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Aarhus-Strong

Strengthening electronic participation rights in
environmental protection in the European Union

Case Studies from Estonia, Germany, Slovenia, Spain
and Hungary

Imprint

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List of Abbreviations

Abbreviation	Full Word
APA	Administrative Procedure Act (Estonia)
BImSchG	Federal Immission Control Act (Bundes-Immissionsschutzgesetz, Germany)
CSO	Civil society organisation
EIA	Environmental Impact Assessment
EIA Act	Environmental Impact Assessment and Environmental Management System Act (Estonia)
EU	European Union
GPECA	General Part of the Environmental Code Act (Estonia)
MITECO	Ministry for Ecological Transition and the Demographic Challenge (Ministerio para la Transición Ecológica y el Reto Demográfico, Spain)
MoF	Ministry of Finance (Estonia)
NGO	Non-governmental organisation
PlanSiG	Planning Security Act (Planungssicherstellungsgesetz, Germany)
SEA	Strategic Environmental Assessment
UmwRG	Environmental Appeals Act (Umwelt-Rechtsbehelfsgesetz, Germany)
UVPG	Environmental Impact Assessment Act (Gesetz über die Umweltverträglichkeitsprüfung, Germany)
VwVfG	Administrative Procedure Act (Verwaltungsverfahrensgesetz, Germany)



Executive summary

Digital public participation in environmental matters is an essential element of modern democracy, as effective public participation leads to more informed decisions that strengthen environmental protection. However, at present, opportunities for digital participation are being addressed only in a rudimentary and fragmented manner. Strengthening the digital participation practices of European Union (EU) Member State authorities can therefore lead to more robust and inclusive public participation in general. This study aims to evaluate the current state of digital public participation in five EU Member States (Estonia, Germany, Hungary, Slovenia, Spain) in order to provide a first knowledge base. In the future, the obtained information can be used to improve digital skills and capacities within regulatory authorities.

The situation of digital public participation in the five EU countries under review is assessed in this report. Conditions for digital public participation are less than ideal in all five countries. While good practices can be identified in each country, significant deficiencies in digitisation also become apparent. The focus of the studies lies on the following aspects of public participation procedures:

- online publication of EIA project documents
- communication channels for submitting comments electronically to the authorities
- public hearings

After looking at the legal situation in the five study countries before and after the COVID-19 pandemic, it can be concluded that only Spain did not adopt any additional legislation on digital public participation in response to the pandemic. This exception is mainly due to the fact that there were no public hearings on environmental issues in Spain before the pandemic. All other four countries reacted to the restrictions caused by COVID-19 with regulatory changes regarding digital public participation on executive or legislative level. A significant change in all countries except Spain concerns public hearings, which have been altered due to the pandemic, either by being conducted online, skipped, or modified in nature.

The state of Environmental Impact Assessment (EIA) portals in the countries surveyed is quite varied. In Estonia and Slovenia there are several websites that could be considered as (incomplete) EIA portals. In Germany, there is a federal EIA portal, which also covers the entries of the 16 regional portals. In Hungary, there is no specific EIA portal at all, only the general website for information on all government agencies. Spain has a national EIA portal, but only four of the 17 Autonomous Communities have a portal for regional procedures. In countries without specific single EIA portals, project documentation is published on a number of different websites. In Estonia, for example, EIA materials are published on the website of the Environmental Board, the website of the Consumer Protection and Technical Regulatory Board or the website of local governments, among others. This makes it very difficult for the public and environmental organisations to follow the EIA process and find the relevant documentation.

Even in those countries where a working EIA portal is in place, there are still issues that need to be addressed to make the EIA procedures more accessible. For example, the EIA portals in Germany are covering all federal states, but a significant amount of EIA procedures is not uploaded and there is no possibility to leave



comments on the portal. Another issue is that the public is often unaware of relevant websites or EIA portals, and information is only occasionally disseminated through social media.

The study examines the varied use of digital public participation practices in the EU. It is evident that there is no shared understanding of how to regulate and implement digital tools to encourage and facilitate public participation. However, this comparative approach can inspire Member State authorities to adopt best practices from the countries presented and learn from existing shortcomings.

A graphical overview of the results is given in the table in the appendix.

Suggestions for improvement

After assessing the situation in the five countries under review, the following suggestions for improving digital public participation can be identified.

EIA Portals

- Setup of one unified national EIA portal.
- All projects and their relevant documentation are published on the EIA portal.
- Non-technical summary of the project and the Environmental Impact Study are provided.
- Documents are downloadable in a user-friendly format.
- Documents are complete and organized in a pre-defined filing system with easily identifiable names.
- Search function to find cases, documents and text within documents.
- Searchable archive function to find information on completed projects.
- Automatic notifications about projects in a certain area or field of interest (e.g. via e-mail or app).
- The EIA portal allows for direct comments on projects without lengthy registration procedure.
- Responses to the comments from participants are public and easily accessible online.

