential for conflict, it has to be assumed that the public will want to be involved later in any case and will also achieve such participation. In addition, late participation can exacerbate the conflicts. If the plans then also have to be adjusted, this will normally entail higher costs than making corrections at an earlier stage. For this reason alone, therefore, supplementary offers of participation for the public do not necessarily mean additional costs on balance. As far as the duration of the procedure is concerned, it is true that public participation costs time. However, by preventing ex post planning corrections or subsequent litigation, it can also help to accelerate the procedure. In addition, the fact that good and early public participation can improve planning also has to be taken into account. In addition, in a democratic polity, the creation of more acceptance of a project by the affected public is to be regarded as a contribution to the greater good.

The costs incurred for public participation going beyond the statutorily required minimum can differ widely, depending on the measures taken in any given case. Given the diverse nature of the individual participatory measures and the lack of data, it is not possible to provide any cost estimates for this. Nevertheless, a number of measures to promote transparency can be taken with comparatively little extra expenditure. This applies, for instance, to the maintenance of a website.

**Timely public participation can help improve planning and save time and costs..**

### 2.9.2 Covering the costs of informal participatory measures

The additional time, expenditure and manpower requirements that arise as a result of informal public participation impact on either the developer or the authority conducting the procedure, depending on the stage the procedure has reached and on the measure.

The developer will normally be responsible for informal participatory measures that are not directly linked to a statutorily required procedure. This is proper in that the developer is responsible for planning and it is thus in his own interest that his plans are accepted. In addition, the developer is the most competent person to provide information on the project and the state of play of planning. The developer is also responsible for the early public participation

**Depending on the stage the procedure has reached and on the measure, either the developer or the authority conducting the procedure is responsible.**

provided for in the bill for the improvement of public participation and the standardization of plan approval procedures. On the other hand, the authority conducting the procedure is responsible for measures that are directly linked to a statutory procedure (for instance organizing the public local inquiry in the plan approval procedure).

### 2.9.3 Economical use of funds

The public authorities are required to use funds in an economical manner. For the Federal Government, this is regulated by Section 7(1) of the Federal Budget Code. However, this requirement does not mean that public participation measures that go beyond statutorily required participatory procedures are not generally fundable. This is also illustrated by the bill for the improvement of public participation and the standardization of plan approval procedures, which provides for early public participation before a consent procedure is launched. The importance the bill attaches to this makes it clear that additional costs for informal participatory measures can be accepted on an appropriate scale if the objective being pursued in any given case can be better achieved in this way. Thus, the competent authorities or the developer must, on a case-by-case basis, assess whether the benefits that can be derived from participation justify the additional costs incurred.

Factors that can play a role here include, for instance, the size of the project, the number of citizens potentially affected and interested, the likely intensity of conflict and the cost intensity of the participatory measure. In addition, the ratio of the additional costs of the informal public participation exercise to the planning and construction costs that will have to be paid in any case must inform the decision on the intensity of public participation.

The outcome may differ widely from one case to the next. It may suffice that certain documents are made available for inspection at the authority, where they are explained by officials responsible. It may also suffice to inform the public by means of a press release. If, however, an alignment is planned along a densely populated residential area, it may be appropriate to provide a more detailed visualization of the alignment or a noise simulation.

**The greater the potential for conflict in a project is, the more important comprehensive and continuous public participation is.**

# 3 Federal transport infrastructure planning

The Federal Transport Infrastructure Plan (FTIP) is the document used for the cross-modal planning of the investment needs of federal transport infrastructure.

Multi-stage public participation is envisaged during preparation of the next FTIP (2015). On the basis of publications on the Internet, the public will have the opportunity to make comments in writing on the draft basic approach and the departmental draft of the FTIP. In addition, trade associations will be actively involved in the process of developing the FTIP through several information and consultation events.

## 3.1 Objectives and subject matter of federal transport infrastructure planning

The Federal Transport Infrastructure Plan (FTIP) is the document used for the cross-modal planning of the investment needs of federal transport infrastructure. Given the constraints on funds for investment, the approach adopted for the FTIP 2015 aims primarily to select those projects that are most important to transport by means of suitable prioritization. In this way, an FTIP is to be presented that is realistic and fundable. The starting point is that the structural maintenance of the existing transport infrastructure is to take precedence over upgrading and new construction projects. This is the first premise of requirement planning. It differs from the approach followed in the past and will result in a different system of objectives.

The FTIP contains all the planned road, rail and waterway projects and, in this context, makes statements regarding both structural maintenance and the planned upgrading and new construction projects on the federal trunk road, federal railway and federal waterway networks. When it is being drawn up, the Federal Government furnishes proof that transport infrastructure projects under consideration are beneficial to the whole economy, taking all advantages and disadvantages into account. The Federal Budget Code states that only projects that are macroeconomically profitable (benefit-cost ratio over 1.0) may be financed with Federal Government funds. The FTIP is thus a planning instrument that is used to define the framework of the forthcoming investment in the federal transport infrastructure. However, it is not a funding plan and is not of a statutory nature.

**Federal transport infrastructure planning decides on the requirement for a project, not on specific project planning.**

The FTIP forms the basis for preparation of the draft requirement plans for the federal trunk roads and federal railway infrastructure. These plans stipulate which transport infrastructure projects are to be planned and funded from the federal budget and to which priority category each project is to be allocated. The requirements plans are adopted by the German Bundestag as an annex to the respective upgrading act. The upgrading acts also state that, after five years, a review must be carried out to determine whether the requirement plans need to be adapted to traffic trends. In this way, a regular review of the original determination of requirements is guaranteed when planning

periods are long. Because of changes made in the course of their referral to parliament, the FTIP and the requirement plans are not usually completely identical.

Assessing whether a project constitutes value for money at the level of federal transport infrastructure and requirement planning is the first stage of the overall planning process for the delivery of an infrastructure scheme. At the level of the FTIP and upgrading acts, decisions are taken only on the question of the fundamental need for a scheme (construction of new transport infrastructure or upgrading of existing infrastructure) and not on the specific planning of the project, including the alignment and route study. In the subsequent consent procedure, the statutorily established need is deemed to be justification for the plan. This means that the establishment of the transport need for a scheme is binding on the subsequent plan approval procedure (staged procedure) without prejudicing the granting of consent for the project. Federal transport infrastructure planning thus follows a significantly more abstract approach than the subsequent, project-related planning procedures (spatial impact assessment procedure, plan approval procedure) which, by taking actual decisions, for instance on an alignment, can trigger a situation where the public is directly affected.

### 3.2 Procedure for preparing the Federal Transport Infrastructure Plan

The process of developing the FTIP 2015 is essentially divided into three phases – the forecast phase, the conceptual phase and the appraisal phase.

To be able to estimate and appraise how the need for additional transport infrastructure is likely to develop, an estimate of the future volume of traffic is first required as preliminary work to the FTIP. For this purpose, external consultants are preparing, for the forecast year 2030, a scientific overall traffic forecast plus single-mode sectoral forecasts that also take into account the intermodal linkages between the different modes. These forecasts are to provide a forecast of traffic trends that is as realistic as possible.

**Development of the FTIP in three phases: forecast, conceptual, appraisal.**

In parallel, the basic approach for the FTIP is being prepared. It contains, inter alia, the objectives of federal transport planning, the problems to be solved and the strategies for prioritizing projects. This prioritization establishes the investment priorities and is thus the basis for the distribution of funds. In addition to the assessment of the overall value for money, it also contains criteria that infrastructure projects have to satisfy if their delivery is to be given priority.

Part of the basic approach will also be analyses of bottlenecks and/or network shortcomings. These will involve superimposing the existing networks on the forecast traffic trends, thereby identifying the largest bottlenecks. Projects will

be notified on the basis of these bottleneck analyses. As a rule, it is the federal states, DB Netz AG and trade associations that propose upgrading and new construction projects. The Federal Government can also provide input to the FTIP in the form of project ideas, for instance to remedy network deficiencies identified in the analyses of shortcomings. Furthermore, every citizen can also register own rail projects ideas.

For the initial establishment of priorities of road projects, screening is carried out at federal state level. In the case of a road, for instance, it must be demonstrated why an investment is needed, whether there are alternatives and what benefit long-distance traffic will derive. Only if this screening produces a positive result will a project be appraised, with the help of benefit-cost analyses and taking current costs and the environmental impact into account, to determine its macroeconomic profitability. The appraisal methodology, especially the methodology of the benefit-cost analysis, is being evolved by the Federal Ministry of Transport and Digital Infrastructure through a series of research projects. After the appraisal, a final overall assessment is carried out, taking into account the benefit-cost ratios and any further spatial impact and environmental assessments.

The outcomes of the individual phases will result in a draft overall plan for the FTIP 2015. By including a project in the FTIP, the Federal Government is giving a positive assessment of the fundamental need for a project, taking macroeconomic, environmental and socio-cultural aspects into account. The draft overall plan will be subjected to a Strategic Environmental Assessment (SEA) and discussed with federal government departments, the federal states, trade associations and the public, taking the requirements of the SEA into account. Their comments will be taken into consideration and the final version will be prepared and adopted by the Federal Cabinet. The section of the FTIP entitled “Construction of new and upgrading of existing transport infrastructure” will form the basis for the Federal Government’s bill to amend the acts governing the upgrading of federal railway infrastructure and federal trunk roads. The annexed requirement plans will assume statutory character when the German Bundestag takes its decision.

### **3.3 Strategy for public participation during preparation of the FTIP 2015**

Involving the public is a major component in the preparation of the FTIP 2015. First, new statutory requirements, such as SEA, necessitate formal, comprehensive public participation. Second, the Federal Ministry of Transport and Digital Infrastructure wants to accommodate the public’s increased interest in infrastructure planning by means of greater transparency and timely participation, even beyond the statutory requirements. Because the decision on the need for and the urgency of a project in the FTIP constitutes a key building block of the planning process. In particular, the aim is to

facilitate a discussion on transport projects incorporating the proposals, ideas and assessments of government departments, citizens, academics and trade associations. In addition, the public are to understand why society needs infrastructure investment. The FTIP is not an end in itself. With its contents, it supports overarching objectives of society, such as ensuring mobility and supplying goods to industry and the population through a modern, demand-driven and efficient transport infrastructure network. This also, for instance, widens people's options when choosing where to live and makes a major contribution to their leisure activities and to social cohesion.

The Federal Ministry of Transport and Digital Infrastructure has reorganized public participation in the development of the FTIP 2015 and has drawn up a strategy for participation setting out guidelines for public participation geared to the interests of citizens, industry and society. In the past, federal transport infrastructure planning has not featured comprehensive public participation, and so the Federal Government is entering uncharted territory. Moreover, the strategy goes significantly beyond the statutory requirements of SEA by, for instance, involving the public in the procedural steps upstream of SEA. It is based on the principles of the present Manual. The strategy for public participation complements the already existing possibility for the public to approach the Federal Ministry of Transport and Digital Infrastructure with information and questions at any time. Likewise, as in the past, the Ministry will include the petitions forwarded by the German Bundestag in its activities.

The participation strategy for the preparation of the FTIP 2015 is based on two pillars: information and consultation.

### 3.3.1 Information to create transparency

Transparent and comprehensible documentation of the approach is a basic prerequisite for any form of more extensive participation. The provision of a wide range of information is designed to give the public an early insight into the function, objectives, methodology and procedures of the FTIP in order to make its development as transparent and comprehensible as possible. All interested parties are to be provided with regular information about the progress of work throughout the process.

Information on the overall process, methodology, projects and appraisal results

To do this, the Federal Ministry of Transport and Digital Infrastructure will use publications on the Internet, specialist articles and information events. The final reports of concluded research projects have already been published on the Internet. The web will continue to be used to publicize research findings as work-in-process information on the methodology and findings relating to the overall process. In addition, the project information system that was provided in the FTIP 2003 will make findings transparent for appraisal of the individual investment projects.

### 3.3.2 Participation through consultation

Beyond the provision of information, provision is also made for consultation exercises for key milestones in the preparation of the FTIP in order to permit active public participation. Important milestones are always achieved when, during the development of the FTIP, decisions are taken that would be difficult to reverse in the further course of the process. Stakeholders can actively voice their opinions on these milestones during the consultation exercise. The aim is to include evidence and objections in the process at an early stage so that they can be given due consideration in decision-making.

The Federal Ministry of Transport and Digital Infrastructure will announce consultation exercises. Drafts of the individual milestones will be published with specific references to the issues to which the remarks and requirements may relate and with the deadlines for the submission of comments.

Consultation exercises on key milestones in the preparation of the FTIP 2015

Consultations with citizens and trade associations will be web-based to a very large extent. In the case of especially complex issues, the Federal Ministry of Transport and Digital Infrastructure will issue targeted invitations to consultations. This means will be used primarily for trade associations and confederations, thereby giving them an opportunity to engage intensively with the Ministry and consultants it has commissioned on technical issues. At the same time, talks will be held with the other federal government departments and the federal states on the procedure and methodology.

The Federal Ministry of Transport and Digital Infrastructure will subsequently publish a summary of how the evidence has been included in the trade-off decision.

### 3.4 Public participation in the individual procedural steps

During preparation of the FTIP 2015, the public will be involved in every phase with a different intensity, in keeping with the Federal Ministry of Transport and Digital Infrastructure's strategy for participation. Fig. 3 summarizes the envisaged participatory steps for the FTIP 2015. The individual milestones are outlined below.



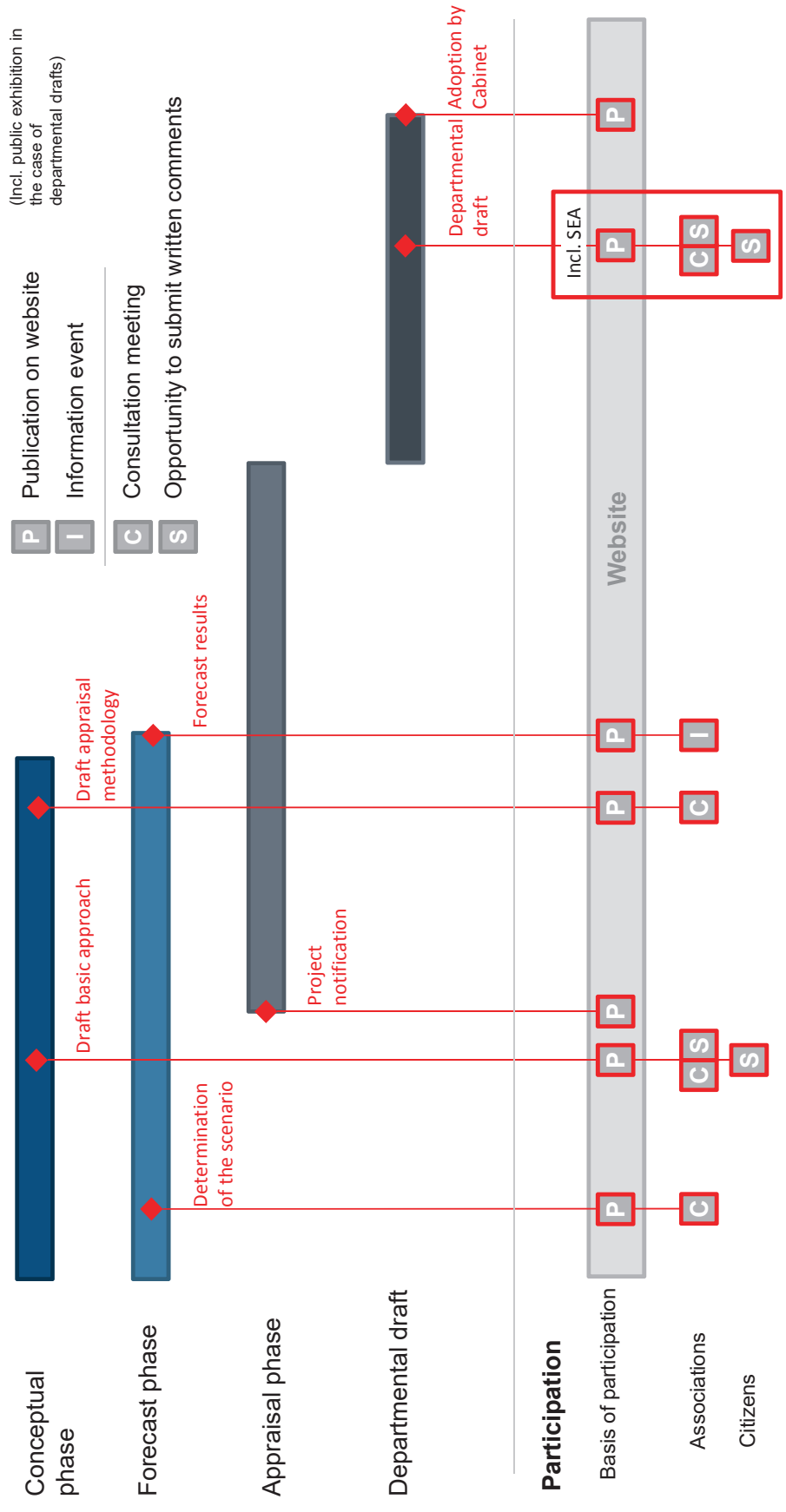


Fig. 3: Overview of planned public participation

### 3.4.1 Traffic forecast (forecast phase)

The forecast constitutes a prediction that is as realistic as possible of future traffic trends on the basis of a scientific estimate by consultants. The development of the forecast with its scenario assumptions, for instance on trends in energy prices, demography and gross domestic product, is preliminary work that is not directly the subject of the FTIP.

Nevertheless, the establishment of the scenario premises for the overall process is especially important, because they influence the results of the forecast and thus also the project appraisal. The scenarios and their premises will be established by the Federal Ministry of Transport and Digital Infrastructure taking recommendations by experts into account and after consultation with the other federal government departments. A consultation meeting will be held at which the derivation of and the backgrounds to the draft scenarios will be presented to the trade associations and discussed with them. The definitively established scenarios will be published.

The results of the forecasting process, which builds on the published scenario assumptions, will also be published and presented. Information events will be held for trade associations at which they will be given a more detailed explanation of the results.

**Information on the establishment of scenarios for future traffic trends and the results of traffic forecasts**

### 3.4.2 Basic approach of the FTIP (conceptual phase)

The basic approach describes the fundamentals of the FTIP 2015. It contains the strategy and criteria for prioritizing transport investment, for instance giving structural maintenance precedence over upgrading and new construction, for taking bottlenecks into account or for differentiating priority categories. Because of its seminal nature, a comprehensive consultation exercise is envisaged for the basic approach. After publication, all interested parties will be given an opportunity to comment on the draft within four weeks. In addition, consultation meetings will be held for trade associations. The draft basic approach will be revised to include these comments and the final version will subsequently be published.

### 3.4.3 Appraisal methodology (conceptual phase)

The appraisal methodology, which is required for the appraisal of the individual projects, will be revised as part of several research projects. To ensure that it is placed on a broad-based academic footing, panels of experts will assist the individual research projects. The methodology will be published as a research report and discussed with the expert community at consultation meetings. Any proposed amendments can inform the appraisal methodology.

**Consultation of the public on the basic approach of the FTIP 2015**

The appraisal methodology finally used will be published with the draft FTIP 2015.

#### Publication of the appraisal methodology

### 3.4.4 Notification of projects for appraisal (appraisal phase)

The Federal Ministry of Transport and Digital Infrastructure will publish, on the Internet, the upgrading and new construction projects to be studied during the development of the FTIP. These projects are usually proposed by the federal states, DB Netz AG, trade associations and members of parliament. In this way, it will become apparent, at an early stage of the process, which project ideas will be considered in the process of drawing up the FTIP. Before they make their project notifications, the federal states are also at liberty to conduct public participation exercises and/or to discuss the needs with local authorities and public agencies, for instance at regional conferences.

#### Publication of the notified projects

### 3.4.5 Departmental draft including Strategic Environmental Assessment

Upon conclusion of the project appraisal, the findings (value for money, environmental assessment, spatial and urban development assessment) will be edited and merged with project proposals to form a draft overall plan. This will contain statements on the prioritization of transport projects and on the funds likely to be available for structural maintenance, upgrading and new construction. After discussion with the federal states and other government departments, the departmental draft (coordinated with the other departments) will be prepared. A Strategic Environmental Assessment will be undertaken for this draft, as required by the Environmental Impact Assessment Act. As with the project-related Environmental Impact Assessment (EIA), the purpose of SEA is to study the effects of the planned transport infrastructure schemes on the environment, for instance on humans through noise and pollutant emissions and on fauna, flora and biodiversity. The effects of the infrastructure plan on greenhouse gas emissions will also be analyzed. The objective of Strategic Environmental Assessment is to ensure a high level of environmental protection at an early planning stage before project consent is granted and to help ensure that due account is given to environmental considerations during the preparation and adoption of plans and programmes

#### Formal participation of authorities and the public in Strategic Environmental Assessment (SEA)

A major procedural component of SEA is the formal participation of authorities and the public (Sections 14h to 14j of the Environmental Impact Assessment Act). Accordingly, the draft FTIP with its annexes and the environmental report on the environmental effects of the plan are to be made accessible to the public for at least one month. All citizens and public agencies will have the opportunity to comment on these documents and to scrutinize, in their entirety, the transport infrastructure planning strategies with

regard to their environmental effects. Individual project-related questions – relating to, for instance, the route study or local encroachments on nature and landscapes or ownership – cannot be discussed at this level because of a lack of specificity. They cannot be discussed until during the subsequent procedural steps (spatial impact assessment procedure, plan approval procedure).

The comments provided by citizens and public agencies will inform the continuing process of development. The Federal Ministry of Transport and Digital Infrastructure will announce how the comments have been taken into account.

### 3.5 Constraints on public participation in the preparation of the FTIP

The Federal Government is very keen to see broad-based public participation. Good proposals made by academics, citizens and trade associations as well as by public agencies are to be brought to its attention, and the procedure for preparing the FTIP is to be presented to the public such that it is comprehensible to them. However, there are also constraints on public participation at the level of nationwide requirement planning. Because the next steps leading up to the passage of the upgrading acts are the responsibility of the German Bundestag as the legislature and are thus outside the scope of a direct participatory procedure. Thus, during the legislative procedure, contents of the FTIP included as a result of public participation can, if appropriate, be revised or, at the very least, modified.

Federal transport infrastructure planning follows a significantly more abstract approach than the subsequent, project-related planning procedures which, by taking actual decisions, for instance on an alignment, can trigger a situation where the public is directly affected. Discussions during the preparation of the FTIP thus only relate to the question of the fundamental need for a scheme (construction of new transport infrastructure or upgrading of existing infrastructure) and whether it represents value for money in the context of nationwide network planning and not to the weighing of competing interests in actual project planning (for instance alignment, route study), which is the prerogative of the subsequent procedures. The FTIP cannot anticipate the subsequent participatory procedures and the questions to be discussed there. However, information and transparency in the FTIP process will help to reduce conflict in the following planning procedures.

**Broad-based endorsement of the FTIP 2015 is an important objective. However, the final decision will be taken by the German Bundestag.**

The question as to the fundamental need for a scheme is answered by the passage of the upgrading acts in the German Bundestag, which means that the subsequent procedural steps focus on the actual execution of a project. However, timescales for delivery of individual schemes are not determined

until the transport budget, which is adopted annually by the Bundestag, is available.