Public hearings

- Accessible online and offline (hybrid).
- Setup of online hearings without prior consent of all participants.
- The public concerned is always able to attend the hearing.

General

- Specific separate legislation on electronic public participation.
- Standards for electronic public participation have to be as high as for in-person participation.
- Funding for pilot projects.
- Dissemination of information on social media.



1. Introduction

Digital public participation in environmental matters is a vital element of modern democracy. Evidence shows that effective public participation, as required by the Aarhus Convention¹ and the Public Participation Directive², leads to more informed decisions that strengthen environmental protection.³ It can also save costs by avoiding design errors, prevent legal action and contribute to greater public acceptance of projects. Digitisation requirements and new opportunities from electronic participation are currently only rudimentarily addressed in the participation processes on international and European level. The aim of the Aarhus-Strong project is therefore to strengthen the electronic participation practices of European Union Member States authorities. To recalibrate public participation in environmental protection, it is necessary to build digital competencies and capacities within regulatory authorities.

Many public participation processes in environmental matters are connected to an EIA as required by EU legislation.⁴ Authorities are obliged to publish information on the planned projects which require an EIA, and offer online EIA portals or other easily accessible electronic points of access⁵. Yet the implementation of EIA portals across the EU is quite inconsistent.

In mid-March 2020, Europe was at the epicenter of the COVID 19 pandemic, which posed serious problems for effective public participation in some countries. The particular challenges of the Corona crisis required rapid legislative action in the Member States of the European Union in order to respond adequately to the drastically changed circumstances. COVID or emergency legislation also extended to domestic planning and permitting law, in some cases affecting online access to information, public participation procedures or hearings in environmental matters.

In order to better understand the status quo of the legal and actual situation regarding digital public participation in the EU, this report examines five EU countries: Estonia, Germany, Slovenia, Spain and Hungary. It will show that digital public participation is implemented differently at Member State level, with some countries taking the general obligation to ensure effective public participation under the Aarhus Convention more seriously than others. The focus of the study is on the national EIA portals and the national legal situation regarding electronic public participation, especially in the context of the COVID-19 pandemic. In some countries, the COVID-19 pandemic was a catalyst for the expansion of e-participation. In others, the pandemic had little impact on e-participation. After describing the national legal situation before and after the COVID-

¹ Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters, 25 June 1998, available [here](#).

² Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, available [here](#).

³ Schütte, Wolff, von Vitorelli, Schumacher, Hünecke, Zschiesche, Stolpe, Habigt, Newig (2023): Evaluation der Öffentlichkeitsbeteiligung – Bessere Planung und Zulassung umweltrelevanter Vorhaben durch die Beteiligung von Bürger*innen und Umweltvereinigungen (UBA-Texte, 32/2023). Umweltbundesamt. Dessau-Roßlau, 2023, available [here](#).

⁴ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification), available [here](#).

⁵ Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, available [here](#), article 6 paragraph 5.



19 pandemic, the EIA portals of the five countries studied are evaluated. Finally, a summary and recommendations for action are given for each country and a general conclusion is drawn. A graphical overview of the results is given in the table in the appendix.

The aim of the study is to provide a solid basis for developing digital competence and capacity of regulators and to provide an innovative, practical participation guide for European environmental regulators in the further course of the Aarhus Strong project. Positive developments in digital public participation can be observed in all five countries. However, there is also room for improvement in each case.

This study was conducted by the Independent Institute for Environmental Issues (UfU) supported by the following four project partners: Estonian Environmental Law Centre; PIC – Legal Center for the Protection of Human Rights and the Environment (Slovenia), International Institute for Law and the Environment (Spain) and Environmental Management and Law Association (Hungary). UfU e.V. thanks the project partners for their dedicated collaboration. The project was supported by the German Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection.



2. Electronic public participation before and after the COVID-19 pandemic

This section outlines the legal and actual situation of electronic public participation in each study country. First, the situation prior to the COVID-19 pandemic will be examined. The primary national sources of legislation and jurisdiction for electronic public participation, including constitutional law, acts, codes, and decrees, as well as procedural rights of individuals, legal entities, and NGOs, will be introduced. If there is any existing case law regarding electronic public participation in the study countries, a brief description will be provided.

Second, the legal situation for electronic public participation in the five study countries during the COVID-19 pandemic will be examined, including any ad-hoc measures and emergency legislation concerning digital participation. In addition, this study will investigate whether the regulatory modifications implemented during the COVID-19 outbreak have been maintained or whether the legislation has reverted to its pre-pandemic state. Although the legal situation resulting from COVID-19 may not have changed in all countries under review, this text will further explore how the pandemic has impacted the ability of citizens and environmental associations to participate in public processes.