Given the complexity and scope of the procedure for drawing up the FTIP and the large number of potential stakeholders to be involved, there will be conflicts of interest that make it impossible to reach a consensus on all strategies, methods and projects. The FTIP is a professionally substantiated determination of the need for transport infrastructure investment. Broad-based acceptance of the FTIP is an important objective, but cannot become the sole criterion determining transport policy decisions. The challenge is to introduce the different points of view into the development process in a meaningful manner and using appropriate methods, to weigh them against one another in an informed manner and to develop an appropriate solution.

# 4 Spatial impact assessment procedure

The spatial impact assessment procedure (SIAP) involves the federal state authorities responsible for spatial planning considering whether a project is fundamentally compatible with spatial planning objectives. This also includes its effects on the environment. The basis for the official spatial impact assessment procedure is the outline design work undertaken by the developer. Frequently, spatial project or alignment alternatives are considered at the level of the spatial impact assessment procedure. The outcome of the spatial impact assessment procedure has to be taken into account by the authority responsible for the subsequent procedure for granting permission when it weighs interests and takes its decision to grant permission.

The spatial impact assessment procedure is especially important for public participation, because it is at this procedural level that individual citizens can actually see for the first time where the project will be located and how they will be affected. It is recommended that the developer involve the public at an early stage prior to the formal official procedure. The developer's planning phase preceding the formal spatial impact assessment procedure still contains comparatively great scope for decision-making.

## 4.1 Objectives and subject matter of the spatial impact assessment procedure

Once the fundamental need for an item of federal transport infrastructure has been established, a spatial impact assessment procedure (SIAP) is carried out to determine whether the project is compatible with spatial planning objectives. This also includes its effects on the environment. As a first step, it is necessary to evolve the requirement plan – which is still very abstract in spatial terms – into a specific alignment plan, so that individual citizens can see for the first time how they might be affected. Thus, the public's interest in participation will increase significantly at this point.

As far as the developer is concerned, an ideal time for participation is the planning phase, i.e. before the plans are submitted to the competent spatial planning authority, because at this stage the public's proposals are often still relatively simple and can be taken into account without sizeable cost increases. If there is no participation until after the draft design and spatial planning documents have been completed, the developer will be much more reluctant to take the public's wishes into account, because sizeable costs have already been incurred and any changes to the plan would entail significant further costs. Such early participation of the public by the developer before the SIAP is launched is voluntary and can assume a very wide variety of shapes, which makes it advisable for the developer to prepare it on a case-by-case basis.

**The spatial impact assessment procedure determines whether a project is compatible with spatial planning objectives and the environment, based on the state of play of planning at any given time.**

The subject matter of the spatial impact assessment procedure is spatially significant projects of regional importance. Its bases are the Spatial Planning

Act and the federal states' planning acts. The spatial impact assessment procedure is a screening and coordination procedure upstream of the procedure for granting permission and consent (plan approval procedure). It concludes with the regional planning assessment. This is a statement prepared by consultants that has to be taken into account in all further trade-off decisions on the permissibility of the planning or scheme. The spatial impact assessment procedure does not have any legal effect vis-à-vis individual citizens, which means that citizens are unable to take legal action against the regional planning assessment.

The objective of the spatial impact assessment procedure is to check whether a spatially significant project is compatible with the major objectives, principles and requirements of spatial planning and with other spatially significant projects. To this end, the effects of the plans submitted and the alternative sites/alignments introduced by the developer on the economic, social and ecological conditions in the regions affected are analyzed. To assess the consequences for the environment – i.e. for people and their health, fauna, flora, biodiversity, soil, water, etc. –, the SIAP undertaken for the major projects referred to here normally also involves an Environmental Impact Assessment (EIA) based on the state of play of planning of any given project.

#### 4.2 Public participation organized by the developer in the planning phase

The purpose of the planning phase is to enable the developer to define the site and scope of the study and to plan the alignment more precisely. To this end, environmental studies and project plans are progressively fleshed out and subsequently combined to form the spatial impact assessment document. The first public participation exercise should be conducted well ahead of the documents being submitted, so that the planning can take citizens' wishes and appropriate suggestions into account. At the end of the planning phase, the spatial impact assessment documents are submitted to the competent authority.

##### Presentation of the planned project and the envisaged public participation

When planning the actual alignment, the developer should start by involving the public, for instance by means of press releases, launching a permanent website or conducting public information and consultation events. Decisions on the number and timing of such events should be taken on a case-by-case basis. One example is shown in Fig. 4.

The initial aim of the planning phase is to explain the objectives and approach of the planned project and the envisaged participatory steps to the public. This also includes the statutory bases, the planning levels and the state of play of planning, the scope for decision-making, the envisaged participation exercises (who, when, how, by whom) as well as the workflow and timetable. Key issues when presenting the project details should be the impact on the affected



residents and the environment and on the economic and social conditions in the region. In addition, the importance of the project for the federal transport network should be explained.

However, in addition to providing information, citizens should also be given an opportunity to make suggestions and voice any misgivings they have about the project. The developer's scope for decision-making to take suggestions into account is still comparatively great. Especially when developing possible alternative options for a project, timely public participation can provide important detailed information on individual sections. Inviting citizens to propose alternative alignments can result in them identifying with the project.

To help make the discussions more objective, public participation events should also be attended by the developer's professional planners who can present the main features of the consultants' reports in a way that is intelligible to all and who can answer any questions the public may have.

**The scope for taking citizens' suggestions and misgivings into account is still comparatively great.**

In the case of a spatial impact assessment procedure with Environmental Impact Assessment (EIA), the federal state planning authority has to conduct a scoping meeting on the subject matter, scope and methods of the EIA (see Chapter 4.3.2.). This meeting is also held during the planning phase. Because public participation is not mandatory at a scoping meeting, it may be advisable for the developer to explain the issues addressed at the scoping meeting and the outcome to citizens, to discuss them and to listen to and note any suggestions that citizens make.

In the case of projects where there is especially great potential for conflict, consideration should also be given to whether, and if so to what extent, it is necessary or advisable to establish a continuous participatory forum (e.g. dialogue forum, round table) and/or whether a facilitator should be appointed to support the process. The objective of informal participation prior to submission of the spatial impact assessment document is not only to inform and consult citizens, but also to enable them to understand the documents that are submitted.

If citizens voice serious misgivings about the planned project, it may be helpful to get together with them in their local community to take a closer look at how they will be affected and discuss their concerns on the ground.

### **Planning and procedural documents that are intelligible to all**

In the interests of the transparency and accessibility of the information required for public participation, it must be possible for citizens to understand the planning and procedural documents, at least their essential parts. This

applies especially to the technical explanatory reports and consultancy studies.

Section 6 of the Environmental Impact Assessment Act requires a non-technical summary, intelligible to all, for the developer's EIA documents. However, such summaries that are intelligible to all should not be confined to the documents relevant to EIA but should also include all other relevant procedural documents. In particular, the individual consultancy studies and explanatory reports on the project written by the developer or his consultants and professional planners should have a separate or common summary intelligible to all. Before the developer approves a consultancy study, he should check that it is intelligible to all and request corrections if necessary. Assembling text modules from the unabridged technical versions is not usually sufficient to create a summary that is intelligible to the average member of the public.

Transparency through planning and procedural documents that are intelligible to all

In the case of very extensive procedural documents filed in numerous folders, it may also be advisable to prepare an aid to readers in the form of a brief overview with which the non-specialist reader can gain a rapid overview of the structure of the documents and the main contents of the individual folders.

When preparing or reviewing texts that are intelligible to all, the following aspects should be taken into account:

- explain technical abbreviations in a glossary of abbreviations;
- explain technical terms in a glossary in language that is intelligible to all;
- keep sentences short;
- choose brief and succinct phrases;
- explain complex issues by using practical examples;
- only use foreign words and technical terms where this is necessary;
- use key terms consistently;
- use the active voice to describe actions/processes – avoid the passive wherever possible;
- avoid nominalization;
- include important information in the main text and not in footnotes;
- use lists, tables and graphics to make the presentation more attractive;
- split the text up into small, manageable sections with informative headings.

### Summary of proposals and possibilities

Table 3 summarizes the possible subject matter and methods of a public participation exercise conducted by the developer for the planning phase. Here, the planning phase is divided into two sections. The early planning phase mainly involves establishing the parameters and taking initial steps

to flesh out the project. By the advanced planning phase, the planning of the project has already been fleshed out. The focus is now on preparing the spatial impact assessment documents.

Decisions on the selection of specific public participation activities and instruments should be taken on a project-related basis.

**Table 3: Proposals for public participation exercises organized by the developer in the planning phase of the spatial impact assessment procedure**

Phase	Possible subject matter of public participation	Proposals on type and methods of public participation
<b>Early planning phase (conceptual phase)</b>	<p><b>Information on:</b></p> <ul style="list-style-type: none"> <li>• Delimitation of the planning area</li> <li>• Project outline and objective</li> <li>• Requirements of federal transport infrastructure planning</li> <li>• Scope for and constraints on active participation, taking into account the decisions already taken at the requirement plan level</li> </ul> <p><b>Information / consultation:</b></p> <ul style="list-style-type: none"> <li>• Findings of the planning area studies</li> <li>• Initial conflict areas (if appropriate)</li> <li>• Alignment proposals that already exist (if appropriate)</li> </ul>	<ul style="list-style-type: none"> <li>• Start media deployment and press activities (esp. Internet, press releases) targeting specific groups</li> <li>• Public participation events for information and consultation</li> <li>• Supplementary event on the scope of the study (citizen scoping) (if appropriate)</li> <li>• Establishment of a public information centre in the local community (if appropriate)</li> <li>• Establishment of a continuous participatory forum (e.g. round table, dialogue forum) even at this early stage (if appropriate)</li> </ul>
<b>Advanced planning phase and preparation of spatial impact assessment documents</b>	<p><b>Information and consultation on:</b></p> <ul style="list-style-type: none"> <li>• (Interim) results of planning</li> <li>• (Interim) outcomes of the environmental studies</li> <li>• E.g. proposals for alternatives/alignments on the basis of spatially specific conflict areas</li> <li>• E.g. preferred options (main alternatives/subordinate local options) and major reasons for selection</li> </ul>	<ul style="list-style-type: none"> <li>• See above.</li> <li>• When preparing the documents: focus on documents that are intelligible to all, summaries and aids to readers that citizens understand</li> </ul>

Fig. 4 shows an indicative graphic representation of the main benchmarks of a comprehensive public participation exercise for a spatial impact assessment procedure and the subsequent alignment determination procedure. It shows participatory steps for which the developer is responsible and for which the competent authority is responsible.

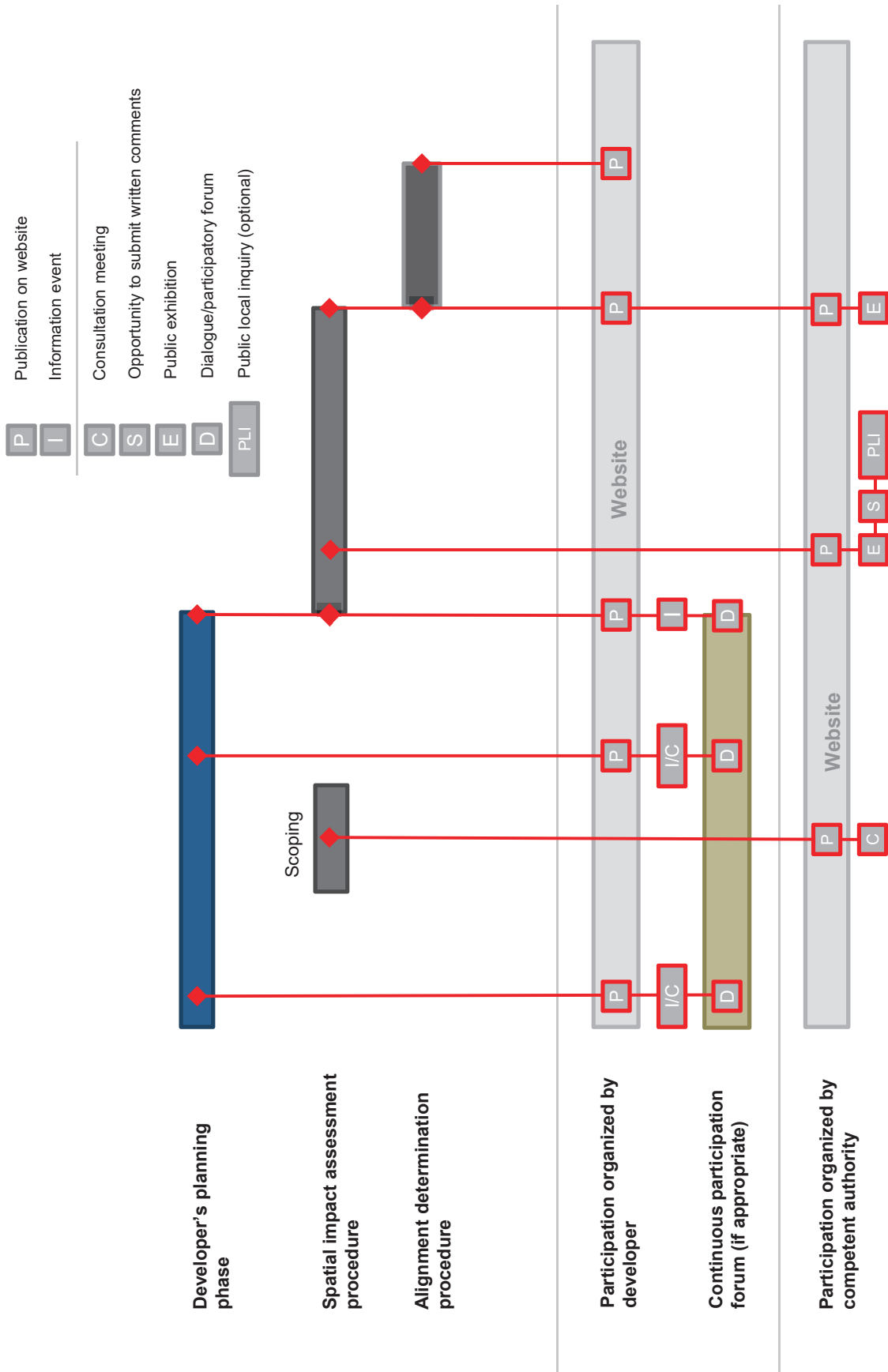


Fig. 4: Indicative structure of a public participation exercise in the spatial impact assessment procedure

## 4.3 Public participation organized by the federal state planning authority during the spatial impact assessment procedure

### 4.3.1 Overview of the procedure

The spatial impact assessment procedure is regulated in the Federal Spatial Planning Act and in the planning acts of the federal states. The city states of Hamburg and Bremen are an exception, because spatial impact assessment procedures are not generally required there. The purpose of a spatial impact assessment procedure is to determine whether a project is compatible with spatial planning objectives. Section 1 of the Spatial Planning Regulations states that a spatial impact assessment procedure shall be conducted if a project is spatially significant and of regional importance and the type of project is listed in Section 1 (positive list). Such projects include, for instance:

- the construction of a federal trunk road that requires a decision under Section 16 of the Federal Trunk Roads Act;
- the construction of a new federal railway line or the major modification of the alignment of an existing line, plus the construction of new marshalling yards and combined transport terminals;
- the construction of a new federal waterway and the upgrading or removal of an existing waterway where determination of the planning and alignment are required by Section 13 of the Federal Waterways Act;
- the construction of or major modification to an aerodrome where plan approval is required by Section 8 of the Civil Aviation Act.

The spatial impact assessment procedure with EIA usually follows the procedure illustrated in Fig. 5.

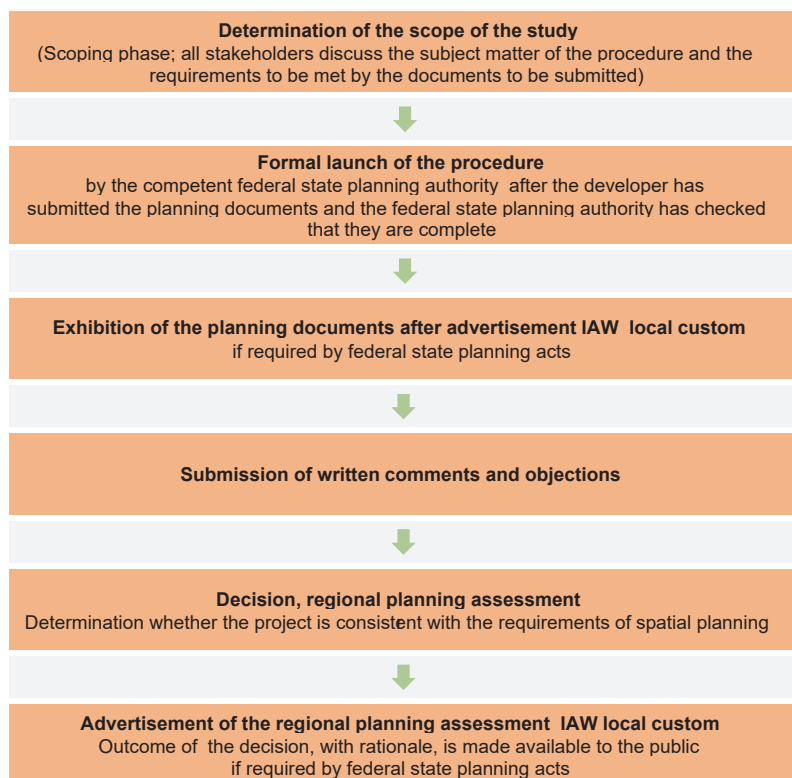


Fig. 5: Flow chart illustrating a spatial impact assessment procedure with EIA

The procedure is launched after the federal state planning authority has checked that the documents are complete, either on request or in its own motion. There is no legal entitlement to the launch of a spatial impact assessment procedure (cf., for instance, Section 14(1) of the Schleswig-Holstein Federal State Planning Act, Section 15(4) of the Mecklenburg-Western Pomerania Federal State Planning Act). As a rule, the higher-level federal state planning authority is responsible. In the case of projects that are of significance for an entire federal state, the top-level federal state planning authority is responsible for conducting the spatial impact assessment procedure. In the case of a project transcending federal state boundaries, it is usually necessary to conduct two procedurally independent spatial impact assessment procedures.

The spatial impact assessment procedure concludes with a regional planning assessment. Here, the competent federal state planning authority can come to the conclusion that the project is consistent with the requirements of spatial planning, inconsistent with the requirements of spatial planning or consistent with the requirements of spatial planning if certain conditions are met. The regional planning assessment is an expert opinion that does not have any outward legal effect. However, as an internal procedure, it must be taken

into account in the downstream procedure for granting permission by the authority responsible for granting permission as part of its weighing-up (cf., for instance, Section 14b(2) of the Schleswig-Holstein Federal State Planning Act).

As a rule, the federal states mandate, in their federal state planning acts, the participation of the public in the spatial impact assessment procedure with various requirements. Formal public participation in the spatial impact assessment procedure routinely comprises the public advertisement of the project, the right to inspect the documents, the opportunity to make representations and informing the public of the decision.

**Better public participation within the existing procedure**

In addition, in many federal states the spatial impact assessment procedure includes conducting an EIA on the basis of the state of play of planning of any given project (cf., for instance, Section 14(3) of the Schleswig-Holstein Federal State Planning Act, Section 15(1) in conjunction with Section 15(8) of the Mecklenburg-Western Pomerania Federal State Planning Act, Section 15(1) in conjunction with Section 15(8) of the Saxony-Anhalt Federal State Planning Act). The major transport infrastructure projects addressed here are usually subject to EIA (Section 3(1) of the Environmental Impact Assessment Act in conjunction with Annex 1 to the Environmental Impact Assessment Act). However, there is no obligation for the federal states to stipulate that an environmental impact assessment must be carried out at the spatial impact assessment procedure stage (Section 16(1) of the Environmental Impact Assessment Act). In these cases, however, the EIA must be conducted in the alignment determination procedure for transport infrastructure projects subject to EIA (see Chapter 5).

If, under federal state law, the spatial impact assessment procedure includes an EIA based on the state of play of planning of any given project, the spatial impact assessment procedure assumes the function of a supporting procedure into which the EIA, with its specific procedural requirements, is to be integrated. In these cases, the provision in Section 9(3) of the Environmental Impact Assessment Act defines a minimum standard for public participation, from which, in turn, the federal state regulations may derogate.

By means of EIA, the environmental effects of a project are to be assessed as early as possible in a procedure that is legally regulated and transparent. The assessment comprises the identification, description and appraisal of the direct and indirect effects of the project on the following assets: human beings, including human health, fauna, flora, biodiversity, soil, water, air, climate, landscape, the cultural heritage and other material assets plus the interaction between these assets (second sentence of Section 2(1) of the Environmental Impact Assessment Act).

**Carrying out an environmental impact assessment procedure based on the state of play of planning with public participation**

Unless federal state law stipulates otherwise, the EIA is to be carried out based on the state of play of planning of any given project. The documents to be submitted must include a description of the major alternatives considered (Section 6(3)(5) of the Environmental Impact Assessment Act). In the subsequent plan approval procedure, the environmental impact assessment can be confined to additional or other significant environmental effects of the project (Section 16(1) and (2) of the Environmental Impact Assessment Act).

Although EIA plays a major role in public participation in the spatial planning sphere, public participation in such a spatial impact assessment procedure should not be narrowly limited to environmental considerations. Section 15(3) of the Spatial Planning Act states that the public can generally be consulted on all aspects of compatibility with spatial planning objectives.

In its decision of 24 October 2011, the Standing Conference of Ministers responsible for Spatial Planning also states that it is in favour of strengthening public participation in the planning of and granting of consent for major projects. It stresses that the spatial impact assessment procedure is especially suitable for considering alternative sites and alignments, for achieving planning certainty, for creating acceptance and as a means to accelerate the procedure. The Standing Conference of Ministers responsible for Spatial Planning thus recommends that the Federal Government and federal states make public participation in the spatial impact assessment procedure mandatory for major projects and that, in suitable cases, they should be able to require the developer to furnish alternative sites and alignments for consideration.

#### 4.3.2 Determining the scope of the study (scoping)

The scoping procedure, which, under Section 5 of the Environmental Impact Assessment Act, is conducted by the federal state planning authority prior to the preparation of the spatial impact assessment documents, takes place before the formal procedure is launched, usually at a relatively early stage of the developer's planning phase. It is the responsibility of the federal state planning authority. The scoping procedure includes a scoping meeting, at which the developer, the federal state planning authority and sectoral authorities discuss the contents and scope of the EIA documents to be furnished. Experts and third parties, such as environmental groups and selected citizens (citizens' action groups) with expert knowledge, can be invited to the scoping meeting.

**Possible inclusion of environmental groups and citizens or citizens' action groups with expert knowledge in the scoping meeting**

A scoping meeting is not an event at which private interests are discussed. It is a meeting of experts to discuss the subject matter, scope and methodology of the (environmental) studies required for the procedure. For this reason, there is no legal requirement to directly include the general public, nor is such involvement likely to produce any results. To create transparency, the



developer can stage parallel public information events and the federal state planning authority can publish the outcome of the scoping procedure. In addition, there are various ways in which the federal state planning authority can open the event to the public in order to create transparency:

- The purpose and agenda of the meeting, a list of participants and the documents submitted in advance can be published, for instance on the Internet.
- Interested citizens can be given an opportunity before the meeting to make written comments on the scope of the study (for instance in the form of participation on the Internet).
- Observers can be invited from the population, who attend the meeting in this capacity.
- Citizens may also be admitted as spectators.
- The outcome can be posted on the Internet and/or transmitted to the media by means of a press release or conference. (The scoping meeting could also be livestreamed on the Internet.)