2.1 Legal and actual situation of electronic public participation in Estonia

2.1.1 Estonia before the COVID-19 pandemic

In Estonian law, environmental decisions are, as a rule, administrative decisions rendered in administrative proceedings by a public authority (administrative body), which is generally the Environmental Board or a local government, but in certain cases also other state institutions may be involved.⁶

The rules for public participation in environmental matters both before and after the COVID-19 pandemic mainly stem from the following legislation:

1) General rules for all environmental decision-making:

- a. Administrative Procedure Act (APA) – general rules and minimum requirements for all administrative procedures and decision-making;
- b. General Part of the Environmental Code Act (GPECA) – general requirements for involving the public in decision-making with significant environmental impact, analogously to the requirements arising from the Aarhus Convention (early stage and effective inclusion, the obligation to provide reasonable deadlines, etc.), as well as specific requirements for environmental permit procedures.

2) Rules for decision-making for land-use plans:

- a. Planning Act - sets out the procedural requirements for the preparation and adoption of land use plans (national spatial plan, county spatial plans, general spatial plans of local

⁶ The exception are national development plans and action plans, the legal character of which is not clear and in the preparation of which no clear requirements have been established for the involvement of the public.



governments, detailed plans and designated spatial plans of the state and local governments), including extensive regulation for the involvement of the public in these procedures;

- b. The Environmental Impact Assessment and Environmental Management System Act (EIA Act) - stipulates the requirements for the strategic environmental impact assessment (SEA) of strategic planning documents, including the involvement of the public in these procedures.

3) Rules for decision-making concerning permits:

- a. Specific laws in the field of the environment - Earth's Crust Act, Water Act, Nature Protection Act, etc. – such acts establish special rules that apply in addition to those stipulated in the GPECA in the procedure for issuing certain permits or decisions;
- b. The EIA Act - stipulates the requirements for the environmental impact assessment (EIA), including the involvement of the public in these procedures.

As a very general summary, these laws establish the following requirements:

- a) The requirement to inform affected persons/the public about the planned activity and public display of the materials (personally, via newspaper and via electronic portal of Official Notifications (*Ametlikud Teadaanded*) and in certain cases on the webpage of public authorities);
- b) During the public display, the access to the materials both physically on site and electronically;
- c) Conduct a public hearing – in some cases, the law explicitly requires to conduct the hearing physically (Planning Act), in some cases remains vague as to the means and site of the hearing (EIA Act);
- d) Respond to submitted opinions and positions.

Since 2018, according to Section 5 (6) of the APA, electronic conduct in administrative proceedings is equated with written conduct. For example, sending documents electronically has been equalised with delivery by post.

In summary: before the COVID pandemic, the public could receive materials electronically, submit their views electronically and receive answers to them, but public hearings were held physically in location of the planned project or decision-maker.

We are not aware of any relevant case-law regarding electronic public participation.

2.1.2 Estonia after the COVID-19 pandemic

Changes in legislation concerning digital participation

The Government of Estonia established the state of emergency on March 12, 2020, and ended it on May 18, 2020. Starting from August 2020, the Government established the measures and restrictions necessary to prevent the spread of COVID in various acts, including restrictions on the presence of persons in public indoor spaces.



Following the ban on public gatherings, the public hearings were first skipped or postponed. After the first months of the pandemic, some authorities began to allow the public hearings to be held via electronic means. It is apparent from the public notifications that Consumer Protection and Technical Regulatory Authority started this practice already in May 2020, the Environmental Board in June 2020 (though in most cases the hearings were still held physically).

The state authorities also issued guidelines as to whether the current legal regulations allow public discussions to be held online only. The conclusions of different authorities were different, depending on the nature of the procedure and the applicable law.

Spatial planning

In March 2021, the Ministry of Finance (MoF) issued a recommendation⁷ according to which organizing public discussions only online is not in line with the spirit of the Planning Act. Therefore, the MoF considered holding the discussions online only as a recommendation, finding that it can only be done if all parties (whose circle is definable) agree to it and they are guaranteed the technical possibilities for it. The MoF suggested that, if possible, public meetings should be postponed until the Government decides to allow public meetings.

The Chancellor of Justice issued an assessment in April 2021⁸ in which she found that the Planning Act does not exclude electronic discussion.