At the scoping meeting, the federal state planning authority should advise the developer that the consultants he has commissioned should prepare intelligible (i.e. that can be understood by everyone) summaries of the essential contents of the procedural documents and aids to readers (see Chapter 4.2).

In Lower Saxony, Thuringia and the Berlin-Brandenburg joint planning area, the scoping meeting takes the shape of a scoping conference, at which not only the contents, scope and methodology of the EIA documents to be submitted are discussed but also the need for and the subject matter, scope and stages of the entire spatial impact assessment procedure are discussed (Section 14(1) of the Lower-Saxony Spatial Planning Act, Section 22(3) of the Thuringian Regional Planning Act, Section 2(3) of the Joint Spatial Impact Assessment Procedure Regulations). The federal state planning authority or the joint federal state planning directorate is responsible. The scoping conference is attended by the developer, the authority responsible for granting permission and other public bodies whose remit is affected plus recognized associations whose aim is to promote nature conservation and environmental protection (Section 2(3) of the Joint Spatial Impact Assessment Procedure Regulations) and other bodies (Section 14(3) of the Lower Saxony Spatial Planning Act). There is no provision for public participation. However, it can be considered – like at scoping meetings – in order to create transparency.

### **4.3.3 Advertisement, public exhibition, objections**

After the developer has submitted the spatial impact assessment documents to the competent federal state planning authority, the latter checks that they

are complete. When doing so, the federal state planning authority should check that the documents are intelligible to all and request corrections if necessary. The planning documents are subsequently put on display at a public exhibition.

### Advertisement

The public exhibition of the documents is normally to be advertised in advance, and in accordance with local custom, by the municipalities that are likely to be impacted by the project. The federal state planning acts regulate what information is to be provided.

The main items to be included in the advertisement are the venue and time of the public exhibition plus an indication that the public will have an opportunity, within a specified period of time, to make representations in writing or orally for the record (cf., for instance, Section 22(6) of the Thuringian Regional Planning Act). Some federal state planning acts, such as those of Saxony and Rhineland-Palatinate, stipulate that the advertisement must be published at least one week before the start of the public exhibition (cf. Section 15(4) of the Saxony Federal State Planning Act, Section 17(7) of the Rhineland-Palatinate Federal State Planning Act).

#### Information on the public exhibition

If the federal state planning acts provide for making the documents available on the Internet, the appropriate Internet address is also to be published (Article 25(5) of the Bavarian Federal State Planning Act, Section 17(7) of the Rhineland-Palatinate Federal State Planning Act). In the case of spatial impact assessment procedures subject to EIA, the minimum standard defined in Section 9(1a) of the Environmental Impact Assessment Act applies to the advertisement.

The public should learn of the forthcoming exhibition via several information channels. Thus, the forthcoming exhibition should be advertised at least on the Internet (see Chapter 9.4 on the use of the Internet, the press or other media).

### Public exhibition

The standard of formal public participation under the federal state planning acts or the Environmental Impact Assessment Act consists of an exhibition, usually lasting one month, of the documents in the municipalities likely to be impacted by the planning and/or the project.

The main documents to be displayed, for which Section 9(1b) of the Environmental Impact Assessment Act stipulates specific requirements in the case of an EIA integrated into the spatial impact assessment procedure, are as follows:

- information on the plan, i.e. a detailed description of the project with text and maps;
- the relevant documents on the impacts of the project that are spatially significant above the local level and – if available – comments by consultants relating to the project and its impacts;
- if an EIA is to be conducted, the documents on the environmental impact assessment referred to in Section 6 of the Environmental Impact Assessment Act (description of the project, the environment and its components in the area affected by the project, the likely significant adverse environmental effects of the project, the measures to prevent/offset significant adverse environmental effects of the project, an overview of the major alternative possible solutions considered by the project developer and a non-technical summary intelligible to all).

To promote transparency, consideration should be given to what other documents can be made available to the public. These could be, for instance, the scope of the study coordinated with the authorities on which the studies and consultancy reports are based (see Chapter 4.3.2).

The authority can make it easier for citizens to get their bearings by compiling a fact sheet with essential information on the levels and state of play of planning, the procedures, the schedule, the targets and the scope for decision-making, the envisaged participation exercises, etc. The fact sheet can, for instance, also provide a transparent account of the stages of the additional participation process taking place during the exhibition. It can be distributed at information events or at the exhibition venues. Figure 6 contains a simple indicative flow chart.

Possible supplementary informal participation: citizens' surgeries, dialogue forums and information events in the public exhibition phase

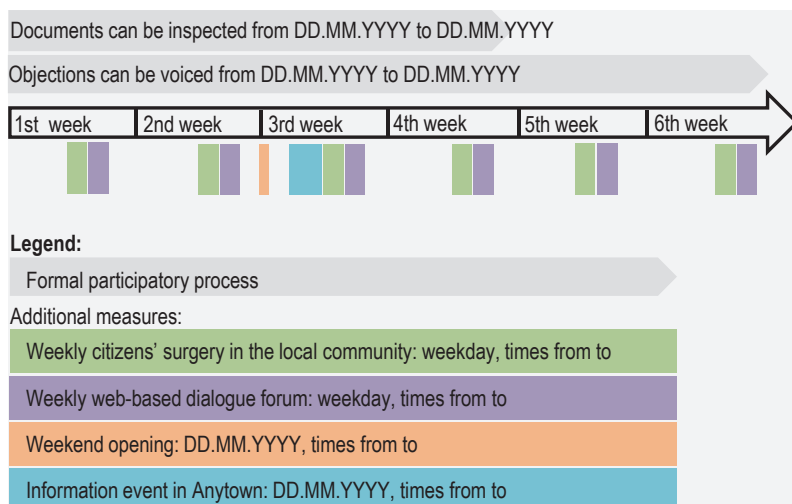


Fig. 6: Flow chart illustrating a public exhibition and other participatory processes (indicative)

For the spatial impact assessment procedures subject to EIA addressed here, Section 9(3)(2) of the Environmental Impact Assessment Act in conjunction with Section 9(1b) of the Environmental Impact Assessment Act stipulates that all relevant reports and recommendations relating to the project that the authority has received by the start of the participatory procedure are to be put on display. As a rule, citizens are not familiar with the later comments made by the authorities whose remit is affected by the planning or with those made by environmental associations. Because these comments constitute an important basis of information, they should be made accessible to the public as soon as possible after being received. If these comments have already been received by the time the public exhibition starts, they can be made available for inspection in a separate folder at the public exhibition venue in the municipalities concerned.

### Further access to information

Consideration should also be given to publishing the documents on the Internet on a special project site at the same time as they are on display in the local communities (see Chapter 9.4.2). The federal state planning acts of Rhineland-Palatinate and Hesse make provision for this (optional) possibility (cf. Section 17(7) of the Rhineland-Palatinate Federal State Planning Act, fifth sentence of Section 18(6) of the Hesse Federal State Planning Act). In Bavaria, the higher federal state planning authority has to regularly post the documents on the Internet (second sentence of Article 25(5) of the Bavarian Federal State Planning Act).

#### Facilitating access to the procedural documents on display by publishing them on the Internet

Making them available on the Internet means that citizens can study them at their leisure and outside the opening hours on their computer at home. Submitting objections

As a rule, all interested citizens (see, for instance, Section 15(3) of the Lower Saxony Spatial Planning Act, Section 19(5) of the Baden-Württemberg Federal State Planning Act, Section 6(7) of the Saarland Federal State Planning Act) or the affected public (Section 32(1) of the North Rhine-Westphalia Federal State Planning Act in conjunction with Section 1(1) of the North Rhine-Westphalia Environmental Impact Assessment Act) can voice objections within a period of six weeks.

#### Citizens can submit objections in writing.

In the federal states of Bavaria, Rhineland-Palatinate and Hesse it is already possible to submit objections by email (third sentence of Article 25(5) of the Bavarian Federal State Planning Act, sixth sentence of Section 17(7) of the Rhineland-Palatinate Federal State Planning Act, sixth sentence of Section 18(6) of the Hesse Federal State Planning Act).

#### 4.3.4 Voluntary public local inquiry

The federal state planning acts do not stipulate a mandatory public local inquiry for citizens. However, the Rhineland-Palatinate Federal State Planning Act and the Berlin-Brandenburg Joint Spatial Impact Assessment Procedure Regulations, for instance, do make provision for the holding of voluntary public local inquiries (Section 17(7) of the Rhineland-Palatinate Federal State Planning Act, Section 5(4) of the Joint Spatial Impact Assessment Procedure Regulations). A voluntary public local inquiry can be expedient in the case of plans where there is especially great potential for conflict. In addition to its pacification effect, it can also help to answer citizens' questions, in order to enter into an active dialogue with citizens at an early stage – i.e. before the plan approval procedure – and to clear up possible misunderstandings regarding the planning and highlight any potential conflicts. The authority has to decide on a case-by-case basis whether a public local inquiry is advisable.

Notice that a public local inquiry is to be held should be published in the official bulletins of the municipalities that may be impacted by the project and in the local newspapers in the area affected by the project. It is advisable that citizens learn of the public local inquiry via several information channels. Various media targeting specific groups, including the Internet, lend themselves to this purpose. The notice should include a thematically structured agenda. In the case of very extensive public local inquiries, in particular, this enables people to attend the inquiry at a specific time when specific issues are being addressed.

**Holding a public local inquiry to discuss the objections depending on the potential for conflict in the project**

It is often difficult for people who are at work during the daytime to make an active contribution to the participatory procedure. Among other things, this is due to the times at which public local inquiries are held. Wherever possible, the competent authority should thus explore the possibility of holding the inquiry – or at least parts of it – outside people's normal working hours, i.e. in the early evening or, if appropriate, on a Saturday.

The way in which the event is facilitated is essential to its success and a positive prevailing mood at the public local inquiry. To this end, a competent person with as much experience as possible should be chosen. Crucial factors are:

- clear rules that are transparent to all stakeholders must be used at the inquiry;
- a good style of communication must be adopted;
- the statements made must be intelligible to all;
- all parties involved in the public local inquiry must be treated fairly;
- all major issues must be addressed one after the other in a structured manner.

General rules for good communication at participatory events can be found in Chapter 9.5 (Information and Communication Events). The best way to counter an emotionally charged atmosphere is to adopt a businesslike style and put forward well-founded arguments. As much time as possible should be allowed for objectors' interventions that are relevant with regard to the compatibility of the project with spatial planning objectives. It can also be advisable for the developer to provide a summary of the main procedural steps.

#### 4.3.5 Regional planning assessment

The outcome of the spatial impact assessment procedure as an internal coordination procedure is the regional planning assessment, which states whether the project and/or individual alternatives are consistent or inconsistent with the requirements of spatial planning.

In accordance with the provisions governing the spatial impact assessment procedure in the federal state planning acts, the public is usually informed of the outcome of the spatial impact assessment procedure. In some states, such as Schleswig-Holstein and Thuringia, there is a statutory requirement that the place and time at which the outcome of the spatial impact assessment is displayed be advertised, in accordance with local custom, by the municipalities affected at the developer's expense (cf. fifth sentence of Section 14a(3) of the Schleswig-Holstein Federal State Planning Act, Section 22(7) of the Thuringian Federal State Planning Act). Provision is made for advertisement on the Internet in Hesse, for instance (cf. seventh and eighth sentences of Section 18(6) of the Hesse Federal State Planning Act.)

**Transparency through publication of the regional planning assessment, including on the Internet**

Over and above the minimum legal standard, it may be appropriate, in the case of major projects, that citizens hear of the official decision in any given case via several channels. Different media targeting specific groups, including the Internet, should be used for this purpose (see Chapters 9.4.1 and 9.4.2). In all cases, it is advisable to publish the decision with the rationale on the Internet. The federal state planning acts of North Rhine-Westphalia and Hesse make provision for this as an optional possibility (first and second sentences of Section 32(4) of the North Rhine-Westphalia Federal State Planning Act, seventh and eighth sentences of Section 18(6) of the Hesse Federal State Planning Act), and the federal state planning act of Bavaria makes it a mandatory requirement (second sentence of Article 25(6) of the Bavarian Federal State Planning Act).

In order to actually reach citizens, the competent state planning authority should use language intelligible to all when writing the regional planning assessment and the rationale (see individual aspects in Chapter 4.2).

#### 4.3.6 Summary of proposals and possibilities

Table 4 below provides a brief summary of proposals for far-reaching public participation at the level of the spatial impact assessment procedure. In addition, Fig. 4 in Chapter 4.2 shows a diagram of the main benchmarks for participation in the spatial impact assessment procedure.

Decisions on the selection of specific public participation activities and instruments should be taken on a project-related basis.

**Table 4: Proposals for public participation exercises organized by the federal state planning authority during the spatial impact assessment procedure**

Procedural step	Possible subject matter of public participation	Proposals on type and methods of public participation
<b>Determining the scope of the study (scoping phase)</b>	<b>Information and consultation on:</b> <ul style="list-style-type: none"> <li>• Scope of the environmental study, other aspects if appropriate, e.g. issues from the early planning phase</li> </ul>	<ul style="list-style-type: none"> <li>• Inform citizens about scoping process via Internet and/or press release</li> <li>• Fact sheet about the procedure</li> <li>• Involve citizens with specific expertise</li> <li>• Admit citizens to the scoping meeting as guests (if appropriate)</li> </ul>
<b>Exhibition of the planning documents after advertisement IAW local custom</b>	<b>Information on:</b> <ul style="list-style-type: none"> <li>• Participatory steps and formal rules in the spatial impact assessment procedure</li> </ul>	<ul style="list-style-type: none"> <li>• Establish an information management system (press activities, Internet)</li> <li>• Make the planning documents available on the Internet</li> <li>• Publish official comments and the scope of the EIA study on the Internet</li> </ul>
<b>Raising of objections, written participation</b>	<b>Information and consultation on:</b> <ul style="list-style-type: none"> <li>• Contents of the documents submitted</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary public local inquiry held by the federal state planning authority (if appropriate)</li> </ul>
<b>Regional planning assessment</b>	<b>Information on:</b> <ul style="list-style-type: none"> <li>• Contents and rationale of the spatial planning decision</li> <li>• How the objections and official comments have been taken into account in the spatial planning decision</li> </ul>	<ul style="list-style-type: none"> <li>• Check that the documents and summaries are intelligible to all</li> <li>• Explain what significance objections had for the regional planning assessment</li> <li>• Publicize the regional planning assessment and put it on display (if required by the federal state planning act)</li> <li>• Publish the spatial planning decision with rationale on the Internet</li> </ul>

#### 4.4 Public participation organized by the developer during the spatial impact assessment procedure

During the formal spatial impact assessment procedure, the flow of information provided by the developer should continue. Just how much the developer should involve citizens during the spatial impact assessment procedure depends mainly on the extent to which there was public participation before the documents were submitted to the spatial planning authority. Supplementary offers of participation should be coordinated with the authority conducting the procedure and, because of the ongoing procedure, should be confined to the level of information.

The developer should inform citizens of the documents that have been submitted and explain them if appropriate. This applies especially in cases where the plans have been modified since the last participation exercise. If a continuous participatory forum (e.g. dialogue forum, round table) has already been established prior to the launch of the spatial impact assessment, this forum can continue its activities in parallel with the spatial impact assessment procedure (see Chapter 9.6) if there is still a need for discussion.

Possible additional offers of information, such as public participation events and citizens' surgeries, to explain the procedural documents

Even if the spatial impact assessment procedure is the responsibility of the federal state planning authority, the developer can post supplementary information on the state of play of the spatial impact assessment procedure on the Internet or provide information on it in another way (e.g. press releases). If appropriate, the developer could also consider supplementary public participation events to explain his spatial impact assessment documents – especially at the start of the public exhibition and/or immediately after the procedural documents have been submitted – in the various municipalities if such events have not already been held (see Chapter 9.5 for details).

In addition, the developer could support the formal procedure, especially in the case of complex planning activities, in the public exhibition phase by making enhanced offers of information in the form of citizens' surgeries. Here, citizens can discuss specific technical or procedural issues with a person who is familiar with the project. This measure makes it possible to mitigate actual or perceived imbalance, for instance because of different levels of information and knowledge, thereby enhancing the quality of the participatory process. The times at which the citizens' surgery is open should be based on the availability of different sections of the public (including the working population, parents, etc.). The person holding the citizen's surgery could, at certain times, be available to answer questions by telephone (community helpline) or via a web-based dialogue forum (chat).

The frequency and length of citizens' surgeries should depend on how much potential for conflict the project involves. In the case of plans that involve



relatively little conflict, it may suffice to hold a surgery for a few hours on a fortnightly basis. In the case of plans where there is a greater potential for conflict, however, it may be advisable to reduce the intervals and hold the surgeries for several hours. Information that a citizens' surgery is to be held should be provided via different channels targeting specific groups.

Table 5 contains proposals addressed to the developer. The decision on the selection of specific public participation activities and instruments is to be taken on a case-by-case basis and should be based on, inter alia, the potential for conflict that the project involves.

**Table 5: Proposals for public participation exercises organized by the developer during the spatial impact assessment procedure**

Procedural step	Possible subject matter of public participation	Proposals on type and methods of public participation
Submission of planning documents	<b>Information on:</b> <ul style="list-style-type: none"> <li>Submission of the documents</li> <li>Structure and contents of the documents submitted</li> </ul>	<ul style="list-style-type: none"> <li>Deployment of the media and press activities (Internet, press releases, leaflets, etc.)</li> <li>Information events for citizens</li> </ul>
Exhibition of the planning documents after advertisement IAW local custom	<b>Information on:</b> <ul style="list-style-type: none"> <li>Supplementary explanations on the structure and contents of the documents submitted</li> </ul>	<ul style="list-style-type: none"> <li>Deployment of the media and press activities (Internet, press releases)</li> <li>Advance and continuous publication of the planning documents on the Internet</li> <li>Citizens' surgeries in local communities, by telephone (community helpline) and/or web-based (chat)</li> <li>Opportunity to ask questions on the Internet</li> <li>Continuation of a continuous participatory forum (if appropriate)</li> </ul>
Publication of the regional planning assessment	<b>Information on:</b> <ul style="list-style-type: none"> <li>Outcome and requirements of the regional planning assessment</li> <li>Consideration of the objections in the regional planning assessment</li> </ul>	<ul style="list-style-type: none"> <li>Deployment of the media and press activities (Internet, press releases)</li> <li>Continuation of a continuous participatory forum (if appropriate)</li> </ul>

#### 4.5 Responsibilities of towns and cities in public participation during the spatial impact assessment procedure

On the one hand, the affected towns and cities are themselves participants in the procedure and can submit comments on the project. On the other hand, they are responsible for advertisements and for placing the planning

documents on public exhibition. In addition, their representatives can participate in information events and in continuous dialogue forums. When public participation is being fleshed out, the towns and cities can assume an important role in their function as a link between state responsibility and the population.

#### 4.5.1 Advertisement, public exhibition

The towns and cities that are likely to be impacted by the project must, in accordance with the federal state planning acts, place the documents on public exhibition, usually for a period of one month, and advertise this public exhibition in advance in accordance with local custom (second sentence of Section 14a(3) of the Schleswig-Holstein Federal State Planning Act, first sentence of Section 15(4) of the Saxony Federal State Planning Act, for more details see Chapter 4.3.3).

##### Advertisement

In the case of major projects, it may be necessary for citizens to visit the exhibition room several times to study the extensive documents. At the same time, many citizens only have a limited amount of time available because of job- or family-related commitments. The earlier the exhibition periods are advertised, the easier it will be for citizens to make arrangements to ensure that they have sufficient time to inspect the documents. The aim should be to advertise the exhibition at least 10 to 14 days in advance.

##### Public exhibition

To enable people who are at work during the day to make an active contribution to the participatory processes, care should be taken to ensure that the exhibition is also open outside normal working hours. Public institutions that provide services to citizens are usually open in the evening at least once a week. This can be taken as a guide. Care should also be taken to ensure, wherever possible, that the exhibition period is not entirely during the peak holiday season. Consideration should also be given to keeping the exhibition room open at a weekend.

The premises at which the exhibition is held and the way in which they are furnished must be selected with care. Table 6 contains a non-exhaustive list of tips on how the exhibition room should be designed:

Towns and cities provide information on the public exhibition of the spatial impact assessment documents

Making the exhibition of the spatial impact assessment documents citizen-friendly

**Table 6: Exhibition room checklist**

Ideally, the room is:

- well known, signposted and easy to reach;
- large enough for several persons to be able to inspect the documents at the same time;
- equipped with suitable furniture and lighting so that visitors are encouraged to linger and study the documents. Citizens can spread the documents out on a table and sit down to study them. There is enough space on the table to open several folders and make notes. The lighting is also good in the evening;
- designed such that citizens can get into conversation with one another and exchange their misgivings and concerns (seating area with leaflets and hands-on displays);
- equipped with a photocopier so that citizens can read the documents at home at their leisure;
- equipped with a suggestions box or a pinboard. Citizens can write down their misgivings and concerns on a piece of paper and drop it in the box or pin it to the board;
- if appropriate, equipped with a computer with Internet access into which citizens can enter their questions and misgivings directly on the dedicated website.

Another way to improve the availability of the exhibited spatial impact assessment documents is to give interested citizens a data storage medium provided by the developer and containing the documents (CD/DVD or USB stick) or – even better – to post the documents on the Internet. However, this would be the responsibility of the spatial planning authority.

#### **4.5.2 Participation in the spatial impact assessment procedure and public local inquiry**

The affected municipalities are to be regularly involved in the spatial impact assessment procedure (cf. Section 14a(2)(1) of the Schleswig-Holstein Federal State Planning Act, Section 19(4)(1) of the Baden-Württemberg Federal State Planning Act). Their task is to represent the affairs of the local community (for instance economic and demographic development, urban development, development planning, local authority infrastructure). Thus, the interests of the citizens who live in the respective municipalities are also indirectly affected. It can certainly be in the interests of the municipalities to hold special public participation events on the planned project before submitting their comments and to advertise these events in advance.

If a voluntary public local inquiry is held following the participation exercise (see Section 17(7) of the Rhineland-Palatinate Federal State Planning Act and Section 5(4) of the Joint Spatial Impact Assessment Regulations), the municipalities that have submitted comments on the project can also participate. In the run-up to the inquiry, the municipalities should make extensive use of their possibilities to advertise the inquiry and explain its importance. In turn, citizens should also put forward their interests in the municipalities.

#### 4.5.3 Information events with the developer

Supporting the developer in holding information events in towns and cities

If the developer plans to hold information events in the municipalities likely to be impacted (see Chapter 4.2 above), the municipalities should be proactive in hosting the events, as is already the case in many places. If the developer does not envisage holding such an event, one of the affected municipalities can encourage the developer to present the plans to the municipality at a public meeting to be held as early as possible.

#### 4.5.4 Member of permanent participatory forums

Towns and cities provide information to citizens

If a permanent participatory forum is established, the representatives of the municipalities likely to be affected by the plans (mayor, chairman of the municipal council, etc.) should be active as a member of such a participatory forum. Because they are in close touch with the citizens, they can also represent the interests of the citizens at this forum and inform the citizens of the outcome of the activities of the forum. This applies even more in the case of participatory forums without the direct participation of citizens. Information events or the transmission of information by Internet and local newspapers can ensure the flow of information.

# 5 Alignment determination

Alignment determination is an internal coordination procedure that involves the Federal Ministry of Transport and Digital Infrastructure reviewing the alignment – planned by the federal states acting as agents of the Federal Government – of a federal trunk road or federal waterway. Specific public participation is not usually necessary at this stage of the procedure.

Following a spatial impact assessment procedure, an alignment determination is carried out for the construction of new federal trunk roads and federal waterways. This involves the Federal Ministry of Transport and Digital Infrastructure establishing the planned alignment as a basis for the outline design work preceding the plan approval procedure. Alignment determination is a trade-off decision specific to this stage, in which the public interests affected by the project, including environmental sustainability and the outcome of the spatial impact assessment procedure, have to be taken into account. It does not have any impact outside the administration, only internally. An EIA with formal public participation is only undertaken if, in the case of a project where alignment determination is mandatory, no spatial impact assessment procedure has been carried out or a spatial impact assessment procedure without formal EIA and public participation has been carried out (Section 16 of the Environmental Impact Assessment Act). In practice, however, an alignment determination procedure with formal EIA is very rare. In most cases, EIA is integrated into the spatial impact assessment procedure. However, the outcome of the alignment determination procedure may be that the Federal Ministry of Transport and Digital Infrastructure imposes certain conditions that result in a modification of further project planning compared with the spatial impact assessment procedure. It is thus advisable that the developer, in the interests of continuous public participation, provides transparent information on the outcome of the alignment determination procedure, at least on the Internet.

The developer provides information on the outcome of the alignment determination

# 6 Plan approval procedure

In the plan approval procedure, a final decision is taken on the legality of the planned transport infrastructure project. Plan approval enables the developer to go ahead with construction of the project if nobody takes legal action against the approval. The basis for this decision is an outline design provided by the developer and giving details for each plot of land. The plan approval decision must carefully weigh up all the aspects that militate in favour of and against the project. The decisions taken during the spatial impact assessment procedure are also taken into account.

The plan approval procedure is of special importance for public participation in that it is at this procedural stage that the final decision is taken as to how citizens are affected. Citizens who are specifically affected must assert their concerns during the formal public consultation procedure accompanying the plan approval procedure in order to safeguard their right to lodge an appeal against the plan approval decision with the competent administrative court (statute of repose). For the developer, the timely involvement of affected citizens in the process of preparing the draft planning application is recommended in order to identify how individual citizens are specifically impacted and, if possible, to minimize this impact by optimizing the outline design.

## 6.1 Objectives and subject matter of the plan approval procedure

The plan approval procedure concludes the multi-stage planning and permission-granting process for a transport infrastructure project. Whereas the spatial impact assessment procedure merely takes an internal decision, the plan approval procedure involves taking a final trade-off decision, binding on every citizen, with extensive weighing of the public and private interests that militate in favour of and against the project. Whereas a spatial impact assessment focuses on the assessment of the general compatibility of a project with spatial and environmental objectives, the plan approval procedure takes a decision on the location and construction of the project down to the individual lot level with all the necessary ancillary installations and follow-up action. In other words, it is a final decision on where and how a transport infrastructure project is to be built. In the case of major projects subject to EIA, the plan approval procedure also involves an in-depth EIA.

The plan approval procedure establishes/modifies all public-law relations between the project developer and the parties affected by the plan. Plan approval gives the developer the construction go-ahead. However, the plan approval decision is subject to a review of its legality by the administrative courts (see Chapter 7).

**The plan approval procedure involves a binding trade-off decision on the transport project**

Depending on the type of project and how it is statutorily governed, the conduct of the plan approval procedure is either entirely the responsibility of the plan approval authority or responsibility is split between a public consultation authority and a plan approval authority. In the latter case,

the public consultation authority conducts the public consultation, i.e. the involvement of the authorities and the public, and the plan approval authority conducts the decision-making procedure. Responsibility passes from the former to the latter when the former hands over its report on the public consultation exercise to the plan approval authority after it has concluded the consultation.

## 6.2 Public participation organized by the developer during the planning phase

Even while preparing for the plan approval procedure, the developer should seek early communication with the public and involve citizens during the planning phase. Case-specific preparation by the developer is recommended, for instance by means of an analysis of players (see Chapter 9.1), unless this has already been done in the upstream planning stage or if there are new constellations of players.

Such early public participation is also the subject of the bill for the improvement of public participation and the standardization of plan approval procedures. It states that the competent authority shall encourage the developer, when the latter is planning projects that may have not insignificant effects on the interests of a sizeable number of third parties, to inform the affected public at an early stage of the objectives of the project, the possible ways of implementing it and its likely impact.

The public participation steps to be recommended to the developer depend essentially on the participatory measures that have already been taken in the procedure to date. If, for instance, there is already a continuous participatory forum, this also lends itself as a platform for future participation.

In the planning phase, the developer builds on the decisions taken during the spatial impact assessment procedure and fleshes out his plans. What is required is an outline design that reveals every detail of how the land will be affected right down to the individual lot level.

EIA normally involves conducting in-depth studies of noise and pollutants as well as other environmental effects. Specific measures for resolving conflicts (e.g. noise barriers) can then be derived from the findings of these studies. In addition, the likely conflicts with the interests of nature conservation must be identified and resolved by means of avoidance, mitigation and compensatory measures. Frequently, alternatives of certain design details are developed and reviewed. Issues relating to the way in which land will actually be affected and the impacts of this, for instance threats to the livelihood of farmers or effects on land prices, are to be addressed outside EIA.

**Information on specific project planning and presentation of the envisaged public participation exercise**

This phase also includes the scoping meeting, which is held by the plan approval authority and addresses the subject matter, scope and methods of the EIA (see Chapter 6.3.1). Because public participation is not mandatory at a scoping meeting, it may be advisable for the developer to hold a public participation event supplementing the scoping in order to explain the contents of the scoping to citizens and, if appropriate, receive additional information from them for the environmental impact assessment (see also Chapter 4.2). In addition, it is always recommended that the developer provide information, on the Internet or as a press release, on the official scoping meeting, its contents and the outcome.

As at the level of the spatial impact assessment procedure, it is in many cases beneficial to planning if issues relating to planning are openly communicated to and discussed with interested citizens prior to the formal plan approval procedure. Recommended first steps in public participation following the spatial impact assessment procedure and – if appropriate – alignment determination procedure include press briefings on the outcome of these procedures and on the start of work on the plan approval documents as well as an initial public information event.

At this level, it is primarily a question of informing citizens of the extent to which the project is to be fleshed out compared with the spatial impact assessment procedure and/or alignment determination procedure, what aspects will play a major role in the plan approval procedure and what aspects have already been decided and can thus no longer be the subject of public participation. It is true that the alignment has already been largely determined. Nevertheless, the exact alignment may shift a few hundred metres, in particular as a result of the detailed studies of flora and fauna and the likely exposure of people to noise or pollutants. Accordingly, the citizens' good knowledge of the locality regarding areas worthy of protection can also inform the optimization of the alignment in this planning phase. In addition to the exact location of the alignment, influence can also be exerted in certain cases on bridges and underpasses, for instance to preserve local connectivity.

**Possibilities for holding dialogue forums with citizens, e.g. to optimize the alignment and the planning of measures**

Another purpose of early communication with citizens is to reach not only critics but also proponents of the project. This will improve the chance of developing compromises in which the advantages and disadvantages of a project are taken into consideration in a balanced manner. At the same time, the chance to establish the trust of the citizens is especially high in this phase. What is crucial is that the issues relating to planning be discussed with citizens before the plans are finalized.



To make discussions more objective, public participation events should also be attended, wherever possible, by the professional planners responsible for the contents of the plans. In addition, the developer must point out that, irrespective of informal events, affected citizens must also always assert their objectives in the formal procedures and within the specified time. Otherwise they risk forfeiting their rights to appeal and take legal action (statute of repose). Misgivings voiced at informal events do not suffice to safeguard rights to appeal and take legal action. In the case of issues relating to the way in which the land is specifically affected, it may be advisable to discuss them with the affected citizens in separate talks.

When planning has reached an advanced stage, public participation also has an important function in fleshing out the planning of ecological measures. In a dialogue with the citizens affected (mainly farmers), issues such as agricultural “no go” areas, offers of land by property owners and farmers, future ownership structures and maintenance of the areas affected by the measures can be coordinated.

The planning phase concludes with the completion of the plan approval documents and their submission to the competent authority. The documents should contain summaries that are intelligible to all and aids for readers (see Chapter 4.2 for more details).

Table 7 lists the subject matter of plus suggestions on the nature and methods of public participation that can be applied depending on the foreseeable level of potential conflict. As at the spatial planning level, it distinguishes between an early and an advanced planning phase. The suggestions listed also have to be viewed in connection with the public participation that has already taken place. A detailed explanation of the project, for instance, is not advisable unless the last step of participation dates back quite some time.

**Transparency through procedural documents intelligible to all**

Table 7: Proposals for public participation exercises organized by the developer in the planning phase of the plan approval procedure

Phase	Possible subject matter of public participation	Proposals on nature and methods of public participation
Preparatory phase	<ul style="list-style-type: none"> <li>• Project outline and objective</li> <li>• Opportunities for and constraints on active participation</li> <li>• Initial talks with citizens' action groups already known (if appropriate)</li> <li>• Information on the planning team, point of contact</li> <li>• Approach to public participation, roadmap</li> </ul>	<ul style="list-style-type: none"> <li>• Analysis of players</li> <li>• Establish the parameters of public participation</li> <li>• Create the process architecture</li> <li>• Integrate public participation into overall project planning</li> </ul>
Early planning phase (conceptual phase)	<p><b>Information on:</b></p> <ul style="list-style-type: none"> <li>• State of play of project planning</li> <li>• Fleshed-out project objectives</li> <li>• Consideration of the outcomes of the spatial impact assessment procedure/ alignment determination in the further course of planning</li> <li>• Opportunities for and constraints on active participation taking into account decisions already taken at the spatial planning level</li> </ul> <p><b>Information and consultation on:</b></p> <ul style="list-style-type: none"> <li>• Potential conflict areas</li> </ul>	<ul style="list-style-type: none"> <li>• (Continuation of) media deployment and press activities (especially Internet, press releases) targeting specific groups</li> <li>• Public participation event for information and consultation</li> <li>• Event on the scope of the study (citizen scoping) (if appropriate)</li> <li>• Continuation or establishment of a public information centre (if appropriate)</li> <li>• Continuation or establishment of a continuous participatory forum (e.g. round table, dialogue forum, mediation procedure)</li> </ul>
Advanced planning phase and preparation of plan approval documents*	<p><b>Information on:</b></p> <ul style="list-style-type: none"> <li>• Draft of the concluded project plans</li> </ul> <p><b>Information and consultation on:</b></p> <ul style="list-style-type: none"> <li>• Other detailed options, technical options, design details</li> <li>• (Interim) findings of the environmental studies</li> <li>• How will land be affected (threats to livelihoods, purchase prices)</li> <li>• Search for land for landscape planning schemes; proposals for scheme planning</li> </ul>	<ul style="list-style-type: none"> <li>• See above.</li> <li>• When preparing the documents, ensure that they are intelligible to all and provide aids to readers</li> <li>• Publish the documents on the Internet</li> </ul>

\* When planning federal trunk roads, the planning application documents are prepared after the Federal Ministry of Transport and Digital Infrastructure has endorsed the draft design. This clears the federal state highway authority's outline design for preparation of the planning application documents (see BMVI, 2011).

The graph in Figure 7 shows indicative benchmarks of comprehensive public participation in the planning phase and the subsequent formal procedural phases at the level of the plan approval procedure. It also shows the participatory steps dealt with in Chapter 6.3 ff.

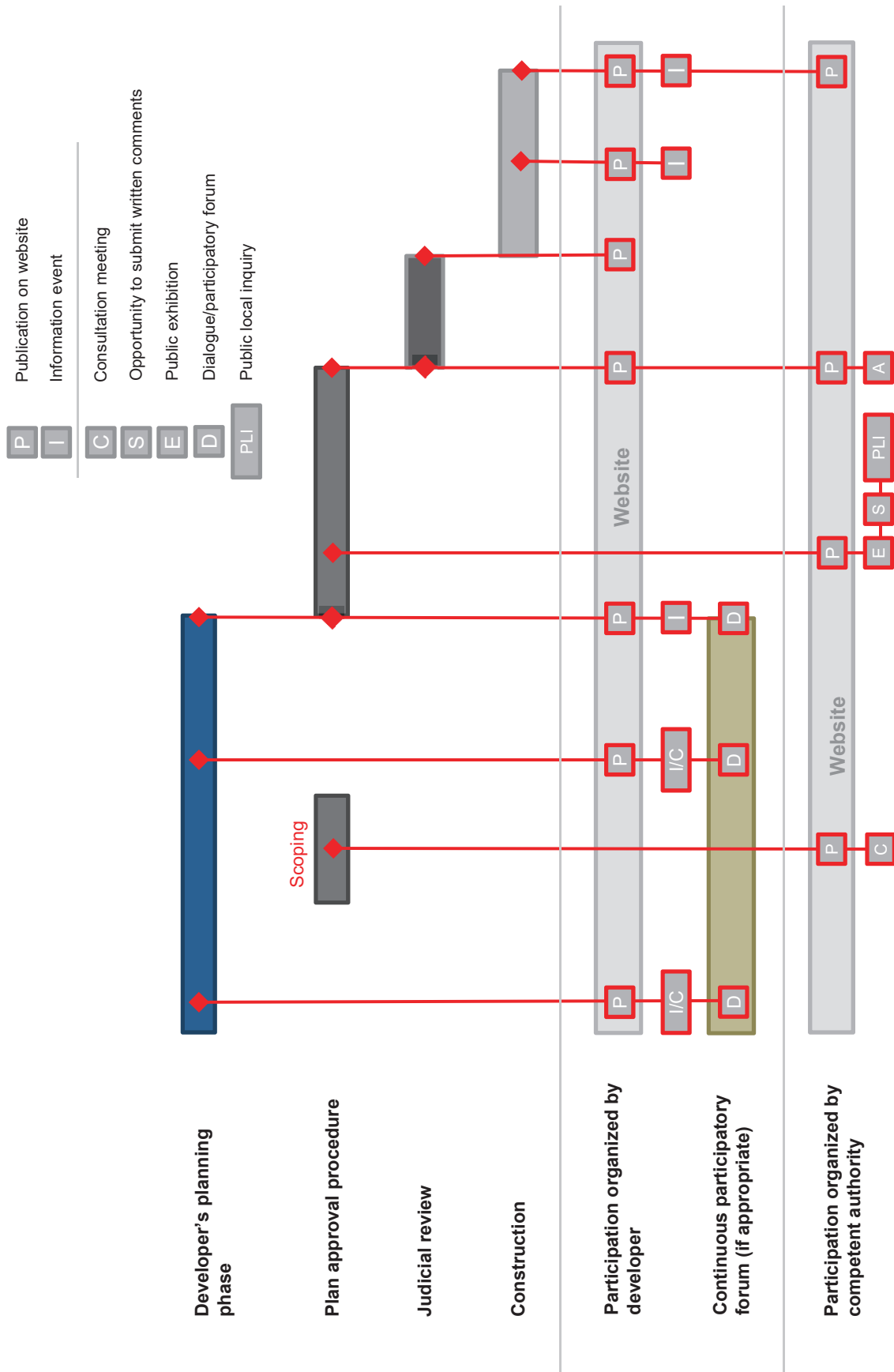


Fig. 7: Indicative structure of a public participation exercise in the plan approval procedure

### 6.3 Public participation organized by the public consultation authority/plan approval authority during the plan approval procedure

The major transport infrastructure projects that are the focus of this Manual (for instance federal trunk roads, federal railway infrastructure, airports, federal waterways) routinely require plan approval (cf. Section 17 of the Federal Trunk Roads Act, Section 18 of the General Railways Act, Section 8(1) of the Civil Aviation Act, Section 14(1) of the Federal Waterways Act).

The formal public consultation procedure within the plan approval procedure is based on the provisions of the Administrative Procedures Act and/or the mode-specific sectoral planning acts. A formal public participation exercise is integrated into a plan approval procedure.

In accordance with the provisions of the Environmental Impact Assessment Act, an EIA also has to be conducted in most cases during plan approval procedures for major transport infrastructure projects. The EIA comprises the early identification, description and assessment of the direct and indirect effects of the project on the environment. The outcome of the EIA is to be taken into account in the trade-off decision on the project that concludes the plan approval procedure.

**The plan approval procedure takes the shape of a “participatory procedure for affected parties”.**

If an EIA has already been conducted at the upstream level of the spatial impact assessment procedure, the EIA conducted in the subsequent plan approval procedure is a second-phase EIA. In this case, the environmental impact assessment can be restricted to additional or other significant environmental effects of the project (Section 16(2) of the Environmental Impact Assessment Act).

The developer submits the plan to the public consultation authority for the conduct of the public consultation (first sentence of Section 73(1) of the Administrative Procedures Act). Depending on the statutory form, the plan approval authority may also perform the functions of the public consultation authority. Unlike the spatial impact assessment procedure, the plan approval procedure takes the shape of a “participatory procedure for affected parties”. Although any citizen may inspect the plan approval documents while they are on display, objections may be raised only by those citizens who are directly affected. In addition, authorities whose remit is affected by the project can make comments, as can, for instance, environmental groups.

**The public can inspect the plan approval documents, but only affected citizens can raise objections.**

Upon completion of the public consultation procedure, the plan approval authority receives the developer’s planning documents and the outcome of the public consultation and subjects them to a weighing-up process. The plan approval procedure comes to an end when the competent plan approval authority grants plan approval. This authority takes a decision on all

relevant issues as part of a comprehensive weighing of the various interests and impacts. Affected citizens can challenge the plan approval in court (see Chapter 7). Fig. 8 below illustrates the individual stages of a plan approval procedure (where the plan is subject to EIA) under the Administrative Procedures Act with regard to public participation.



Fig. 8: Flow chart illustrating a plan approval procedure with EIA

### 6.3.1 Defining the scope of the study (scoping)

The meeting to establish the scope of the study under Section 5 of the Environmental Impact Assessment Act is a component of the EIA procedure. The purpose is to create, at an early stage, a basis of information that is as comprehensive as possible for determining what documents are likely to have to be furnished for the conduct of the EIA. The focus is on the contents, subject matter and methods of the environment-related studies. The aim is also to ascertain what partial assessments (conflicts, alternatives, etc.) have already been concluded in the upstream procedures and are no longer to be the subject of EIA in the plan approval procedure.

Social or economic aspects normally play a minor role in the scoping procedure. However, the competent authority is at liberty – for instance as

**Possible inclusion of environmental groups or citizens/citizens' action groups with expertise in the scoping meeting**

part of a more comprehensive scoping conference – to widen the definition of the scope of the study to include aspects other than environmental ones.

Experts and third parties, such as environmental groups and selected citizens/citizens' action groups with expertise, can be invited to the scoping meeting. Because the meeting addresses technical issues, there is no legal requirement to directly include the general public, nor is such involvement likely to produce any results. The best way to create transparency for them is for the developer to hold parallel public information events (see Chapter 6.2 on public participation organized by the developer during the planning phase) and for the competent authority to publish the outcome of the scoping procedure, for instance on the Internet. Along the lines of the spatial impact assessment procedure (Chapter 4.3.2), the competent authority can also consider the following supplementary options:

- The purpose and agenda of the meeting, a list of participants and the documents submitted in advance are published, for instance on the Internet.
- Interested citizens are given an opportunity before the meeting to make written comments on the scope of the study (for instance as participation on the Internet)
- Observers can be invited from the population, who attend the meeting as such.
- Citizens may also be admitted as spectators.
- The outcome can be posted on the Internet and/or transmitted to the media by means of a press release or conference. The scoping meeting could also be livestreamed on the Internet.

At the scoping meeting, the competent authority should advise the developer that the consultants he has commissioned should prepare intelligible (i.e. that can be understood by citizens) summaries of the essential contents of the procedural documents and aids to readers.

### **6.3.2 Advertisement, public exhibition, objections**

At the start of the public consultation procedure, citizens are given an opportunity to inspect the documents in detail. This forms the basis for raising objections and thus being able to exert influence on the next steps in the procedure. Here, it is especially important that the exhibition of the documents be given high publicity and adapted to the needs of the citizens in terms of venue and times.

The public consultation procedure begins as soon as the developer has submitted the complete plan and the EIA documents to the public consultation authority. Within one month after the documents have been submitted, the public consultation authority will instruct the municipalities

that will be impacted by the plan to put the plan on display at a public exhibition. After receiving the plan, the municipalities have three weeks' time in which to make the plan available for inspection for a period of one month (Section 73(1) to (3) of the Administrative Procedures Act.

## Advertisement

The municipalities in which the plan is to be put on display will advertise the public exhibition of the planning documents in the run-up to the exhibition (see Chapters 4.5.1 and 6.5 on the role of towns and cities). The information to be publicized is governed in law by Section 73(5) of the Administrative Procedures Act and Section 9(1) of the Environmental Impact Assessment Act. Accordingly, the advertisement must state, inter alia, the period and venue of the public exhibition and the deadline for objections. The advertisement must also point out that those persons who have raised objections may be notified of the public local inquiry by means of a public announcement and that the delivery of the decision on the objections may be replaced by a public announcement if there are more than 50 notifications or deliveries.

Wherever possible, citizens should learn of the forthcoming public exhibition via several information channels. Thus, for instance, the public consultation authority could use its website, in particular, to advertise the forthcoming exhibition (see also Chapter 9.4, "Information management").

Information about the public exhibition

In addition, the public consultation authority should seek to ensure that non-resident affected parties are notified of the public exhibition (third sentence of Section 73(5) of the Administrative Procedures Act). Appropriate efforts to inform as many potentially affected parties as possible about the forthcoming public exhibition will create trust. People will believe the authority when it states that it does not want to take a decision on a plan internally and ignoring the interests of citizens.

## Public exhibition

Section 9(1b) of the Environmental Impact Assessment Act stipulates what planning documents have to be put on display. For the plan approval procedures with mandatory EIA that are being addressed here, these are all reports and recommendations relevant to the decision which were in the authority's possession at the start of the participatory procedure.

The public exhibition should be such that citizens can use it as effectively as possible as a source of information. In this context, reference is made to the advice and proposal on public exhibitions in the chapters on the responsibilities of towns and cities in the spatial impact assessment procedure and in the plan approval procedure (see Chapters 4.5.1 and 6.5). Publishing the planning documents on the Internet is an especially good idea.

Making it easier to access the documents on display by publishing them on the Internet

Possible supplementary informal participation: citizens' surgeries, dialogue forums and information events during the public exhibition phase

Citizens can submit written objections.

A public local inquiry to discuss the objections is normally held.

Make the public local inquiry citizen-friendly.

## Submitting objections

Anyone whose interests are affected can, for up to two weeks after the end of the exhibition period, raise objections in writing or orally for the record or also, in certain conditions, by email.