In January 2022, the Planning Act was amended, and provisions were added to it according to which⁹:

- 1) The relevant authority may enable participation **also** in public hearings by electronic means, or in an electronic way, which allows the participant of the public hearing to follow the discussion and express an opinion. This means that the authority may organise a meeting in hybrid format, provided that all the participants (including those participating by electronic channels) have a chance to hear what is said and to speak up.
- 2) If it is not possible to hold public hearings in designated places due to the current restrictions on public gatherings, public hearings may be held **only** by electronic means that allow the participant of the public hearing to follow the hearing and express an opinion. Organizing a public hearing in such manner is only permitted if all those who wish to participate in the public hearing have agreed to it.

Environmental Impact Assessment procedures

In March 2020, the Environmental Board announced that the public hearings of EIA programmes and reports would be postponed.¹⁰

⁷ <https://planeerimine.ee/planeeringute-avalikud-arutelud-martsis-2021/> (in Estonian).

⁸ The position of the Chancellor of Justice from 21.04.21: <https://www.planeerijad.ee/wp-content/uploads/2021/04/Saue-valla-uldplaneeringu-avalik-arutelu-.pdf> (in Estonian).

⁹ Section 9 (2.1) and (2.2) of the Planning Act, <https://www.riigiteataja.ee/en/eli/515032023002/consolide#para9>

¹⁰ The public announcement of Environmental Board in media on 18.03.20: <https://jarvateataja.postimees.ee/6926228/keskkonnaamet-tagab-pohiteenused-ka-eriolukorra-ajal> (in Estonian).



In April 2020, the Ministry of the Environment issued a guideline¹¹, in which it was found that the EIA Act allows organizing a public hearing in an electronic format, provided that the effective participation opportunities of both the participants in the proceedings and the general public are guaranteed, including the existence of a technical solution and its practical functioning.

There have been no amendments to the EIA Act concerning electronic participation due to restrictions during the COVID-19 pandemic.

Change in the actual situation

The legal situation in EIA proceedings has not changed (as mentioned above), whereas the actual situation has: starting from 2020, there has been the possibility at least in some cases to participate at public hearings via electronic channels. This practice has continued after the end of the restrictions. However, the practice is uneven – in some cases, the Environmental Board has organised the public hearing physically, in some cases the possibility has been provided to participate at the hearing electronically (e.g. via MS Teams).

Despite of the inconsistent use of electronic means, this change has definitely improved the realisation of public participation processes at least for environmental associations. For example, in a recent public hearing of the EIA report for a new oil-shale plant, without the possibility of electronic participating it would have been very difficult for the general public and environmental NGOs to participate, as the site of the plant is far from bigger cities.

¹¹ Public hearing of EIA/SEA in an electronic format. Guideline from the Ministry of Environment: <https://envir.ee/media/1242/download> (in Estonian).



2.2 Legal and actual situation of electronic public participation in Germany

2.2.1 Germany before the COVID-19 pandemic

a) General situation

The regulations for electronic public participation in Germany as they result from international requirements (Aarhus and EU) are presented below. The explanations refer to the period since 2006 and describe the situation in 2019. The obligations arising from the Aarhus Convention and the Public Participation Directive (Directive 2003/35/EC) of the European Parliament and of the Council of 26 May 2003 were implemented in German law in the period prior to the pandemic by the following regulations on obligations relating to electronic public participation:

- 1) The Act on Public Participation in Environmental Matters (Öffentlichkeitsbeteiligungsgesetz), which amends, among others, the Environmental Impact Assessment Act (Gesetz über die Umweltverträglichkeitsprüfung, UVPG) and the Federal Immission Control Act (Bundes-Immissionsschutzgesetz, BImSchG)
- 2) Environmental Appeals Act (Umwelt-Rechtsbehelfsgesetz, UmwRG)

Both pieces of legislation entered into force on 15 December 2006.

The Environmental Impact Assessment Act (UVPG) is one of the main sources regulating public participation in environmental matters. Paragraphs 18 et seq. UVPG implement Article 6 of the Aarhus Convention. Paragraphs 18 Section 1 Phrase 4 of the UVPG and Paragraph 73 Section 3 Phrase 1 and Sections 5 to 7 of the Administrative Procedure Act (Verwaltungsverfahrensgesetz, VwVfG) regulate the public consultation procedure. Accordingly, the competent authority must involve the public in the assessment of the environmental impact of a project. Those affected by these impacts are given the opportunity to express their opinion during the participation procedure. Objections to the plan raised in good time are discussed at a public hearing. As a rule, the announcement and the display of relevant documents take place in publicly accessible administrative buildings and can be inspected by interested parties during opening hours. Paragraph 20 Sections 1 and 2 UVPG specifically regulate the establishment of central internet portals. The relevant documents are to be made available to the public via these portals. In addition, Paragraph 27a of the VwVfG, as a central general administrative regulation, stipulates the public or local announcement of the project. It states that the authority shall publish the content of the announcement on its own website. This also applies to associated documents that are to be made available for examination.