In this case, Section 3(2) of the Administrative Procedures Act states that the person making the statement must affix to the electronic document a qualified electronic signature in accordance with the Electronic Signatures Act. A bill to promote electronic administration and to amend other provisions (eGovernment bill) contains provisions for making this easier in the future.

### 6.3.3 Public local inquiry

Section 73(6) of the Administrative Procedures Act states that the public consultation authority shall hold a public local inquiry after the deadline for objections has passed. At this inquiry, the objections to the project raised within the specified period and the comments made by the authorities on the project are discussed orally with the developer, the authorities, the affected parties and the individuals who have raised objections. There is no mandatory legal requirement to hold a public local inquiry for plan approval procedures on transport infrastructure projects, because the *lex specialis* of the Federal Trunk Roads Act (Section 17a(5)), the General Railways Act (Section 18a(5)), the Federal Waterways Act (Section 14a(5)) and the Civil Aviation Act (Section 10(2)(5)) states that a public local inquiry can be dispensed with. Nevertheless, a public local inquiry is normally held in the case of major projects. In the case of major projects where the problems involved and the ways in which people are affected are of a complex nature, this inquiry is of special importance. It provides those citizens who are directly affected with a direct opportunity to orally voice their main arguments against the project to the competent authority. This gives the authority a good opportunity to reduce the distance between itself and the citizens and to gain their trust.

Section 73(6) of the Administrative Procedures Act states that the public local inquiry shall be advertised at least one week in advance in accordance with local custom. However, it is advisable that citizens be informed of the inquiry via several information channels. There are different media targeting specific groups, including the Internet, that can be used for this purpose (see Chapters 9.4.1 and 9.4.2).

As in the spatial impact assessment procedure, the following points should be taken into account here:



- The advertisement should refer to the agenda, so that in the case of extensive public local inquiries, people can attend the inquiry at a specific time when specific issues are being addressed.
- Ways of making it easier for people who are work during the day to attend the inquiry should be explored.
- The meeting should be chaired by a competent and experienced facilitator with a good and fair style of communication who works through the items on the agenda one after the other in a structured and intelligible manner.

More detailed recommendations on how to conduct a public local inquiry can be found in Chapter 4.3.4 (Voluntary public local inquiry in the spatial impact assessment procedure) and Chapter 9.5. (Information and communications events).

For reasons of transparency, there should be a liberal approach to deciding who to admit. Thus, for instance, depending on the consent of the stakeholders, consideration could also be given to admitting the interested but not directly affected public as an audience.

### 6.3.4 Plan approval

Once the public consultation procedure has been concluded, the plan approval authority takes a decision on the project. In accordance with Section 74(4) and (5) of the Administrative Procedures Act, the plan approval, together with the project plans and information on legal remedies available, is subsequently to be placed on public exhibition for two weeks in the municipalities affected. This public exhibition is to be advertised in advance in accordance with local custom. In addition, the plan approval is to be delivered to the developer, the known affected parties and those individuals on whose objections a decision has been taken. If there are more 50 deliveries. this will take the form of a public announcement. The public announcement must be published in the official bulletin and the local newspapers.

The purpose of delivering and publishing the plan approval is to inform those citizens who have voiced objections or are known to be affected as well all other interested players what decision the authority has taken, In order to actually reach the citizens, the plan approval authority should ensure that it publishes a summary intelligible to all, especially of the rationale.

As far as the advertisement and public exhibition are concerned, it may in turn be advisable that citizens learn of the decision taken by the authority via several information channels. Different media targeting specific groups should be used for this purpose (see Chapter 9.4, Information management). In all cases, use should be made of the Internet to publish the decision with the rationale.

**Transparency through publication of the plan approval, including on the Internet**

### 6.3.5 Summary of proposals and possibilities

The proposals summarized in Table 8 follow the guiding principle of continuous public participation. The proposals go beyond the minimum statutory requirements and constitute an exhaustive list of possible measures. The decision as to what public participation activities and instruments are selected is taken on a case-by-case basis. In addition, Fig. 7 in Chapter 6.2 shows an indicative diagram of participation in the plan approval procedure.

**Table 8: Proposals for public participation exercises organized by the plan approval or public consultation authority during the plan approval procedure**

Procedural step	Possible subject matter of public participation	Proposals on nature and methods of public participation
Defining the framework of the study (scoping phase)	<b>Information and consultation on:</b> <ul style="list-style-type: none"> <li>• Scope of the environmental study, other aspects (if appropriate)</li> </ul>	<ul style="list-style-type: none"> <li>• Involve citizens with expertise, possibly based on an analysis of players</li> <li>• Admit citizens to the scoping meeting as spectators</li> <li>• Inform citizens about scoping process via Internet or press releases</li> </ul>
Advertisement / public exhibition / objections	<b>Information on:</b> <ul style="list-style-type: none"> <li>• Structure and contents of the documents submitted</li> <li>• How individuals are personally affected</li> <li>• Participatory steps and formal rules in the plan approval procedure</li> </ul>	<ul style="list-style-type: none"> <li>• Deployment of the media and press activities (Internet, press releases) – information about the public exhibition</li> <li>• Publish the documents on the Internet</li> <li>• Exhibit official comments already provided and the scope of the EIA study</li> </ul>
Public local inquiry	<b>Information and consultation on:</b> <ul style="list-style-type: none"> <li>• Contents of official comments and of objections raised by affected parties</li> <li>• Formal rules at the public local inquiry</li> </ul>	<ul style="list-style-type: none"> <li>• Publish information on and agenda of public local inquiry on Internet and by issuing press releases</li> <li>• Admit interested citizens if stakeholders consent</li> <li>• Structure meeting thematically</li> <li>• Also hold a public local inquiry outside normal working hours</li> <li>• Select suitable premises</li> <li>• Public local inquiry facilitated in a neutral and structured manner by a competent person</li> <li>• Communication intelligible to all at the public local inquiry</li> </ul>

Procedural step	Possible subject matter of public participation	Proposals on nature and methods of public participation
Plan approval	<b>Information über:</b> <ul style="list-style-type: none"> <li>• Contents and rationale of the plan approval decision</li> <li>• Objections and official comments taken into account in the plan approval decision</li> <li>• Legal remedies</li> </ul>	<ul style="list-style-type: none"> <li>• Plan approval decision has a rationale intelligible to all</li> <li>• Include an aid to readers with extensive documents</li> <li>• State what significance objections had for the decision</li> <li>• Deployment of the media and press activities (Internet, press releases)</li> <li>• Publish the plan approval decision on the Internet</li> </ul>

#### 6.4 Public participation organized by the developer during the plan approval procedure

As in the spatial impact assessment procedure, the flow of information from the developer should not suddenly cease during the formal plan approval procedure, i.e. after the plans have been submitted. Nevertheless, the supplementary offers of participation are to be coordinated with the authority conducting the procedure and confined to the level of information, since a consultation takes place in the formal procedure itself.

One obvious option would be for the developer to provide supplementary information on the contents of the documents submitted and, if possible, on the formal procedural steps (e.g. venue and time of the exhibition and public local inquiry). The Internet, press releases or special information sheets (leaflets), for instance as inserts in newspapers or as unaddressed mail, can be used for this purpose (see also Chapter 9.4. “Information management”).

In addition, the developer could also consider – especially at the start of the plan approval procedure – supplementary information events, together with a municipality if appropriate, provided that such events have not already been held before the documents were submitted. The aim is to put citizens in a position where they can, as far as possible, understand and make sense of the contents of the plan approval documents that have been put on display. It is very important to point out that it will not suffice for citizens to voice their objections at informal events. Rather, they must raise them in writing or orally for the record, within the specified period, with the public consultation authority or the municipality.

In addition, the developer could consider setting up a citizens’ surgery in the local communities, at which citizens can discuss specific technical or procedural issues with a person familiar with the project. The opening hours

**Possible additional offers of information, such as public participation events and citizens’ surgeries, to explain the procedural documents**

of the surgery should be communicated in different ways and should, if possible, take into account the times when certain people, e.g. those who are at work during the day and parents, are available. The frequency and length depend on the potential for conflict in the project. In addition, the person holding the surgery could, at certain times, also be available to answer questions by telephone (community helpline) or via a web-based dialogue forum (chat) (see also Chapter 4.4. on public participation organized by the developer during the spatial impact assessment procedure).

Table 9 summarizes the suggestions for supplementary public participation organized by the developer during the plan approval procedure. The decision as to what public participation activities and instruments are to be selected is taken on a case-by-case basis, based inter alia on the potential for conflict in the project.

Table 9: Proposals for public participation exercises organized by the developer during the plan approval procedure

Procedural step	Possible subject matter of public participation	Proposals on nature and methods of public participation
Submission of planning documents	<p><b>Information on:</b></p> <ul style="list-style-type: none"> <li>• Submission of documents</li> <li>• Participatory steps and formal rules in the spatial impact assessment procedure and the alignment determination procedure</li> <li>• Scope for decision-making in the plan approval procedure</li> </ul>	<ul style="list-style-type: none"> <li>• Deployment of the media and press activities (Internet, press releases, leaflets, etc.)</li> <li>• Information events for citizens</li> </ul>
Exhibition of planning documents after advertisement IAW local custom	<p><b>Information on:</b></p> <ul style="list-style-type: none"> <li>• Supplementary explanations of the structure and contents of the documents submitted</li> </ul>	<ul style="list-style-type: none"> <li>• Deployment of the media and press activities (Internet, press releases)</li> <li>• Advance and continuous publication of the planning documents on the Internet</li> <li>• Citizens' surgeries in local communities, by telephone (community helpline) and/or web-based (chat)</li> <li>• Information event for citizens</li> <li>• Web-based opportunity to ask questions</li> </ul>
Publication of the plan approval decision	<p><b>Information on:</b></p> <ul style="list-style-type: none"> <li>• Outcome and requirements of the plan approval decision</li> </ul>	<ul style="list-style-type: none"> <li>• Deployment of the media and press activities (Internet, press releases)</li> </ul>

## 6.5 Responsibilities of towns and cities in public participation during the plan approval procedure

As in the spatial impact assessment procedure, the affected towns and cities are also, on the one hand, participants in the plan approval procedure and can submit comments on the project. On the other hand, they are responsible for advertisements and for putting the planning documents on display at a public exhibition. In addition, their representatives can participate in information events and in continuous dialogue forums.

### 6.5.1 Advertisement, public exhibition

Under Section 73(3) of the Administrative Procedures Act, the municipalities likely to be impacted by the project must put the documents on display at a public exhibition for a period of one month and advertise this public exhibition in advance in accordance with local custom. The aim should be to advertise the exhibition 10 to 14 days in advance. The earlier the exhibition periods are advertised, the easier it will be for citizens to make arrangements to attend. The exhibition should also be open outside people's normal working hours (for instance in the evening once a week or, if appropriate, at a weekend). With regard to the premises at which the exhibition is held, reference is made to the "exhibition room checklist" for exhibitions during the spatial impact assessment procedure (Chapter 4.5.1). The documents should also be made available to citizens in other ways (for instance by Internet or on a CD/DVD or USB stick). However, this is the responsibility of the public consultation authority and/or the developer.

Towns and cities provide information to citizens

Towns and cities provide information on the public exhibition of the plan approval documents

### 6.5.2 Participation in the public local inquiry

As affected local authorities, the municipalities impacted by the project are also stakeholders in the plan approval procedure and have the right to submit comments on the project and then to participate in the public local inquiry. Their task is to represent the affairs of the local community (for instance economic development, demographic trends, urban development, development planning, local authority infrastructure). Thus, the interests of the citizens who live in the respective municipalities are also indirectly affected. It can thus be in the interests of the municipalities to hold special public participation events on the planned project before they submit their comments and to advertise these events in advance, unless such events have already been held by the developer. In addition, they can advertise the public local inquiry and explain why it is important.

Make the exhibition of the plan approval documents citizen-friendly

### 6.5.3 Information events with the developer

If the developer plans to hold information events in the municipalities likely to be impacted (see Chapter 6.4), the municipalities should be proactive in hosting the events, as is already the case in many places. If the developer does not envisage holding such an event, one of the affected municipalities can encourage the developer to present the plans to the citizens at a public participation event to be held as early as possible.

**Supporting the developer in holding information events in towns and cities**

Regarding membership of continuous participation forums, reference is made to Chapter 4.5.4.

# 7 Judicial review

Judicial review follows the permission-granting procedure if one of the parties involved in the procedure has filed an action against the decision to grant permission. The objective of public participation should be to resolve conflicts before or during the various administrative procedures so that a judicial review is not necessary in the first place.

In addition to the adjudication function, judicial review also has a pacification function (binding settlement of disputes). However, given that the scope for review is smaller than during the administrative procedure and the fact that it does not take place until planning has been completed, it is not a suitable means for enhancing the acceptance of a project in keeping with the aims of this Manual. If there were acceptance, there would be no need for litigation.

An action against a plan approval can be filed within one month after the decision has been delivered, and must be submitted in writing to the competent court. It may take the form of an action for rescission with the aim of having the approval annulled or an action to compel performance of an administrative act with the aim of augmenting the approval. If the Federal Administrative Court or a higher administrative court is responsible for hearing the case, the parties must be represented by authorized proxies (lawyers or lecturers in law at a German institution of higher education within the meaning of the Framework Act for Higher Education who are qualified to hold judicial office).

**The objective of public participation is to resolve conflicts, thereby preventing litigation whenever possible.**

The benchmark of judicial review is whether the plan approval is unlawful and thus infringes upon subjective public rights of the plaintiff (first sentence of Section 113(1) of the Administrative Court Rules). On the other hand, the court does not consider whether the decision is expedient.

For an action to be admissible, the plaintiff must furnish proof that there is a possibility that his own rights have been infringed, for instance an infringement of health or property rights (Section 42(2) of the Administrative Court Rules) and these have already been asserted in the official public consultation procedure (third sentence of Section 73(4) of the Administrative Procedures Act). The infringement of provisions that serve to protect the common good, such as those of nature conservation or water law, can only be asserted if very strict conditions are met. In addition, there are provisions having the effect of maintaining plans in force, for instance Section 17e(6) of the Federal Trunk Roads Act. These provisions state that mistakes that have been ascertained must have been obvious and have had significant influence on the outcome of the trade-off decision, and it must not be possible to remedy them through a supplementary decision or procedure.

If the conditions set out in Section 2(1) of the Act on Legal Remedies in Environmental Matters or Section 64 of the Federal Nature Conservation Act are met, recognized environmental groups may, without having to assert

infringements of their own rights, lodge appeals in accordance with the Administrative Courts Rules against the decision to grant permission to the project. The environmental groups can base their action on, in particular, the infringement of nature conservation legislation or European environmental protection provisions (cf. also CJEU, judgment of 12 May 2011, Case C.115/09 – “Trianel”).



# 8 Detailed design and construction

Continuous public participation also takes place during the detailed design and construction phases.

At this level, public participation concerns design details, the technical stages of construction and accompanying monitoring measures. Offers of information during construction can also contribute to a positive image of the project.

With the plan approval and, if appropriate, its judicial review and any resultant requirements and amendments to the plan approval documents submitted, planning has essentially been finalized. Detailed design work is the final stage of the planning process. The detailed design phase involves developing a final design for the approved project, including the landscaping works, on the basis of which the project can be constructed.

As the plans are increasingly fleshed out, details or possibly modifications may emerge in which citizens may also be interested. In the case of significant modifications, a plan modification procedure in accordance with Section 76 of the Administrative Procedures Act is conducted. This involves formal public participation as in the plan approval procedure, although only for those citizens affected by the modification. Depending on the nature and scope of the envisaged modifications, an informal public information event held in advance may be advisable and help to foster acceptance.

One of the major components of detailed design work is the preparation of an integrated construction schedule. Because the implementation of a major project usually entails significant nuisances and disruption, for instance noise and dust, constraints on land use for agriculture, congestion on the road network caused by site traffic, severance of roads and paths, etc., a public information event on the construction schedule before the start of construction work would appear advisable. Further information events can be held while construction is underway to provide information on the progress of construction work.

Because (major) construction projects also arouse positive interest in the population, public information about the construction site and schedule – for instance viewing points, information displays, building exhibitions, information on the project’s website, press releases on the progress of construction work or events with guided tours of the construction site (construction site open day or the like) – can also contribute to a positive image of the project.

Upon completion of the construction project, information should be provided on compliance with the plan approval, using the aspects that were of major importance for the participatory process. This also includes the implementation of the landscaping works. The effectiveness of compensatory measures that have been brought forward and are required by species protection or habitat conservation law and the documentation of corresponding monitoring results are of particular interest to environmental groups.

**Public information event on the construction schedule, progress of the construction work and any modifications to the plan**

# 9 Building blocks of participation

The recommendations made in the preceding chapters can be implemented using the methodological building blocks of a participatory process set out in this chapter. Each of these building blocks is divided into the following aspects: objectives, time of deployment, responsibility, action and stumbling blocks.

It is not necessary to use all the individual elements addressed here in any given procedure. Rather, decisions must be taken on a case-by-case basis, and this will be determined essentially by the potential for conflict that a project involves. The greater the potential for conflict in a project, the more important comprehensive and continuous public participation is.

## 9.1 Analysis of players

### Objectives

The purpose of an analysis of players is to obtain an overview of relevant groups of people (for instance potentially affected parties) in the local community so as to be able to take them into account in the participatory process. An analysis of players provides background information that is important for the entire participatory process – from the developer's preparatory measures through the formal participatory procedure to the publication of an official decision. An analysis of players is designed to ensure that all relevant players are taken into account and involved in a manner commensurate with their situation and interests. It identifies who is an affected party, a proponent, a critic or a beneficiary, which persons exert influence and which persons could be given an opportunity to exert influence, what interests are significant, what side shows and areas of conflict may play a role and what resources, skills and experience are available. Potential players are not only affected citizens but also, for instance, environmental groups and trade associations, citizens' action groups, chambers, political parties or individual politicians.

### Time of deployment

An analysis of players should be conducted prior to the planning phase for the spatial impact assessment procedure and the plan approval procedure and should, if necessary, be adapted during the participatory process.

### Responsibility

An analysis of players should be conducted primarily by the developer. However, the authorities conducting the procedures can also draw on aspects of the analysis of players.

### Action

The first thing to do is to establish what areas of conflict and interests are important in any given project – for instance noise, changes related to nature conservation, visual influences, a better range of mobility services or impacts on ownership – and what aspects may have to be augmented as the procedure progresses. Taking the list of questions in Table 10 as a starting point, the developer can commence an analysis of players at a meeting with the (groups of) people likely to be involved in the spatial impact assessment and/or plan approval procedure – including the municipality, consultants, planners and

known key persons. Starting from this initial small circle, the analysis can be further expanded using the snowball principle. By conducting interviews with potential players, the field of players will assume a more tangible shape. It is thus also possible to make the acquaintance of citizens with specific expertise.

By means of discussions with the already known citizens' action groups and active citizens, an analysis of players can already be the first step in the participatory process. In the initial discussions, the interviewees are able to influence the shape of the participatory process by contributing their own ideas and suggestions.

**Table 10: Key questions for the analysis of players (GTZ, 2006)**

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#### **Questions to identify groups of players with common profiles**

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- What is your attitude as you approach the project? What do you think is positive and what misgivings do you have?
- Which of your interests do you see affected by the project? What benefit could you derive? What disadvantages do you expect?
- What would you lobby for in particular within the framework of the project?
- What can you contribute to the process (knowledge, time, commitment)?
- What is your experience so far of such processes and projects?
- On what can you exert influence? Who can you include?
- Is there a function that you could perform in the process?
- Who do you think is also important for producing results?
- Do you have contacts with other affected citizens?

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#### **Questions to identify key persons**

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- Who would you approach to obtain information about the project?
- Who has special knowledge regarding the subject matter or the environment of the project?
- Who has many relations with other players who are involved with the issue?

Building on this information, it is possible to identify different groups of persons, for instance based on the “proponent” or “opponent” criteria, who in turn can be subdivided into passive and active or in terms of their influence on the process and the resources available. From the perspective of the developer, the persons who are most important are those who exert great influence, are active and are opposed to the project (see Fig. 9). At the same time, the developer should take care from the outset to also approach those who are positively affected – the project proponents – because this is the

only way that is likely to produce a balanced planning outcome that reflects all interests. Both groups must be involved in the participatory process in a special form.

What is their attitude towards the project (positive/negative)?  
How much influence do they have on the project?

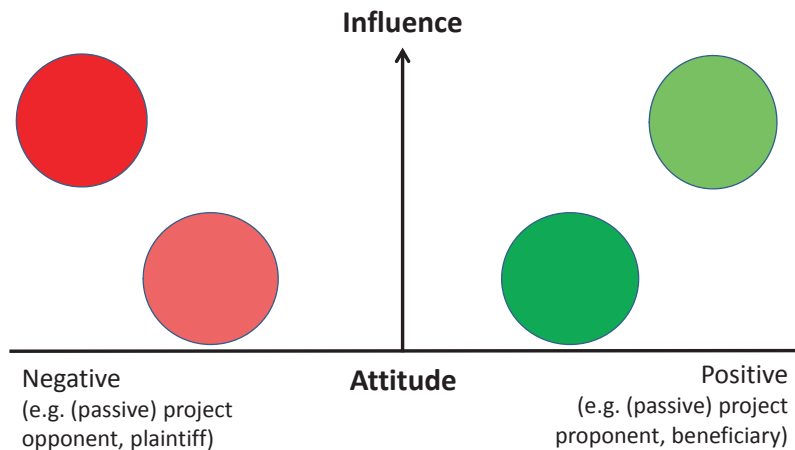


Fig. 9: Diagram illustrating an analysis of players in terms of scope, influence and attitude (based on FEMERN A/S 2011)

Nor should the possibly large groups of persons be forgotten who do not have much influence but may have great potential for optimizing the project, such as citizens who are familiar with the locality.

Constructive participation can only take place if the partners are on a level playing field. To ensure that citizens feel empowered to participate and can actually perform their role, they must be given offers of support at an early stage. This can be, for instance, information intelligible to all on the project and on the planning and administrative procedures, so that the citizens can acquire the prior knowledge they need for effective participation. This makes a more pronounced participation of different target groups possible and reduces the dominance of individual groups and persons in the process.

### Stumbling blocks

Despite a careful analysis, the importance of individuals or groups of persons may, at the start, not be clearly identifiable, or it may be misjudged or be subject to non-foreseeable changes in the process. Over the entire course of project, the players or the way they see things may change. The participatory process must therefore remain open to new players and areas of conflict and the analysis of players must be adapted if necessary.

## 9.2 Establishing the parameters of participation

The aim of this step is to identify, on the basis of the analysis of players, the parameters that are to be taken into account in the project-related planning of public participation at any given procedural level. This includes time, finances, legal requirements and decisions taken in upstream planning phases as well as the potential for conflict inherent in the project.

**Objectives**

The parameters of public participation should be identified as a preparatory measure following the analysis of players and prior to the participation exercise.

**Time of deployment**

The developer is normally responsible for identifying the parameters. The authority conducting the procedure must define the issues relevant to the case in any given procedure.

**Responsibility**

The following points, among others, are to be clarified.

**Action**

- Resources and scope for action. What is the timeframe and what are the legal requirements with regard to the project? What financial and human resources are available?
- Scope for decision-making. What scope for participation does the process include? How much scope for decision-making is there? What is negotiable? What constraints on participation have to be taken into account?
- Who is responsible for which decisions regarding the organization of the participatory process?
- How does the participatory exercise fit into the given timeframe of the project? What periods must be allowed in which planning and procedural phases for the participation exercise? How will the participation exercise be integrated into project management and who will be responsible for the participation exercise in any given case?
- What plans exist already? What projects or events – for instance with developers and key persons from the environment – have already taken place?
- Which target groups are to be involved? At what time and to what extent are they to be involved and on what issues? What political and social influences play a role in planning and implementation?

Even if the parameters and objectives are established at the outset, they may be modified by new evidence arising in the further course of events. The developer, authority and citizens involved must be open-minded enough to re-assess such trends and accept any changes.

**Stumbling blocks**

### 9.3 Creating the process architecture and integrating it into the overall project planning

#### Objectives

“Process architecture” means the approach to and the general timetable and work schedule for the envisaged participatory process. What has to be planned is the overarching framework of the participatory process, within which individual activities with different instruments are allocated (KÖNIGSWIESER & HILLEBRAND, 2007). The process architecture for public participation must be merged with the overall project planning. By being integrated into the overall project planning, public participation acquires a clear status in the project as a whole and a certain amount of binding force.

The process architecture structures participation according to five areas of influence:

1. Material: What objective is being pursued with the participation exercise?
2. Social: Who are the relevant players?
3. Time: What is the lifespan of the project? What milestones are there?
4. Instruments: What measures and events are to be conducted?
5. Venues: Where are the events to be held?

#### Time of deployment

The process architecture should be created prior to the planning phase for the spatial impact assessment procedure and/or plan approval procedure.

#### Responsibility

The developer is responsible for creating the process architecture.

#### Action

To establish the approach to be adopted, the information from the analysis of players and the identification of the parameters are to be evaluated, taking the aforementioned questions into account. It is to be assumed that, from the start of project until its conclusion, it will be possible to narrow down participation and make it more discriminating in terms of the issues addressed and the group of stakeholders. At the start of planning, participation and the selected target groups are still relatively broad-based and non-specific – for instance during the development and selection of alternative alignments during the spatial impact assessment procedure –, whereas towards the end of planning, the scope for exerting influence is confined to the parties directly affected – for instance the alignment for upgrading a railway line and measures to reduce noise.

Potentially affected parties can be involved in establishing the architecture. Key questions include:

- What target groups are to be reached?
- In what are the target groups to be involved? Definition of work packages that are explicitly to be the subject of public participation.
- What measures and activities (for instance citizens' surgery, information event, dialogue forum) are to be conducted? Calculation of the time required for successful communications.
- At what time are the target groups to be involved?
- Where are these measures to be conducted?
- How should the target groups be approached in order to ensure good participation?

In addition, the following points should also inform deliberations:

- Clear project roles. The responsibilities for the participatory process are to be enumerated and the activities they involve are to be clearly defined.
- Systems diagnosis (e.g. influential groups and their links with one another).
- Meetings for the internal evaluation of the participatory measures that have been conducted.
- Steering groups (In what composition will the processes be steered?).
- Working with various hierarchical levels (for instance mayors and citizens).
- Working in various group constellations (for instance with landowners only, with landowners and conservationists).
- Creation of a continuous participation forum (for instance round table, dialogue forum, advisory council for the project).
- Amount of funds available.
- Selection of competent persons who are responsible for the participation exercise. It is recommended that the appropriate staff be trained with regard to communication with stakeholders and a positive attitude towards participation.

Participation that is to be taken seriously as such by citizens cannot be done casually or sporadically. Rather, it requires professional organization and targeted management. To this end, the participatory process as designed in the process architecture must be integrated into the overall project planning. This can also prevent delays happening. The conduct of participatory procedures can be scheduled to run parallel to other project activities such as technical project planning, data collection or the preparation/evaluation of consultancy studies. Participation management while the project is ongoing comprises the entire participatory process with all the related measures from the early planning phase in the spatial impact assessment procedure to publication of the plan approval.

When coordinating the participatory measures with the overall project planning, the following aspects should be taken into account:

- The timetable for the public participation exercise should be synchronized with the overall project planning and integrated into the project management system.
- It is advisable to prepare an information and communications plan. What is important is that all parties involved in the project be informed of the state of play and possible agreements so that they can provide citizens with identical information.
- Another aspect of participation management is the inward and outward communication of the attitude and strategy that exists within the organization or institution. This means that within the organization, an attitude should be developed that tends towards open-mindedness and a tolerance of errors.
- Any controlling and risk management system that exists should also identify and take into account the information from the analysis of players and any potential for conflict that becomes apparent in the course of the participatory process, for instance regarding risks of legal action.

On the basis of these considerations, a draft for the organization of the overall process can be developed. The structures of participation can also be presented in the form of a graph (see Fig. 10).

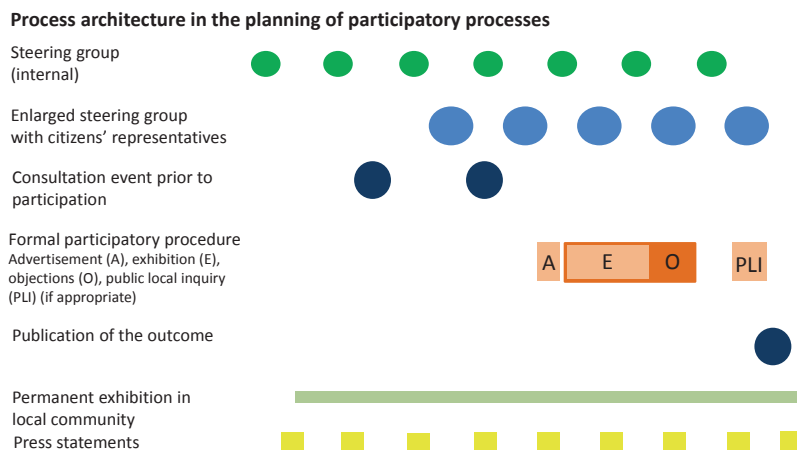


Fig. 10 Example of a process architecture in the context of a plan approval procedure

### Stumbling blocks

Changes in the situation may make it necessary to adapt the process architecture. Thus, for instance, it may transpire that other alternatives have to be given priority and possibly dealt with in a constellation different to the one that was originally planned and that other affected parties have to be encouraged to participate. It is also possible that, in the course of the process, new groupings will emerge or that stakeholder groups will disband.



## 9.4 Information management

The dissemination and exchange of information are the first stage and, at the same time, the basis of all more extensive forms of participation. The parties affected by and interested in a project have a great need for information. Only on this basis can they get an idea of what changes and impacts are likely as a result of the planned transport project.

As a basic principle, the developer and the authorities, each within their own remit, should inform citizens at an early stage as to who can participate, how they can participate and where they can participate, so that they can lobby for their own interests. Information management should start during the early planning phase (conceptual phase).

In addition to timeliness, the continuity of the provision of information within any given procedural level and across the different procedural levels from federal transport infrastructure planning to plan approval is crucial. Continuous information must be provided on, for instance, the state of play, planning progress, the findings of special consultancy studies on, for instance, noise or pollutants and the decisions taken at the various procedural levels.

Should it not be possible to seamlessly evolve a project across the procedural levels, resulting in delays in the planning and procedures, this produces breaks in the participatory process that are undesirable from the perspective of public participation. If such a planning break lasting several years occurs, the public should be informed, at least via the Internet or the press. If planning is resumed, the process of public participation should be “ushered in” again by providing appropriate information.

The developer is responsible for information management in the course of the planning and the preparation of consultancy studies and procedural documents. Responsibility for the provision of information relating to the procedure, including the launch of the procedure, the public exhibition of the procedural documents, the periods of participation and the public local inquiry, lies with the authority conducting any given procedure. In ongoing procedures there should be close coordination between the developer and the authority conducting the procedure in the provision of communications and information. At the level of federal transport infrastructure planning, the Federal Ministry of Transport and Digital Infrastructure is responsible for providing information.

At the various procedural levels of transport infrastructure planning, general information should be provided on the objectives, the subject matter of the planning, the planning stage, the administrative procedure and the scope for informal and formal participation. The important thing is to inform citizens what decisions will be taken at which procedural level, how binding these

Objectives

Time of deployment

Responsibility

Action

decisions will be and what decisions have already been taken at an upstream procedural level.

At every stage in the planning of information and communications, it must be established who is to be reached and what means of information and communications are to be deployed and combined. There is a multiplicity of options, for instance:

- advertisements or articles in the local, regional or national press;
- features, roundtable discussions on television, interviews on the radio and television;
- use of social networking services (Facebook, Twitter, etc.);
- own website, online platforms;
- letters, flyers, door-to-door leafleting;
- billboard posters, brochures, information boards, exhibitions, public information centre;
- direct talks in a formal or informal setting;
- presentations and discussions at events.

Because of their special importance, press activities and the use of the Internet are addressed separately in Chapters 9.4.1 and 9.4.2.

What is important is that the necessary information be made available in a form that is intelligible to citizens but without omitting important information. In addition, care should be taken to ensure that the amount of information is manageable for citizens.

In addition, the items for discussion need to be “translated”. The highly complex technical texts of the planning and application documents have to be reduced to intelligible summaries that a non-specialist can understand. Of particular importance here are non-technical summaries intelligible to all that should relate not only to the SEA or EIA documents (second sentence of Section 6(3) and third sentence of Section 14g(2) of the Environmental Impact Assessment Act) but also to other planning and procedural documents right up to planning approvals, for instance.

The careful selection and editing of information that is useful for citizens can convince them of the sincerity of the participatory endeavours on the one hand and can reduce the amount of information to that which is important for citizens on the other hand. At the same time, objective information on the project is a crucial information for filling in gaps in the public’s knowledge or for correcting incorrect information. This sets the stage for the establishment of trust through transparency.

However, in addition to the reduced and “translated” texts, citizens should also have an opportunity to inspect the planning documents and consultancy

studies in their original form. In this way, any fears they have that important and possibly crucial points have been suppressed during the transformation can be allayed.

To determine more precisely what information is relevant, there should be intensive contact with citizens in order to learn what they think, to discuss their opinions and to find out what their misgivings and fears are. From this, the developer can deduce what information is especially important for citizens to enable them to realistically assess how they will be affected.

On the basis of the analysis of players (see Chapter 9.1), different priorities can be established for different groups of affected parties. The groups emerge, for instance, via the alternatives and/or variants to be considered at any given procedural level and the associated differences in the extent to which the groups are affected. In addition, the following aspects should be taken into account:

- Information, for instance on planning and/or the project and the progress of planning, information material plus the scope of the study and procedural documents should, as a matter of principle, be compiled at an early stage – including on the Internet, for instance – and updated as regularly as possible unless these documents are internal preliminary considerations, contain business or industry secrets or are documents where there is a legitimate interest in their confidentiality.
- Proposed planning solutions could be published before final planning and application documents are available. With the developer informing and consulting with citizens on the course and current state of play of planning, citizens can participate in development. In this way, a constructive planning process can emerge in which, through a regular exchange of ideas and experience, appropriate criticism and suggestions can be taken into account.
- It is suggested that the relevant information on technical planning and possible alternatives, plus the findings of consultancy studies such as noise forecasts or landscape assessments, be introduced into the participatory process at an early stage. For instance, planning documents can be posted on the Internet to be downloaded or made available on a DVD or USB stick. Visualizations and “audio samples” on the project’s website can help to make the planning less abstract.
- Depending on what items are being discussed with citizens, the aforementioned instruments, such as computer-assisted visualizations of the changes to the landscape or “audio samples” on the contentious issue of noise or exhibitions of plans should also be deployed at public participation events with the aim of a facilitated provision of information. IT-based planning methods that can digitally capture and intersect technical, geographical and topographical data of a project can be used for this purpose. Not only the review of alternative alignments but also plan

modifications can be implemented comparatively simply in these cases. In addition, the impact of a modification on the project costs can be directly accessed.

- Continuous information should also be provided on how criticism, misgivings and suggested improvements are dealt with, where aspects may be taken into account in the further course of planning or why it is not possible to take them into account.
- To dovetail this action with press activities, it may be advisable to establish an interdisciplinary working group whose members have appropriate expertise.

#### Stumbling blocks

Frequently, parties potentially affected by the planning are initially highly mistrustful of developers of major transport infrastructure projects. This will not be changed by the one-off provision of good information. These parties will not be convinced until there is a long-term, transparent and continuous information policy that creates a basis of trust.

Another danger is that the participatory process may suffer from information overload. Too little information mostly makes people suspicious; too much information can overtax and confuse them.

#### 9.4.1 Press activities

#### Objectives

Press activities should make an active contribution towards presenting the objectives of the project, the process and the outcome of the public participation exercise. A developer should use press activities to respond to and publicly correct negative coverage and incorrect information from project opponents. Another aspect is reaching and mobilizing the project proponents.

#### Time of deployment

Press activities should start at an early stage and be continuous. In particular, press activities at the start of a project can support the analysis of players (see Chapter 9.1) – initial press releases on the objectives of the project and the initial planning deliberations reach the parties potentially affected (project opponents and proponents) and encourage them to get involved. Press activities should cover all planning and procedural steps of any given procedure throughout the process. In a best case scenario, it should start during federal transport infrastructure planning or at the latest in the early planning phase preceding the spatial impact assessment procedure and/or plan approval procedure. If there are long periods or breaks between the procedures, there should be active press activities when planning is resumed.

#### Responsibility

It is primarily the developer who is responsible for press activities. He should make active use of press activities, alongside the project-related description, to provide information on the process and the outcome of the public participation exercise and to comment on and respond to reports by project opponents.

With their press activities, the authority conducting the procedure and the towns and cities perform a special function in the context of public participation by, for instance, using newspapers to provide information on the start of the public exhibition, the venue and start of the public local inquiry and the conclusion of the procedure.

Relations with the press require particular attention. The press can be conducive to – but also, through unbalanced coverage, an impediment to – the resolution of conflicts and ultimately the acceptance of a project or public participation itself, because it has a significant influence on opinion making and on the way the public perceives the project. Observing a few basic rules can contribute to good and balanced press coverage. The following tips for relations with the press are taken from KÜSTERS (2012) and MAI (2008).

#### Action

- It is essential to determine whether the press media are adopting a specific basic stance towards a project or representing or appealing to a specific target groups (project proponents, opponents).
- Journalists should be seen as persons providing important accompaniment to the process and with whom cooperation is on a long-term basis. For this reason, provision should be made for permanent and competent points of contact for press activities,
- As far as the information contained in press releases, interviews and press conferences is concerned, care should be taken that the reports cover not only success stories from the developer's perspective but also criticism and the way it is dealt with.
- Information should be given to the press at an early stage so as not to create the impression that information is being withheld. A proactive approach will enhance trust and the willingness to provide balanced information.
- Press briefings must be well prepared. The more the issue is presented in a well-ordered, graphic and targeted manner, the greater is the likelihood of the desired aspects appearing in the press.
- The way in which information is presented should be as graphic and practical as possible.
- The response to negative coverage and incorrect information from project opponents should be objective and unflustered.
- To avoid misunderstandings, agreement should be reached with the journalists, wherever possible, that quotations, interviews, etc. can be counterchecked before publication.
- All staff who come into contact with the public, in particular with the press, should be trained accordingly.
- The deployment of the media and press activities should be integrated into the overall project planning and project management so that all staff who come into contact with the public are kept constantly up to date on the progress of the project.

### Stumbling blocks

Press coverage cannot be controlled. Thus, even if there is a good information basis, surprises cannot be ruled out. Broad dissemination can help to offset bad press. Likewise, over time, an environment of trust and cooperation can be established with as many different newspapers and journalists as possible.

### 9.4.2 Use of the Internet

### Objectives

Active use should be made of the Internet to present the objectives of the project, the process and the outcome of the public participation exercise. Using the Internet makes it possible to reach a very large group of people without major effort. A recent (2012) survey commissioned by the Bertelsmann Foundation and conducted by the TNS-EMNID Institute found that around three quarters of the population use or would use online information on planned projects (TNS EMNID 2012). The creation of a continuous Internet platform on the project should form a mainstay of a comprehensive approach to participation. Both the “information” and “consultation” forms of participation can be reflected here. A project-related website makes it possible, for instance, to:

- disseminate information on the project and the process of public participation (subject matter, information, consultancy studies) and the documentation of the outcome of the public participation exercise;
- provide information on the progress of the project by distinguishing between “state of play” and “archive”;
- inform interested parties at an early stage of relevant events using a continuously updated timetable;
- obtain opinions and comments on individual issues; online platforms can also be created for this purpose;
- provide the public with a platform for the exchange of information (for instance frequently asked questions, blog, chat).

### Time of deployment

The Internet should be used as a continuous information and communications medium. It is thus recommended that the participatory process for major projects be supported across all planning and procedural levels wherever possible by an Internet platform that is permanently accessible and continuously updated and that contains an appropriate range of information.

### Responsibility

The developer is responsible for the project-related website. The authority conducting the procedure is responsible for a website relating to the spatial impact assessment procedure and plan approval procedure. It can use the website to, for instance, provide information on the scope of the study, provide information on the public exhibition of the documents submitted, allow objections to be voiced, advertise the venue and time of the public local inquiry and provide information on the decision taken in any given case. Overlaps between the individual sites may be possible.

The Internet should be used as a continuous information and communications medium. A website operated by the developer could comprise the headings and thematic areas illustrated in Fig. 11.

Action – contents and structure of an Internet platform

Project X					
Home	Press	Sitemap	About us	Contact us	Archive
<b>Objective</b>	What objective is the planning pursuing? What is to be achieved? What are the benefits for the different addressees?				
<b>Our project</b>	Explanation of the project				
<b>Procedures</b>	Stages of the planning and consent procedures and the participatory procedures				
<b>State of play</b>	What is currently happening in the fields of consent, construction and participation exercises				
<b>Value for money</b>	Costs, likely benefit to the national economy, share of public sector funding				
<b>Sectoral issues</b>	Information on ownership, environment, noise, recreation, health, etc.				
<b>Information system</b>	Assessment of how parties are affected				
<b>Public dialogue</b>	Questions and answers				

Fig. 11: Key elements of a website operated by the developer (based on FEMERN INFOCENTER BURG, 2012 and DIETRICH, 2012)

The crucial information for public participation on the Internet includes:

- core data on the project (information on the project and developer, need, traffic forecast, planning objectives, timetable, state of play of planning, outcomes of the concluded procedural levels, current procedural level);
- contact details, remits and responsibilities of the major players involved in the participatory process, including the competent authorities;
- information on what scope for participation exists, at what time and for whom, and legal parameters that provide information on how much of a say is possible (scope for and constraints on participation);
- information on the ongoing process of public participation (subject matter, meetings, information, consultancy studies) and documentation of the outcome of public participation (in the archive, media library);
- depending on the project, possibly information on technical planning, alternative plans, findings of consultancy studies, noise forecasts, “audio samples”, landscape assessments and visualizations;
- possibility of downloading essential information, plans and consultancy studies;
- information on continuous participation forums (if available). Here, for instance, meetings of dialogue forums can be broadcast on the project

website as a recording (view on demand) or in real time (livestream). For this purpose, reference can also be made to an external website.

Use is also made at the level of the 2015 Federal Transport Infrastructure Plan of the opportunities for information and participation provided by the Internet. The final reports of the concluded research projects and the documents relating to the participation of trade associations have been published on the Internet, and the web will continue to be used to publicize research findings as work-in-process information on the methodology and findings relating to the overall process. In addition, a project information system is to provide details of the projects under consideration and the relevant information and appraisal results. Any interested citizen is to be able to obtain information about the planning and calculation bases used in federal transport infrastructure planning. In addition, the possibility for citizens to submit comments is to be organized via the Internet. For instance, the consultation processes on the basic approach and Strategic Environmental Assessment will be web-based to a very large extent.

The following list contains examples of tools that can be used to facilitate consultation with the public within the framework of an Internet platform:

- **Public dialogue.** Under the “Public dialogue” heading, citizens can submit their questions using an online form. The developer and the consultants he has commissioned look at the issues relating to them and provide comments. The dialogue is visible to all visitors to the platform.
- **Webchat.** In this form of web-based communications on the Internet platform, communication and consultation with citizens is in real time and not staggered over a long period. Communication has similarities with an oral discussion. The participating citizens type their questions in a box and submit them. The member of staff deployed for this purpose by the developer or the competent authority can answer the question, which is visible to all those participating in the chat.
- **Blog.** A blog gives stakeholders the opportunity to engage in an exchange of views on the project by means of discrete entries (posts) and to obtain information by means of feeds (e.g. RSS). All the entries are documented and can be tracked by means of threads. The blog could be hosted by the authority conducting the procedure.

A bill for the promotion of electronic administration and the amendment of other provisions (eGovernment Bill) provides for a widening of the scope for online participation in formal procedures. But even before new legislation has been enacted, citizens will appreciate it if they are informed and involved in the procedure in this way, as is already the case in Bavaria, Hesse and Rhineland-Palatinate for the spatial impact assessment procedure (second and third sentences of Article 25(5) of the Bavarian Federal State Planning Act, fifth and sixth sentences of Section 18(6) the Hesse Federal State Planning Act and



third and sixth sentences of Section 17(7) of the Rhineland-Palatinate Federal State Planning Act).

Although use of the Internet is now widespread, not every citizen is familiar with it, which could mean that citizens and affected parties might be left out of participation. As a result, participation and information management via the Internet must always be combined with other information media. It thus remains important that information also be disseminated through the printed media.

**Stumbling blocks**

## 9.5 Information and consultation events

Public participation frequently takes place in the shape of information and consultation events. The factors determining the structure and agenda of such an event (see analysis of players, conflict areas, parameters of public participation, overall project planning) are very diverse, which means that it is not possible to provide universally applicable guidance. Thus, the following text uses examples that can serve as ideas for developing customized event planning. Methods for organizing events are described in numerous manuals and are only mentioned here in the context of specific examples (see Chapter 9.8).

A basic distinction must be made between information and consultation events. Whereas information events serve purely to provide information to citizens and do not allow them to actively exert influence on the planning process (receiving or obtaining information), the aim of consultation events is to enable citizens to actively comment on the information and voice their opinion (obtaining or voicing opinions).

**Objectives**

Information and consultation events are usually a component of informal public participation and can also – confined to information – be held to supplement a formal spatial impact assessment procedure or plan approval procedure. In the planning phase, they support the approach of early public participation, intent on continuity, prior to the formal procedure. On the other hand, information and consultation events during the procedure aim to explain the planning documents to citizens and to answer questions relating to these documents and relating to the procedures and participatory steps.

**Time of deployment**

The developer is responsible for staging information and consultation events. The competent authority may also be responsible, for instance during the public consultation procedure. At the level of federal transport infrastructure planning, the Federal Ministry of Transport and Digital Infrastructure is responsible for staging information and consultation events.

**Responsibility**

When organizing participatory events, a few basic rules should be observed for communicating with citizens and, specifically, with affected parties.