As part of the acceleration of planning processes, the 2018 Act on the Acceleration of Planning and Approval Procedures in the Transport Sector (Gesetz zur Beschleunigung von Planungs- und Genehmigungsverfahren im Verkehrsbereich) further strengthened digital public participation in the area of roads, railways and waterways. Prior to the COVID-19 pandemic, digital public participation was already present in sectoral laws, obliging project developers to facilitate digital participation, for instance in the Paragraphs 18f of the General Railroad Law (Allgemeines Eisenbahngesetz), Paragraph 17 of the Federal Waterways Act



(Bundeswasserstraßengesetz) and Paragraph 17g of the Federal Highway Act (Bundesfernstraßengesetz). However, this publication obligation is mainly intended to inform the public and does not ensure in-depth public participation. Furthermore, it does not replace the analogue display. In addition, the version displayed on site remains authoritative. Consequently, the completeness of the documents must be guaranteed only for the analogue and not for the digital display of documents.

b) Initiatives to strengthen electronic public participation by German legislators since 2006

Since 2006, electronic public participation has only been pushed forward to a very limited extent by the German legislator, although the public debate on the construction of the Stuttgart main railway station led to increased calls for electronic participation by environmental associations. However, the German federal legislator has strengthened some details of electronic public participation with the 2013 Act to Improve Public Participation and Standardize Plan Approval Procedures (Gesetz zur Verbesserung der Öffentlichkeitsbeteiligung und Vereinheitlichung von Planfeststellungsverfahren). For example, the announcement of projects had to be published online as far as possible (Paragraph 27a VwVfG) and the project documents had to be made available electronically. However, the completeness of the documents was still determined by the documents displayed on site (see also Paragraph 27a VwVfG).

Furthermore, in the last few years before the pandemic, general efforts to increase the digitisation of public administration have touched on the topic of electronic public participation. In 2017, the Online Access Act (Onlinezugangsgesetz) was adopted. It obliges large parts of the public administration to provide their administrative services also digitally from 2023 onwards. The main aim is to make administrative processes more transparent. However, only a few projects to digitise public administration in Germany will have been completed by 2023.

In addition, some German federal states have launched activities to strengthen electronic public participation. In Baden-Wuerttemberg, for example, the regional Environmental Administration Act (Umweltverwaltungsgesetz) was passed on 1 January 2015. It standardizes the rules for electronic participation in the region. The State Administrative Procedure Act (Landesverwaltungsverfahrensgesetz) of the same federal state contains corresponding provisions on the use of electronic documents and, in part, on digital participation (Paragraph 3a; Paragraph 25).

In 2016, the State of North Rhine-Westphalia introduced a law to promote electronic administration, the North Rhine-Westphalia E-Government Act (E-Government-Gesetz NRW). Paragraph 18 regulates electronic participation. According to this, public authorities can use electronic information technologies for public participation and, in particular, open up the possibility of online participation. According to Paragraph 18 Section 2 of the E-Government Act, the results of the participation are to be publicly announced online. For this purpose, the federal state provides the online participation portal "Beteiligung NRW".

In May 2016, the State of Berlin adopted the E-Government Act Berlin (E-Government-Gesetz Berlin), which creates the possibility of conducting electronic participation procedures. Paragraph 14 of the E-Government Act regulates electronic participation procedures. Its Section 2 states: "The results of participation procedures



must be made public. Access to the electronic participation procedures and the provision of the results is provided within the framework of the electronic city information system of the State of Berlin."

2.2.2 Germany after the COVID-19 pandemic

The COVID-19 infection control measures, such as lockdowns and contact restrictions from March 2020 onwards, have had a major impact on the implementation of public participation in administrative procedures. As a result, the Planning Security Act (Planungssicherstellungsgesetz, PlanSiG) for the first time enacted uniform provisions for the implementation of optional digital procedural steps in public administration in the area of planning and approval procedures.

The PlanSiG came into force at the end of May 2020 and was originally limited to the end of March 2021. It has been extended several times, most recently until the end of 2023. In order to meet the need for pandemic-proof public participation and to avoid violations of participation regulations, especially in the case of projects subject to EIA, legally secure alternatives for public participation had to be created. The PlanSiG partially shifted formal public participation into the digital space. The aim was not to amend participation provisions in sectoral laws, but to create provisions in a general law and alternative participation procedures applicable to the respective sectoral planning and approval procedures regulated in the catalogue of Paragraph 1 of the Act. Thus, the PlanSiG applies to projects that are subject to an EIA and to many procedures, such as the planning regime for electricity grids and transport infrastructure. Overall, the PlanSiG allows for the digitisation of public participation to a large extent. Among other things, the Act allows for the digitisation of public participation procedures and public hearings, and includes provisions for the digital display of documents.