**Action**

- The first prerequisite for successfully communicating with citizens is the firmly-held belief that their participation is a legitimate and important component of the entire procedure. This means that within the organization, an attitude must be developed that tends towards open-mindedness and a tolerance of errors plus a willingness to accept other people's views and to revise the planning.
- The first thing to do is to listen. As the first step of communication, listening has a de-escalating effect and is the basis for being able to respond to people's misgivings and to offer solutions.
- In the communication process, citizens should be able to see that their concerns are being taken seriously. Here, the information events in the planning phase and the citizens' surgeries in the public exhibition phase are of particular importance.
- Care should be taken to ensure that all groups (both the project proponents and the project opponents) have an opportunity to raise their issues and concerns, for instance at an information event.
- Explanations should not be given until the concerns of citizens have been understood and the citizens realize this.
- Citizens should have access to relevant information. This can be the official scope of the EIA study and the comments provided by the authorities, which can be made available in parallel with the public exhibition. If minutes are taken of a meeting or event, they should also be disseminated to the stakeholders. This could be a record of the major misgivings and suggestions voiced at a citizens' surgery or a public information event during the spatial impact assessment procedure or plan approval procedure.

#### Objectives of the event

These basic rules of communication should be mastered by all the staff of the developer and of an authority. Special training courses for the staff may be helpful, at which they can deliberate on their attitude towards participation and practise appropriate communication strategies.

#### 9.5.1 Planning events

The crucial factors determining the shape the event is to take are not only the characteristics of the project but also, primarily, the objectives of and the participants attending the event, i.e. citizens/citizens' action groups, project proponents and opponents. Generally speaking, the event can serve to inform and/or consult with citizens (see Chapter 9.6 for more details on continuous participation forums).

Going beyond this general decision, it is imperative that specific aims be defined for an event. Focusing on aims that are not too ambitious will make it easier to engage in an exchange of views with citizens. Clear definitions are required with regard to the contents and form of the participation exercise

– information or consultation. These aims can be derived from the process architecture (see Chapter 9.3).

All components of event planning are based on the target groups. The time at which certain items and issues are to be addressed with a specific target group is planned while creating the process architecture. As a rule, the events at the start of a participatory process address the wider public, whereas the events offered during the further course of the process and their subject matter become more specific.

**Target group of the event**

Once the objectives, target group and parameters have been finalized, consideration can be given to the methodological approach. This depends on whether an event for providing information, a one-off interactive event for developing contents at the level of consultation or a continuous participation forum (see Chapters 9.5 and 9.6) is to be planned.

**Organizing and running the event**

As a function of these factors, plus the time factor, the schedule for the event can be planned. This includes, for instance, switching between the plenary session, working in groups, work phases and breaks. Diversifying the event makes it easier for people to absorb information.

There is a wide spectrum of methodological options for structuring events, ranging from large-scale discussions to meetings of small groups. The literature on this subject is extensive and practice-oriented (see index of sources and bibliography). Methods that have proved successful in participatory procedures include:

- the classic sub-division into small working groups;
- interactive planning stands, at each of which one aspect of the project can be presented and commented on (cf. Table 12);
- the “World Café”, in which small groups of people discuss topics and persons switch from one group to another, in order to extract the major items of agreement on a topic within a group;
- the planning cell for working intensively with stakeholders in addressing an issue and resolving it.

Timetabling should allow for contingencies so as to be able to respond to them appropriately.

**Time required**

Aspects such as location, space, the provision of services and price play a role in the selection of premises and their equipment. The selection of a regional venue for an event may give citizens more certainty and the event a certain natural character. The selection of an attractive location can be an additional encouragement to attend. Locating the event in the planning room or at the site of the project may make it possible to provide information in a more graphic way.

**Premises and equipment**

It is often difficult to estimate the necessary size of the room in the case of open invitations. One way of coping with this uncertainty is to tend to select a room that is larger and to make provision for dividing up the room, for instance by means of partitions, in order to create a constructive working atmosphere. If there is to be a visit to the project site or a kind of “tour” around the planning area, provision should be made for conducting several visits/tours, spare buses, etc.

Theatre-style seating is not suitable for certain types of event because different forms of working are to be made possible. To create a level playing field with citizens, it may be advisable to dispense with a podium or just to place the facilitator and/or organizer of the event there.

The technical equipment to be provided in the room, for instance projector, screen and presentation boards, depends on what means are to be used to provide the information and what other methods for involving the attendees are envisaged.

#### Refreshments

An event can always be made more pleasant by means of breaks or a relaxed opening phase. An informal exchange of views can make a significant contribution towards reaching agreement. Serving refreshments also helps to create a good atmosphere.

### 9.5.2 Inviting people to the event

The invitation to attend an event can take the form of a newspaper advertisement. In addition, other media such as unaddressed mail, online platforms or social networks can be used. An advertisement in the local and/or regional press should be worded such that every reader understands which project is involved, what the current state of play of planning is and what the aim of the event is.

Unaddressed mail in the form of leaflets or letters can be used if the aim is to target specific groups and invite them to attend. This mail should have the character of a personal invitation. The extent to which any given decision can be influenced should be illustrated (for instance: “Play your part in selecting the exact alignment!”).

### 9.5.3 Documentation and further use of the outcomes

If common outcomes are to be produced, the degree to which these outcomes are binding must first be clarified. This applies both to the outcomes of one-off consultation events and to continuous participation forums. The outcomes can be of a binding nature at very different stages, for instance defending the outcome in other bodies or taking the outcomes into account in trade-off processes. As a general rule, the outcomes of participatory

processes should be documented so that they can be taken into account in the further course of the planning and permission-granting process. This applies both to opinions where there is agreement and opinions that clash with each other. However, all stakeholders should realize that, for instance, round tables cannot replace a plan approval procedure. The events suggested below, therefore, are not legally bound to the outcomes. In addition, it must be pointed out to citizens that the minuting of events cannot be equated with the formal raising of objections and that otherwise there is the risk of a statute of repose taking effect.

A clear statement by the groups involved regarding their willingness to accept common outcomes as binding within the scope of their legal possibilities may, in advance, make all sides more willing to get involved in a participatory process. Nevertheless, such common solutions have no binding force on the authority conducting any given procedure. Developers should provide precise information as to how and when the outcome of any given event will inform the further planning process. This process can be strengthened at the end of an event by recording the solution(s) found in writing. Citizens can refer to such an agreement if the developer does not take the outcomes into account in planning or establishes other priorities.

As a matter of principle, the outcome of the informal participation exercise should inform the trade-off decision taken by the authority conducting the procedure. To this end, the participatory steps should be documented in a report that summarizes the essential points of the outcome and identifies those issues on which there is agreement and those on which there is disagreement. This report should be made available to the authority conducting the procedure.

## 9.6 Dialogue and participation forums

Dialogue and participation forums offer a continuous form of participation. Terms such as dialogue forum, round table or project advisory council refer to methods of cooperative participation and are not unambiguously defined, nor are they used in a uniform manner. What these methods have in common is that the participatory procedures have a fixed set of participants who meet mostly at regular intervals over a lengthy period of time. Because this involves a group cooperating over a lengthy period of time, it can indeed be referred to as an active participatory process in which numerous subject areas can be discussed and compromise solutions can be found. As a rule, a facilitator or mediator is appointed to monitor the dialogue and participation forums over their entire life. This person has more extensive responsibilities than organizing individual events. The subject of discussion and the composition of the attendees can vary greatly from one process to the next. In most cases, such forums are created if serious conflicts are emerging in a project and it

### Objectives

would appear that the only way to resolve them is by engaging in an intensive and longer-term dialogue, with a neutral facilitator if possible.

#### Time of deployment

Dialogue and participation forums are a component of informal participation and should, wherever possible, start in the early planning phase, especially in the case of projects where there is a great potential for conflict. As the dialogue and participation forums progress and formal consultation procedures are launched, there will be interfaces with the spatial impact assessment and plan approval procedures. For this reason, the authority conducting the procedure should be informed of the activities of the participation forum.

#### Responsibility

The developer is normally responsible for organizing dialogue and participation forums. However, dialogue and participation forums are also initiated by citizens' action groups, affected towns and cities or from the political sphere.

#### Action

Invitations to stakeholders to participate in a longer-term forum must be well prepared in advance. The relevant target groups should be represented. An open approach should be pursued. To keep the number of participants manageable, it may be necessary for larger groups to be represented by individuals. The scope for decision-making, for contributing and for exerting influence are to be identified and communicated in advance. The following questions are helpful for this purpose.

- What conflicts already exist?
- To the solution of which problem(s) can citizens contribute?
- Which citizens can participate in decision-making?
- How will representatives for the different stakeholder groups be selected?  
The analysis of players (see Chapter 9.1) can be drawn on for this purpose.
- How will the outcomes of the dialogue and participation forums be safeguarded? (see Chapter 9.5.3)
- How will the outcomes be communicated externally (broadcast on the Internet, involvement of the press, etc.)?

The greatest scope for negotiation is in the early planning phases, especially before the spatial impact assessment procedure. Cooperation will not result in greater acceptance unless, inter alia, the technical planning can be influenced, there is scope for decision-making in planning and the promise of participation can be kept.

The prerequisites of such a procedure are as follows:

- All relevant groups (including proponents of projects) must be involved at an early stage.
- The process must be monitored by a supervisor, who may be financed by the developer but who clarifies his mandate with the participation forum.
- The rules and parameters (e.g. finances, timetable, number of meetings) must be as clear as possible.

- The group must have clear objectives.
- The developer and the authority must be genuinely interested in the process and its outcome.
- It must be possible for there to be feedback between the representatives and the stakeholder groups they are representing.
- The outcome must be as binding as possible on all stakeholders if this is legally possible.

The mediation procedure, on the other hand, is used if a conflict situation has already arisen that can no longer be resolved by the stakeholders. Mediation procedures are usually subdivided into five or six phases, frequently as follows (see MEDIATOR, n.d.):

1. Preparation and mediation contract
2. Collection of issues and information
3. Declaration of interests
4. Search for creative ideas
5. Selection and assessment of options
6. Mediation agreement and implementation

In mediation, an attempt is made to mediate between parties involved in a conflict and, ideally, to find problem-solving approaches that benefit all stakeholders. Much time is spent looking for alternatives and potential for negotiation before work starts on finding a specific solution. A continuous participatory process with representatives from the different spheres of interest can help to pacify protest, create transparency, dispel uncertainties and contribute to good solutions.

In reality, there is frequently only limited scope for involvement for the participatory processes. These processes tend to involve developing joint recommendations, and it cannot automatically be assumed that they will be implemented. For this reason, great importance must be attached to identifying the scope that actually exists for a dialogue group to exert influence. The authority responsible for the spatial impact assessment or plan approval decision should identify the scope and constraints that exist.

#### Stumbling blocks

On the other hand, the stakeholder groups associated with major transport projects are often not organized in a way that the consent of one representative of a citizens' action group to a solution negotiated by way of mediation automatically means that all citizens endorse the decision and will, for instance, refrain from protesting or taking legal action.

## 9.7 Examples of how to organize and run events

The following tables (Tables 11 to 14) contain examples of how to organize and run different types of event.

**Table 11: Example of how to organize and run a public participation event before the formal spatial impact assessment procedure is launched**

Parameters	Subject matter
Project	<ul style="list-style-type: none"> <li>• Construction of a new section of motorway</li> </ul>
Phase in the procedure	<ul style="list-style-type: none"> <li>• Before the launch of the formal spatial impact assessment procedure</li> </ul>
Objectives of the event	<ul style="list-style-type: none"> <li>• Present the project</li> <li>• Give reasons why the scheme is needed</li> <li>• Discuss objectives and impact of the project on local residents, the environment, business and industry, society and mobility</li> </ul>
Pre-event preparation	<ul style="list-style-type: none"> <li>• State of play of planning, existing documents, scope of the EIA study (if appropriate)</li> </ul>
Time	<ul style="list-style-type: none"> <li>• Friday, 16.00 to 19.00 hrs</li> </ul>
Venue	<ul style="list-style-type: none"> <li>• Local civic hall</li> </ul>
Target group	<ul style="list-style-type: none"> <li>• Interested and affected public in a municipality impacted by the project</li> <li>• Representatives of the groups likely to be affected</li> <li>• Representatives of authorities relevant to the issues being addressed (trade and industry, health, social affairs, etc.)</li> </ul>
Invitation	<ul style="list-style-type: none"> <li>• Publication in the local press and, if appropriate, the local official bulletin, setting out the objectives of the event and referring to existing material on the Internet. Mention the opportunity to ask questions, make suggestions and voice misgivings.</li> <li>• Personal invitations to the representatives of the groups likely to be affected, with the aforementioned information</li> <li>• Refer to the meeting on the developer's website</li> </ul>
Organizers	<ul style="list-style-type: none"> <li>• Developer</li> <li>• Professional planners to answer questions and identify problem areas</li> <li>• Facilitator to shape and host the event</li> </ul>
Set-up	<ul style="list-style-type: none"> <li>• Signs pointing to the event</li> <li>• Models, maps, possibly references to planning documents and the scope of the EIA study as handouts or billboard poster/pinboard display</li> <li>• Visualization of the planned alignment</li> <li>• Technical equipment required</li> <li>• Communication-friendly seating configuration</li> <li>• Refreshments for attendees</li> </ul>



Agenda	Item
16.00 hrs Introduction Facilitator	<ul style="list-style-type: none"> <li>Welcome</li> <li>Objectives and agenda of the event</li> </ul>
16.15 hrs Developer	<ul style="list-style-type: none"> <li>Presentation of the project by the developer, including explanation of the alignment and reasons why the project is needed</li> <li>Impact on local residents, the environment, business and industry, society and mobility</li> <li>Developers and professional planners are available for questions, suggestions and the voicing of misgivings</li> </ul>
18.00 hrs Developer, facilitator	<ul style="list-style-type: none"> <li>Summary of the suggestions made and misgivings voiced</li> <li>Description of the next steps <ul style="list-style-type: none"> <li>Presentation and discussion of the next participatory steps</li> <li>What will happen to comments made by attendees?</li> </ul> </li> <li>Reference to publication on the Internet</li> </ul>
Follow-up	Subject matter
Organizers	<ul style="list-style-type: none"> <li>Evaluation of the event</li> <li>Written documentation of the outcome, publication on the Internet</li> <li>Photographic documentation of the event, publication on the Internet</li> <li>Press release on the outcome and its further use</li> <li>Processing of the outcome</li> </ul>

Table 12: Example of how to organize and run an exhibition of plans

Parameters	Subject matter
Project	<ul style="list-style-type: none"> <li>Widening of a section of motorway close to the locality</li> </ul>
Phase in the procedure	<ul style="list-style-type: none"> <li>Planning phase before the spatial impact assessment procedure</li> </ul>
Objectives of the event	<ul style="list-style-type: none"> <li>Familiarize the regional population with the planned construction project, launch a constructive debate on the project and explain why the scheme is needed.</li> </ul>
Pre-event preparation	<ul style="list-style-type: none"> <li>Identify the possible issues for citizens: <ul style="list-style-type: none"> <li>What spheres are interesting or crucial to citizens?</li> <li>What fears are likely to be voiced?</li> </ul> </li> <li>Present the issues to be addressed by means of consultancy studies and visualization in maps, plans and simulations.</li> </ul>
Time	<ul style="list-style-type: none"> <li>Two days (Saturday and Sunday), 14.00 – 18.00 hrs on both days</li> </ul>
Venue	<ul style="list-style-type: none"> <li>Kick-off at a rendezvous, information stands at certain points along the construction project.</li> </ul>

Parameters	Subject matter
Target group	<ul style="list-style-type: none"> <li>Regional population</li> </ul>
Invitation	<ul style="list-style-type: none"> <li>Worded as an offer to understand the planned future of a region visually and haptically. Feedback is possible. Specify state of play of planning and scope for exerting influence.</li> <li>Invite the press.</li> </ul>
Organizers	<ul style="list-style-type: none"> <li>Developer, professional planners, facilitator</li> </ul>
Agenda	Item
14.00 hrs Welcome, preparations for the tour Developer, facilitator	<ul style="list-style-type: none"> <li>Explain the objectives of the event.</li> <li>Present the agenda.</li> <li>Attendees split up into five groups of roughly equal size. Possibly form a separate press group with its own escort.</li> <li>Attendees are distributed to the different sites (shuttle buses required)</li> </ul>
15.00 hrs Tour to four sites	<ul style="list-style-type: none"> <li>Issues: landscape, nature conservation, noise, impact on business and industry</li> <li>Each information stand is equipped with descriptive material on the respective issue.</li> <li>The professional planners stay at “their” site.</li> <li>Landscape (by way of example): <ul style="list-style-type: none"> <li>Present-day characteristics, photos, description of the features</li> <li>What it is likely to look like after construction, alternatives (simulations)</li> <li>What benefits/improvements can we expect?</li> <li>Is there likely to be a downside?</li> </ul> </li> <li>It is possible to make additions to every item.</li> <li>The press group is escorted by the developer.</li> <li>Return to starting point.</li> </ul>
17.00 hrs Concluding discussion Facilitator, developer	<ul style="list-style-type: none"> <li>Attendees exchange views on their most important items</li> <li>Feedback from the attendees to the plenary</li> <li>Visualization on a pinboard</li> <li>Information on the next steps</li> <li>What will happen to concerns voiced by attendees?</li> <li>Refer to publication on the Internet (if appropriate)</li> </ul>
18.00 hrs Developer, professional planners	<ul style="list-style-type: none"> <li>Possibly a brief press round table with comments on the day’s events</li> </ul>
Follow-up	Subject matter
All organizers involved	<ul style="list-style-type: none"> <li>Evaluation of the event</li> <li>Written documentation of the outcome, publication on the Internet</li> <li>Photographic documentation of the event, publication on the Internet</li> <li>Press release on the outcome and its further use</li> <li>Processing of the outcome</li> </ul>

Table 13: Example of how to organize and run a discussion on an planned transport project

Parameters	Subject matter
Project	<ul style="list-style-type: none"> <li>• High-speed rail line (ICE)</li> </ul>
Planning phase	<ul style="list-style-type: none"> <li>• Before the launch of the formal participatory procedure of the spatial impact assessment procedure</li> </ul>
Objectives of the event	<ul style="list-style-type: none"> <li>• Discussion of alternative alignments</li> </ul>
Time	<ul style="list-style-type: none"> <li>• One day</li> </ul>
Venue	<ul style="list-style-type: none"> <li>• Local civic hall</li> </ul>
Target group	<ul style="list-style-type: none"> <li>• Local residents, representatives of the region, trade associations and stakeholder groups</li> </ul>
Invitation	<ul style="list-style-type: none"> <li>• Worded as a request to contribute to the planning and make suggestions; invitees contacted personally by telephone and in writing</li> </ul>
Organizers	<ul style="list-style-type: none"> <li>• Authority, professional planners, facilitator</li> </ul>
Agenda	Item
10.00 hrs	<ul style="list-style-type: none"> <li>• Welcome</li> <li>• Previous experience, motivation, professional background of the attendees</li> <li>• Presentation of the event's agenda</li> <li>• Description of the outline plans that are to be discussed, including the set legal and financial parameters and constraints</li> </ul>
12.00 hrs	<ul style="list-style-type: none"> <li>• Lunch break</li> </ul>
13.00 hrs	<ul style="list-style-type: none"> <li>• Discussion of the alternative alignments on the basis of criteria such as landscape, noise mitigation and impact on business and industry</li> </ul>
16.00 hrs	<ul style="list-style-type: none"> <li>• Summary of the outcome of the discussion</li> <li>• Information on the next steps</li> <li>• Refer to the publications on the Internet (if appropriate)</li> </ul>
17.00 hrs	<ul style="list-style-type: none"> <li>• Conclusion and press conference</li> </ul>
Follow-up	Subject matter
Organizers	<ul style="list-style-type: none"> <li>• Review the outcome</li> <li>• Written documentation of the outcome, publication on the Internet</li> <li>• Press release on the outcome and its further use</li> </ul>

Table 14: Example of how to organize and run an event to develop a common solution for a noise barrier

Parameters	Project
Project	<ul style="list-style-type: none"> <li>• Design of a noise barrier</li> </ul>
Planning phase	<ul style="list-style-type: none"> <li>• Advanced planning phase of the plan approval procedure</li> </ul>
Objectives of the event	<ul style="list-style-type: none"> <li>• Find a common solution for the construction and design of the noise barrier</li> </ul>
Pre-event preparation	<ul style="list-style-type: none"> <li>• Prepare a presentation on technical requirements</li> <li>• Specify the parameters (e.g. provision of funding, timetable, scope, technical possibilities)</li> </ul>
Time	<ul style="list-style-type: none"> <li>• One day</li> </ul>
Venue	<ul style="list-style-type: none"> <li>• Conference centre in the vicinity of the building site</li> </ul>
Target groupe	<ul style="list-style-type: none"> <li>• Local residents, representatives of the region, trade associations and stakeholder groups</li> </ul>
Invitation	<ul style="list-style-type: none"> <li>• Worded as a request to support the planning; invitees contacted personally by telephone and in writing</li> <li>• Highlight the opportunity they will have to shape their own environment</li> </ul>
Organizers	<ul style="list-style-type: none"> <li>• Authority</li> <li>• Professional planners</li> <li>• Architect/civil engineer</li> <li>• Facilitator</li> </ul>
Agenda	Item
9.00 hrs	<ul style="list-style-type: none"> <li>• Welcome</li> <li>• Present the event's agenda</li> <li>• Introduce the issues, provide an overview of the objectives</li> <li>• Technical information on the construction of a barrier (e.g. structural analysis, sound insulation, design)</li> <li>• Information on legal and financial constraints and the extent to which a solution will be binding when found</li> </ul>
12.00 hrs	<ul style="list-style-type: none"> <li>• Lunch break</li> </ul>
13.00 hrs	<ul style="list-style-type: none"> <li>• Discussion of the detailed design of the noise barrier in groups</li> <li>• Subsequent discussion in the plenary and, if possible, definition of a common solution (starting with the solution with the most votes, an attempt can be made to integrate elements of the other suggestions in an appropriate manner).</li> <li>• Experts are available throughout the entire consultation exercise.</li> </ul>

Agenda	Item
17.00 Uhr	<ul style="list-style-type: none"> <li>• Conclusion and presentation of the outcome achieved so far</li> <li>• Arrange a further meeting (if necessary)</li> </ul>
Follow-up	Subject matter
Organizers	<ul style="list-style-type: none"> <li>• Review the outcome</li> <li>• Written documentation of the outcome, publication on the Internet</li> </ul>

## 9.8 Points of contact and examples of application

If a citizen wishes to obtain information on a planned major transport infrastructure project, he can contact various bodies. The point of contact responsible for his questions and concerns depends, for instance, on the mode of transport and the state of play of the procedure. Citizens can always approach the following points of contact:

- the respective towns and cities;
- in the case of trunk road projects – the respective highway authorities of the federal state;
- in the case of rail projects – the appropriate region of DB ProjektBau GmbH (<http://dbprojektbau.denetze.com>);
- in the case of waterway projects – the Waterways and Shipping Administration in the respective federal state;
- in the case of air transport projects – the airport operator.