According to Paragraph 2 Section 1 PlanSiG, the authority has the discretion to replace the public announcement of a project, which is regularly required by law at the beginning of the procedure, with an online publication of the content of the announcement. However, if the authority decides to use this method, at least one notice must still be published in an official gazette or in a local daily newspaper. The mandatory display of documents and the decisions of the authority on the project, such as the approval of the plan, may also be replaced by publication on the Internet (Paragraph 3 Section 1 PlanSiG). Even in the case of internet publication, the Act does not completely eliminate physical publication. Rather, it is intended to provide "additional information", to the extent possible under the circumstances (Paragraph 3 Section 2 Phrase 1 PlanSiG). At this point, the PlanSiG refers to the provisions of international and European law on public participation, according to which no part of the public may be excluded. Alternative means of access must also be provided; the Act mentions publicly accessible reading devices and, in justified cases, even the sending of documents by post (Paragraph 3 Section 2 Phrase 1 PlanSiG).

Paragraph 5 of the PlanSiG contains provisions on the handling of public hearings, oral negotiations and application conferences that require the physical presence of the parties involved. The Act first clarifies that the effects and dangers of the COVID-19 pandemic can be taken into account in the exercise of discretion (Paragraph 5 Section 1 PlanSiG). However, public hearings and oral negotiations can also be dispensed with under Paragraph 5 Section 2 PlanSiG if they are mandatory by law, which is the case for procedures subject



to EIA. Instead of the on-site format provided for by law, a so-called "online consultation" may be held, Paragraph 5 Section 4 PlanSiG. The authority must make the relevant information available. The parties concerned must then be given the opportunity to submit their comments in writing or electronically within a reasonable period of time.

In conclusion, the online consultation is an opportunity to send comments to the authority by e-mail or via a website and to receive a counter-opinion. Accordingly, online consultation is not an adequate substitute for a dialogue-based exchange format such as a public hearing. The deviations from the objectives of the statutory public participation procedures are therefore greatest in the online consultation format. However, according to Paragraph 5 Section 5 PlanSiG, this written procedure can be replaced by a telephone or video conference if all persons entitled to participate have given their prior consent to this procedure. Nevertheless, this requirement has been a major obstacle for digital public consultations, preventing even well-equipped authorities from organising them during the pandemic due to the difficulty in obtaining unanimous consent from all participants.

Politically, PlanSiG should provide relevant insights into the "citizen-friendly digitisation of the administration". Not least, the goals set out in the German government's coalition agreement to accelerate and digitise the administration show that digital public participation is also necessary independently of the pandemic emergency. The final report on the evaluation of PlanSiG, commissioned by the German government, was published in October 2022.¹² The evaluation concludes that the primary objective of the Act, namely to ensure that administrative procedures can be carried out and continued in a legally secure manner during the COVID-19 pandemic using digital public participation tools, has largely been achieved. However, the evaluation shows that the obstacles to the use of video and telephone conferences as a substitute for public hearings need to be reviewed. In addition, the instrument of online consultation is also fraught with legal uncertainties.

¹² Ziekow et al., Evaluation des Planungssicherungsgesetzes (PlanSiG), Abschlussbericht, available [here](#).



In the context of the debate on accelerated infrastructure planning and the energy crisis, digitisation requirements have found their way into other specialised legislation. The following laws contain legislative changes, mainly made in the wake of the energy crisis, that already require digital public participation:

Matter	Law
Network expansion of energy lines	<u>Transmission System Expansion Acceleration Act</u> (Netzausbaubeschleunigungsgesetz Übertragungsnetz)
Approval of energy facilities	<u>Energy Industry Act</u> (Energiewirtschaftsgesetz)
Onshore expansion of wind turbines	<u>Law for the Development and Promotion of Wind Energy at Sea</u> (Windenergie-auf-See-Gesetz)
Spatial planning procedure	<u>Regional Planning Act</u> (Raumordnungsgesetz)
Construction planning	<u>Building Code</u> (Baugesetzbuch)

This process has led to a legal fragmentation of the provisions on digitisation of public participation in various specialised laws. Further laws with specific provisions on digital public participation are being prepared by the German legislator. However, in July 2023, the Federal Ministry of the Interior and Community published a draft amendment to the VwVfG, which attempts to redress this legal fragmentation by incorporating key provisions of the PlanSiG into this act, which contains general administrative rules for the federal authorities.

The draft law states that "in particular, digital options for announcements, the display of documents and the discussion required at various stages of the procedure" have proved their worth and "should be available for permanent, legally secure use outside of crisis situations". The regulations came into force on 1 January 2024. It will be mandatory to use the internet for announcements and for displaying documents. However, the use of video and telephone conferences will continue to be hampered by the need to obtain the consent of all those entitled to participate.



2.3 Legal and actual situation of electronic public participation in Hungary

2.3.1 Hungary before the COVID-19 pandemic

In this context, the commencement of the COVID-19 pandemic in Hungary is officially deemed to be 1 March 2020. Despite the quick introduction of precautionary measures, which were subsequently enhanced and revised, this date serves as a distinct marker between pre-COVID and post-COVID legislation.

The legislation that regulated electronic public participation before the pandemic contained the following pieces:

- Act No. 53 of 1995 on the general rules of the protection of the environment (Environmental Protection Act)
- Act No. 131 of 2010 on public participation in the preparation of legislation (Legislative Participation Act)
- Act No. 189 of 2011 on the local governments of Hungary (Local Governments Act)
- Act No. 150 of 2016 on the general rules of administrative procedure (Administrative Procedure Act)
- Government Decree No. 314 of 2012 on the settlement development concept, on the integrated settlement development strategy, and on the land use plans, and on certain special land use tools (Land Use Planning Decree)
- Government Decree No. 2 of 2005 on Strategic Environmental Assessment (SEA Decree)
- Government Decree No. 314 of 2005 on Environmental Impact Assessment (EIA Decree)

Plans and programmes

According to the Land Use Planning Decree (in force: 01/01/2020-30/06/2022), Art. 29, the public commenting of land use plans and similar regional and local plans is happening within the so-called partnership consultation section of the preparation and adoption procedure. The modalities of the partnership consultation are defined by the municipality, including the modes and tools of informing the partners, the way of submitting comments and opinions by the partners, and the way of ensuring the publicity of the adopted plans. According to Art. 29/A of the Land Use Planning Decree, comments and suggestions can be submitted either orally at the public hearing, or in writing (on paper) or electronically, within 8 days from the date of the public hearing.

According to the SEA Decree (in force: 01/01/2020-29/02/2020), it is the drafter of the plan or programme who shall define the public that may be affected by the environmental impacts; the latter information is needed to define the modalities of informing the public (Art. 7). The drafter shall publish the goal of the plan or programme, the availability of the consultation document of the plan or programme that should include the environmental report, the modalities and dates of the submission of comments and the environmental information relevant to the plan or programme (Art. 8). The publication of the foregoing information is happening online in case the drafter has a website. At least 30 days should be provided for submitting comments. According to Art. 11, after the adoption of the plan or programme, it must be published.



Project decisions

This area is regulated in most detail and the provisions of three different laws apply.

According to the Administrative Procedure Act (in force: 01/01/2020-30/06/2020), Art. 26, public authorities shall keep contact with parties to a case and other participants of a procedure

- either electronically (according to a separate law on electronic case management),
- or in person,
- or in writing,
- or in an electronic way that does not qualify as a written form (verbally).

Delivery of a decision can be made publicly in certain cases, via an online announcement on the website of the relevant authority, as stipulated by Article 88. Article 89 allows for public notice of any public authority decision when the number of directly affected parties cannot be determined specifically. Such public notices are to be published on the website of the relevant authority.

According to the Environmental Protection Act (in force: 01/01/2020-29/02/2020), any final or immediately executable authority decision or environmental administrative contract that has a significant environmental impact shall be published on the website of the environmental public authority (Art. 12).

According to the EIA Decree (in force: 01/01/2020-29/02/2020), the environmental authority will publish certain information on its website after receiving the application and screening documentation from the applicant during the screening process. This information will include the limits of the impact area, a request for reasons to proceed with a full EIA, a list of potential decisions, details of where to obtain documentation, and other technical aspects of the case. In case there is a public hearing held, the minutes or the recordings of the hearing shall be published electronically (Art. 4). The same rules apply to the consultation procedure in case the project developer initiates a consultation process at the environmental authority before submitting an application for an environmental permit (Art. 5/A). According to Art. 8, identical rules apply to EIA procedures where the concerned authority must publish on their website the methods of informing and receiving feedback from the public. According to Art. 9, in case there is a public hearing held in the EIA procedure, the minutes or the recordings of the hearing shall be published electronically. In an IPPC (IED) permitting procedure, the environmental authority publishes its decision within 5 days on its website (Art. 21).

2.3.2 Hungary after the COVID-19 pandemic

Change of the legal situation

The response of the Hungarian legislator and government to the COVID-19 pandemic crisis was somewhat delayed, especially in the area of public administration. Other issues (such as personal distancing, quarantine/lockdown, vaccination and crisis response) were given higher priority, and the issue of access rights (access to information, public participation and access to justice) was only addressed after the more urgent issues had been dealt with. As a result, there were no major changes in legislation or in planning and programming for electronic public participation during the pandemic. There were also no major changes in



legislation on public participation after the pandemic. The few smaller changes that did occur are presented and discussed below.