Some of the recommendations made in this Manual for transparent, timely and fair public participation have already been implemented in selected major transport infrastructure planning projects. The following list contains a selection of such examples:

Various major projects have their own website. In addition, large highway authorities already have very informative project-related Internet platforms. The websites normally contain fact sheets on the project that are intelligible to all, information on the state of play and press releases. In some cases, in-depth consultancy studies on project planning and the impact of the projects have also been posted on these sites. The following list contains selected examples

- Website on current projects of the Lower Saxony State Authority for Road Construction and Transport  
[http://www.strassenbau.niedersachsen.de/portal/live.php?navigation\\_id=21023&\\_psmand=135](http://www.strassenbau.niedersachsen.de/portal/live.php?navigation_id=21023&_psmand=135)

### Points of contact

### Projects on the Internet

- Website on current motorway projects of the North Rhine-Westphalia Highway Authority  
<http://www.strassen.nrw.de/projekte/lueckenschlusse.html>
- Website on current projects of the Motorway Directorate for Southern Bavaria, for instance with project information on planning the A8 motorway (Munich – Rosenheim – Salzburg)  
[http://www.abdsb.bayern.de/projekte/a8o\\_projektinfo.php](http://www.abdsb.bayern.de/projekte/a8o_projektinfo.php)
- Website on current German Unity transport projects of the German Unity Planning and Construction Company for Trunk Roads (DEGES):  
<http://www.deges.de/Projekte/VDE-Strasse/Uebersicht-K116.htm>
- Website on current projects of Deutsche Bahn, for instance the new Rhine/Main – Rhine/Neckar high-speed line:  
[http://www.deutschebahn.com/de/konzern/bauen\\_bahn/aus\\_und\\_neubauprojekte/](http://www.deutschebahn.com/de/konzern/bauen_bahn/aus_und_neubauprojekte/)
- Website on German Unity Transport Project 8 (Nuremberg – Erfurt – Halle/Leipzig – Berlin main line):  
[www.vde8.de](http://www.vde8.de)
- Website on the new/upgraded Karlsruhe – Basel line:  
[www.karlsruhe-basel.de](http://www.karlsruhe-basel.de)
- Website on upgrading the Danube between Straubing and Vilshofen:  
<http://www.wsv.de/da/>
- Website on the fixed Fehmarn Belt link:  
<http://www.femern.de/>
- Website on the Stuttgart-Ulm rail project:  
<http://www.filderdiallog-s21.de/aktuelles.html>

#### Leaflets and brochures

Numerous developers provide downloadable brochures with project descriptions intelligible to all and outline maps on their websites.

Examples of diverse downloadable outline maps on individual projects can be found on the project pages of the Lower Saxony State Highway Authority, for instance on planning for the A 39 federal motorway between Lüneburg and Wolfsburg:

[http://www.strassenbau.niedersachsen.de/portal/live.php?navigation\\_id=21023&psmand=135](http://www.strassenbau.niedersachsen.de/portal/live.php?navigation_id=21023&psmand=135)

Example of downloadable outline maps on road construction projects in North Rhine-Westphalia, for instance on the A 33 motorway to close the gap between the A 2 motorway and the B 61 federal highway:

<http://www.strassen.nrw.de/projekte/a33/a2-b61.html>

Example of diverse downloadable brochures and project fact sheets on the new Rhine/Main – Rhine/Neckar high-speed line:

[http://www.deutschebahn.com/de/konzern/bauen\\_bahn/aus\\_und\\_neubauprojekte/rheinmain\\_rheinneckar.html](http://www.deutschebahn.com/de/konzern/bauen_bahn/aus_und_neubauprojekte/rheinmain_rheinneckar.html)

Example of a downloadable project brochure on the website of the Nuremberg – Erfurt – Halle/Leipzig – Berlin main line:

<http://www.vde8.de/#&desc=VDE+8.1+AUSBAU%3A+%C3%9CBERBLICK%3A+Downloads&t&nav=297>.

As the developer of various express road projects in Austria, the Austrian road construction company ASFiNAG produces up-to-date DIN A 4 brochures at regular intervals during the planning phases of the projects, which are normally distributed as unaddressed mail in the municipalities affected. The brochures, which have standardized titles (for instance “A5 Aktuell”, “S3 Aktuell”), provide information on the state of play of planning of any given project and on forthcoming public information events. Up-to-date brochures on individual projects in the various federal states can be downloaded from the ASFiNAG website <http://www.asfinag.at/strassennetz/>.

To be able to disseminate information on projects independently of the local process, citizens’ action groups from Stuttgart publish their own newspapers. These are financed by donations and enclosed as a supplement to larger newspapers in the editions distributed in the appropriate region. The “Kontext” newspaper is a weekly newspaper for the Stuttgart region enclosed with the “taz” and is also published in an online edition (see <http://www.kontextwochenzeitung.de>). Another example is “Stuttgart 21”, which forms a special section of the “Stuttgarter Zeitung” (online edition at [http://www.stuttgarter-zeitung.de/stuttgart 21](http://www.stuttgarter-zeitung.de/stuttgart%2021)).

The German Unity Planning and Construction Company for Trunk Roads (DEGES) records video simulations of their projects if required and presents them at public information events or on the Internet.

One example of a project for which an extensive video simulation has been recorded is the widening of the A 7 motorway from Hamburg-Othmarschen junction to the Hamburg/Schleswig-Holstein border. This visualization can be found at <http://www.deges.de/Projekte/Sonstige-Strassenprojekte/in-Hamburg/A-7-AS-Hamburg-Othmarschen-Landesgrenze-Hamburg/Schleswig-Holstein/A-7-AS-HH-Othmarschen-Landesgrenzen-Hamburg/Schleswig-Holstein-K228.htm>

As the developer of various express road projects in Austria, the Austrian road construction company ASFiNAG usually engages the services of specialist consultants during the planning phases of projects in order to visualize the planned road for public information. This usually involves video simulations from which individual still images of any location can be taken. The video simulations are presented at public information events and on the Internet.

#### Newspapers

#### Visualization



Fig. 12: Visualization of a noise barrier (Bosch und Partner GmbH)



Fig. 13: Visualization of a road project (Bosch und Partner GmbH)

### Information centre



Fig. 14: Information centre on the A 4 motorway at Jagdberg Tunnel (DEGES GmbH)

An example of a video simulation can be found at <http://www.asfinag.at/strassennetz/niederoesterreich> for the S 1 Vienna Outer Orbital Express Road project.

For major construction projects, DB AG routinely establishes information centres along the planned lines in order to provide citizens with continuous and prominent information on any given project and the planning steps. Specific examples include:

German Unity Transport Project 8.1 information centre at Fürth Main Station on upgrading the Nuremberg-Ebensfeld line – see [http://www.vde8.de/media/public/downloads/VDE-81\\_Ausbaustrecke\\_Nuernberg-Ebensfeld/81\\_ABS\\_Infozentrum-Fuerth.pdf](http://www.vde8.de/media/public/downloads/VDE-81_Ausbaustrecke_Nuernberg-Ebensfeld/81_ABS_Infozentrum-Fuerth.pdf).

Katzenberg Tunnel information centre on the new/upgraded Karlsruhe-Basel line – see [http://www.karlsruhe-basel.de/index.php/infocenter\\_katzenbergtunnel.html](http://www.karlsruhe-basel.de/index.php/infocenter_katzenbergtunnel.html).

Information centre on upgrading the Emmerich – Oberhausen line (Betuwe line) in all seven municipalities along the line – see: [http://www.deutschebahn.com/de/konzern/bauen\\_bahn/aus\\_und\\_neubauprojekte/emmerich\\_oberhausen/emmerich\\_oberhausen\\_infozentrum\\_bahnhof\\_emmerich.html](http://www.deutschebahn.com/de/konzern/bauen_bahn/aus_und_neubauprojekte/emmerich_oberhausen/emmerich_oberhausen_infozentrum_bahnhof_emmerich.html)

Femern A/S as developer of the fixed Fehmarn Belt link operates one information centre on the German side and one on the Danish side to provide citizens with information on the tunnel project – see <http://www.femern.de/servicemenu/ueber-uns/infocenter>

### Public information and consultation events

Fig. 15: Impressions of an exhibition of plans (Bosch und Partner GmbH)



As part of the plans to upgrade the A 8 motorway (Munich – Rosenheim – Salzburg), the Motorway Directorate for Southern Bavaria has held numerous information events to provide public information in local communities. The presentations have been posted on the Internet and provide a good overview of the contents of the individual events: [http://www.abdsb.bayern.de/projekte/a8o\\_projektinfo.php](http://www.abdsb.bayern.de/projekte/a8o_projektinfo.php)

The Austrian road construction company ASFiNAG stages exhibitions of plans as its standard public information and consultation event. These exhibitions of plans are held several times during the planning phase whenever important interim planning results become available. The events take place in the evening. All the major professional planners involved in the planning team present the findings of their most recent studies by means of display panels and poster presentations. Citizens can move around the room at their leisure and ask every professional planner questions as well as being able to make suggestions and voice criticism. Notecards are available which citizens can use to make written suggestions.



In its information centres on the upgrading of the Emmerich – Oberhausen line, Deutsche Bahn holds fortnightly citizens' surgeries with the project management at which both general and specific questions, for instance on individual plots of land, can be asked. [http://www.deutschebahn.com/de/konzern/bauen\\_bahn/aus\\_und\\_neubauprojekte/emmerich\\_oberhausen/emmerich\\_oberhausen\\_infozentrum\\_bahnhof\\_emmerich.html](http://www.deutschebahn.com/de/konzern/bauen_bahn/aus_und_neubauprojekte/emmerich_oberhausen/emmerich_oberhausen_infozentrum_bahnhof_emmerich.html)

As part of the planning for the fixed Fehmarn Belt link, the Government of the State of Schleswig-Holstein has established an innovative dialogue forum in order to provide constructive support to the planning and develop problem-solving proposals that are as consensual as possible. The dialogue forum's participants include the developer, towns and cities, chambers of commerce, the Farmers' Union, the Federal State Ministry of Transport, the Tourism Association, etc. Citizens are represented by the Alliance of Citizens' Action Groups. Political representatives are excluded from the dialogue forum.

The meetings can be followed by anyone as they are livestreamed on the Internet (Kiel public access channel at [http://www.okkiel.de/ki/sehen/kiel\\_tv/index.php](http://www.okkiel.de/ki/sehen/kiel_tv/index.php)).

Before every meeting of the dialogue forum, citizens' surgeries are held, at which anyone can formulate questions, which are dealt with at the dialogue forum. The question, which is entered on a contact form on the Internet platform, is presented by the spokesperson of the dialogue forum at the beginning of the meeting. The persons attending the dialogue forum are requested to provide comments on the issues relating to them on the facilitated heading of the Internet platform (see <http://www.fehmarnbelt-dialogforum.de/buergersprechstunde>).

More detailed information can be found at [www.fehmarnbelt-dialogforum.de](http://www.fehmarnbelt-dialogforum.de)

To support the process of planning the expansion of Munich Airport, the Munich Airport Neighbourhood Advisory Council has been established. This is a dialogue and discussion platform between the operator of Munich Airport and the airport region, which is designed to develop common solutions by mutual agreement.

More detailed information can be found at [www.nachbarschaftsbeirat.de](http://www.nachbarschaftsbeirat.de).

For the preparation of an EU study on upgrading the Danube between Straubing and Vilshofen, a monitoring group has been established whose objective is to bring about a solution on upgrading the Danube in mutual agreement with Bavaria. Establishment of the monitoring group is designed to create more transparency. The composition of the group is based on parity – it has eight representatives from the spheres of industry, higher education, nature conservation associations and citizens' action groups opposed to

### Continuous participation forums



Fig. 16: Impressions of an exhibition of plans (Bosch und Partner GmbH)



Fig. 17: Impressions of a citizens' jury (Bosch und Partner GmbH)

the upgrading of the Danube. This composition of the monitoring group is designed to ensure that affected parties are also involved. The group's task is to critically monitor the studies to be conducted as part of the project planning and to contribute recommendations and suggestions.

More detailed information can be found at <http://www.wsv.de/da/untersuchungen/projektorganisation/index.html>



**Fig. 18: Exhibition entitled “Prospects for Wilhelmsburg”  
(Department of Urban Development and the Environment, Hamburg)**

# 10 Conclusion / looking ahead

The present Manual is based on the acknowledged fact that every participatory procedure must be viewed and planned individually – too different are the individual projects, the players in the local communities or the specific issues to be resolved. Given the diverse nature of the cases, there can be no absolute and always applicable package of measures for good public participation.

The Manual provides a toolkit of possibilities, from which the individual developer can select the participatory procedure best suited to a specific case and flesh it out appropriately. This gives developers and authorities on the ground the flexibility they need in any given case, but also undoubtedly places particular demands on those who are responsible for planning the participatory procedure best suited to a specific case.

However much the Manual focuses on flexibility in the fleshing-out of good public participation, in other words the “how” aspect, it is unambiguous in its commitment in terms of the “whether” of good public participation.

Having said this, however, a few “golden rules” for good public participation can be mentioned here.

**The greater the potential for conflict in a specific project, the greater the recommended level of public participation**

## Good public participation must

- **start at an early stage**, i.e. at the beginning of the planning phase, ideally before the spatial impact assessment procedure is launched, in other words when there is still genuine scope for decision-making;
- **be open and transparent**. Necessary **information** should be accessible and presented in a form intelligible to all. Openness in participation also means that not only critics of projects but also proponents, for instance representatives of local business and industry, must contribute to the discussion. Transparency about procedural steps and participatory processes also means that the scope for decision-making that actually exists has to be made clear from the outset. It must be pointed out, in a manner that everyone can understand, that the scope for decision-making will inevitably decrease over the course of the staged planning procedure. When a procedure has reached an advanced stage, in particular, the extent to which there is still scope for exerting influence on decisions already taken must be clearly stated.
- **be continuous**, in other words sustained over the various stages of planning. Because continuous information and participation make multi-stage planning and decision-making processes that last several years more transparent and easier to understand. Thus, in phases where there are delays to the planning or procedural timetable, citizens can still obtain information about the current state of play and plan the next steps in their participation.

- be based on a **positive attitude** towards **participation**. Public participation cannot be successful unless the stakeholders view it as an opportunity and not as a risk. This presupposes that all stakeholders are willing to engage in constructive dialogue and are personally reliable.

A summary of appropriate recommendations can be found, in particular, in Chapter 2.4 “Continuous and early participation”, Chapter 2.5 “Factors determining the success of good participation” and Chapter 9 “Building blocks of participation” as well as in the examples of application in Chapter 9.8.

With the recommendations for good public participation set out in this Manual, all players – developers, planners, authorities, trade associations, businesses, industry and citizens – are, in some cases, entering uncharted territory and they still need to gain experience of how the individual instruments prove themselves under various project conditions. All players are now called on to flesh out the catalogue of possibilities suggested in the Manual in the interests of a genuine culture of participation. And the catalogue of possibilities in the Manual is not a final list – good public participation is a learning process, a permanent task, which can only be improved and evolved by being continuously practised.

# 11 Glossary of abbreviations

BMVI Federal Ministry of Transport and Digital Infrastructure

CJEU Court of Justice of the European Union

EIA Environmental Impact Assessment

FTIP Federal Transport Infrastructure Plan

GTZ German Agency for Technical Cooperation

IAW in accordance with

SEA Strategic Environmental Assessment

SIAP Spatial impact assessment procedure

# 12 Glossary of terms

Acceptance	Active or passive approval of decisions or actions taken by others or positive appraisal of the subject matter of a plan
Affected parties	Those on whose interests the project is likely to impact, such as the owner of a plot of land affected by a plan.
Affected public	Any person whose interests are affected by a decision to grant permission or by a plan, plus (environmental) associations (second sentence of Section 2(6) of the Environmental Impact Assessment Act. The term “affected public” does not differ from the term “parties entitled to raise objections” as found in the first sentence of Section 73(1) of the Administrative Procedures Act. However, the public is widened by the inclusion of environmental associations (second clause of the second sentence of Section 6(2) of the Environmental Impact Assessment Act).
Alignment determination	Determination of the alignment in projects involving the construction of new federal trunk roads and federal waterways under Section 16 of the Federal Trunk Roads Act and Section 13 of the Federal Waterways Act respectively.
Citizen	Individual, regardless of whether the project may impact on his interests (= public excluding legal persons and associations).
Citizen scoping	Voluntary event organized by the developer to provide information to and consult with citizens on the subject matter, contents and methodology of the procedural documents to be prepared by the developer and, if appropriate, widening to cover issues from the economic and social spheres.
Competent authority	The authority responsible for any given administrative procedure or individual procedural steps.
Consultation	In the context of European law, the generic term for the participation of groups, authorities and citizens in all types of planning and decision-making process, i.e. the opinion of the aforementioned groups of people is obtained. Consultation of the public includes providing them with an opportunity to submit comments in planning and decision-making processes. Communication between decision-makers and citizens is a two-way street. Methods deployed include, for instance, comments, written and oral surveys and public meetings.
Cooperation	Opportunity to play an active part in planning processes. The extent to which influence can be exerted may differ, depending on the subject matter of the planning phase in any given case, and can even go as far as joint decision-making. Communication between the persons involved, i.e. the stakeholders and the involvers, is an integral component and is comprehensive.
Developer	Authority or private sector company that is responsible for planning and implementing a project. The developer prepares the planning documents required for the respective planning and permission-granting procedures and

	<p>submits them to the competent authority. Developers in major infrastructure projects are as follows: airport operators (legal entities under private law) in the case of air transport; the Waterways and Shipping Administration (federal authorities) in the case of federal waterways; Deutsche Bahn AG in the case of federal railway infrastructure; and the federal state highway authorities, acting as agents of the Federal Government, in the case of federal trunk road construction.</p>
Environmental Impact Assessment	<p>Instrument for the systematic assessment of the effects of certain projects, for instance transport projects, on the environment. Environmental impact assessment (EIA) is not a separate administrative procedure but a non-separate part of a supporting procedure (especially the spatial impact assessment and plan approval procedures).</p>
Federal Transport Infrastructure Plan	<p>Framework investment plan and planning instrument of the Federal Government (adopted by the cabinet) for the rail, road and waterway modes. On the basis of this plan, the German Bundestag adopts mode-specific requirement plans for the road and rail modes by passing upgrading acts.</p>
Formal participation	<p>Form of participation – mandated by the laws, regulations and administrative provisions applicable in any given case – in which a specific group of people are involved in an administrative procedure.</p>
Informal participation	<p>Any measure which, over and above the statutorily required formal participation measures, augments and widens the participation of the public (citizens) in an administrative procedure in an appropriate manner. Informal participation measures are not stipulated by law and can be flexibly adapted to any given situation (voluntary forms of participation).</p>
Information	<p>The making available of knowledge. The provision of information only is the form of participation that does not enable the stakeholders to exert an active influence on a planning process. Communication is predominantly a one-way street, namely from the planning and decision-making level to the public. Methods deployed include, for instance, project brochures, information events and exhibitions of plans.</p>
Interest	<p>Any interest worthy of protection of a legal, economic or non-tangible nature</p>
Involvers	<p>Players such as developers, agencies or authorities that are in a position to make offers of participation and are thus responsible for ensuring inclusion. In public consent procedures, the involvers are either the planning bodies (e.g. airport operators, Deutsche Bahn AG, Waterways and Shipping Administration, federal state highway authorities) or the authorities responsible for the administrative procedure (e.g. spatial planning authority, public consultation authority in plan approval procedures).</p>

Major projects	require a plan approval procedure or a local plan replacing plan approval and, if appropriate, a spatial impact assessment procedure prior to this.
Objection	Representation made by a citizen or any other part of the public within the framework of the formal public consultation procedure. It must be submitted in a specified format and before a specified deadline.
Plan approval procedure	Formal special procedure, regulated by Sections 72 to 78 of the Administrative Procedures Act and provisions of sectoral legislation, the subject of which is the granting of permission for specific construction projects and which concludes with the issuing of an administrative act (refusal, modification or approval). The plan approval procedure determines whether the project, including the necessary follow-up work on other installations, is permissible with regard to all the public interests it affects. No other official decisions, in particular public law consents, licences, permits, authorizations, agreements and plan approvals, are required in addition to the plan approval. Plan approval establishes/modifies all public-law relations between the project developer and the parties affected by the plan (Section 75(1) of the Administrative Procedures Act)
Plebiscite	Decision in a democratic system taken directly by citizens and not via representatives. It is the original form of direct democracy. Examples of plebiscitary decisions include, for instance, referendums and popular petitions. By contrast, the Basic Law provides for a representative democracy in which decisions are normally taken by representatives elected by the people.
Public	One or more natural or legal persons and their associations (first sentence of Section 2(6) of the Environmental Impact Assessment Act).
Public consultation procedure	Part of the plan approval procedure in which stakeholders are given an opportunity to make representations before a decision is taken. The public consultation procedure comprises a public exhibition of the planning documents, written involvement of the authorities and those whose interests are affected by the project, and usually a public local inquiry.
Public local inquiry	Meeting held to discuss the objections raised and comments submitted in the plan approval procedure with the aim of resolving/addressing them.
Public participation	All activities by which citizens are included in, or contribute to shaping, a planning and decision-making process through information, consultation and cooperation. Statutorily required forms of participation and informal forms going beyond these requirements are possible. Citizens can participate directly or indirectly via pressure groups, trade associations, project advisory councils, etc.
Scoping	Non-separate procedure for determining the contents and scope of the developer's documents required for the conduct of an EIA within the meaning of Section 5 of the Environmental Impact Assessment Act. The scoping is carried out



by the competent authority at an early stage before the developer prepares the EIA documents. It is imperative that those authorities whose remit is affected be involved. Experts and third parties can also be consulted.

#### Scoping conference

Meeting between the competent authority, the developer and, if appropriate, other authorities or third parties whose remit is affected to discuss the subject matter, contents, methodology and scope of the procedural documents required for an administrative procedure (e.g. Section 14(1) of the Lower Saxony Spatial Planning Act for the spatial impact assessment level or Section 25(2) of the Administrative Procedures Act for the plan approval level, Section 7 of the Grid Expansion Acceleration Act for the expansion of energy networks. It is advisable to hold the scoping conference at an early stage before the developer submits procedural documents. The meeting to determine the contents and scope of the documents to be furnished for Environmental Impact Assessment pursuant to Section 5 of the Environmental Impact Assessment Act (scoping meeting) can be combined with a scoping conference.

#### Spatial impact assessment procedure

Administrative procedure pursuant to Section 15 of the Federal Spatial Planning Act to assess the spatial impact of a spatially significant project listed in Section 1 of the Spatial Planning Regulations. The procedure concludes with the regional planning assessment. The latter is to be taken into account by other planning authorities in their decisions. The outcome of the regional planning assessment (as well as the alignment determination if it is based on it) is reversible. A regional planning assessment does not anticipate a decision to grant permission.

#### Stakeholders

Citizens and collective players such as societies, trade associations, pressure groups, local authorities and specialized agencies that are included in the planning and decision-making process of project development to a varying extent, at different times and on different issues/questions.

#### Strategic Environmental Assessment

Instrument for the systematic assessment of the effects of certain plans and programmes, for instance the Federal Transport Infrastructure Plan, on the environment. Strategic Environmental Assessment (SEA) is a non-separate part of an official planning procedure or an official procedure to draw up or modify plans.

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# Sources and further reading

## Acts and regulations

Act on Environmental Impact Assessment in the State of North Rhine-Westphalia of 29 April 1992 (North Rhine-Westphalia Gazette of Acts and Regulations, p. 175), most recently amended by the Act of 16 March 2010 (North Rhine-Westphalia Gazette of Acts and Regulations, p. 185).

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