The Government Decree No. 419 of 2021 (in force: 17/07/2021-29/12/2021) on the content, preparation and adoption of local plans and on certain special local planning instruments (Local Planning Decree) was adopted in the final phase of the pandemic. According to its Article 66, comments, acceptance of comments, and reasoning for refusal will take place on the online platform called E-TÉR. The recording and the minutes of the partnership consultation and the local planning decision must be uploaded to the E-TÉR online surface and it marks the end of the consultation process. According to Art. 68 and Art. 69, in the simplified and expedited procedures, the commenting period is shorter. The mayor uploads the local plan on the day of its entry into force the latest onto the E-TÉR online platform (Art. 72). In case the municipality has a local regulation on local rules for partnership consultation, the municipality uploads the comments to the local plans onto the E-TÉR online surface. After the pandemic, there were only small clarifying changes to the Local Planning Decree, Art. 65 (entry into force: 27/01/2023). They established that during the partnership consultation, a partner can express its opinion at a citizen forum¹³ (later this comment will be part of the minutes uploaded to the E-TÉR online surface), in writing within 5 days after the citizen forum (it will be annexed to the minutes of the forum and will be uploaded to the E-TÉR online surface) or by directly uploading it to the E-TÉR online surface. Any person whose comment is not uploaded in time to E-TÉR is regarded as someone not raising an objection against the local planning decision. Unlike these areas, project decisions and related public participation were more affected by the changes necessitated by the COVID-19.

Project decisions

Government Decree No. 570 of 2020 (in force: 10/12/2020-31/05/2022) introduced administrative rules applicable during the period of emergency. Its Art. 9 included rules on public hearings applicable in individual administrative procedures (such as environmental screening, environmental impact assessment and IPPC /IED permitting) and allowed for holding a public hearing without the personal presence of the members of the public. The competent authority had to publish on its website all information relevant for the participation of the affected members of the public at the public hearing. Any other public authority contacted by the competent authority had to publish the relevant information in case of request. The competent authority could apply any appropriate method to have an effective public hearing; such methods included inter alia local broadcasting services or IT technology making interactive communications possible. The competent authority had to publish on its website information on the comments received. In case it was necessary, the competent authority could contact the participants of the procedure in an electronic way that does not qualify as a written form (verbally).

After the end of the pandemic related emergency, the Administrative Procedure Act was amended twice with relevant additions. Art. 26 (entry into force: 01/11/2022) was redefined and the rules of keeping contact with the public authority were specified. According to the amendment, contact can be kept between the public authority and the parties to a case and other participants of a procedure

¹³ A citizen forum is a de facto public hearing.



1. either in writing, electronically (according to a separate law on electronic case management),
2. or in person, including via the application of a telecommunications tool that can ensure direct, mutual and continuous video and audio connection
3. or in an electronic way that does not qualify as a written form (verbally).

Art. 89 on public notice has also been amended (entry into force: 01/11/2022), where an additional condition was added to those requiring the publication of a public notice of a decision taken by the authority. This additional condition is assumed when the circumstances lead to the declamation of a “protection situation”, i.e., in case of emergency.

Change of the actual situation

Relevant case law has already been identified relating to the Government Decree that authorized remote hearings for proceedings. Our findings indicate that whilst we located 9 relevant judgments, none of them pertained to environmental matters. Out of the 9 judgments, half were related to immigration and the remaining half were about expropriation. In all instances, the revision of the Government Decree was employed as a reason to forego conducting an individual hearing with the involved parties. It was accepted by all parties that this extraordinary exemption had to be made due to the pandemic, and thus no disputations arose in this regard. The parties were provided with the opportunity to express their views in written form.

Contrary to what might be expected, the electronic means of participation introduced during and as a result of the pandemic did not remain part of the legal system. As we could see, there were hardly any changes in the legislation during the pandemic in terms of legislation or planning and programming processes. The only area where there was a significant shift towards means of non-personal participation were individual administrative procedures requiring a (public) hearing. In this context, the changes were reversed after the end of the pandemic, and the public administration returned to pre-Pandemic practice.

However, a different emergency situation was recently declared through the adoption of Act No. 42 of 2022 (entry into force: 23/11/2022). This requires the state of emergency to be upheld due to a neighbouring country's war, specifically Russia's aggressive war against Ukraine. For this reason, Government Decree No. 146 of 2023 (entry into force: 28/04/2023) has been released, reinstating the regulations applicable to public hearings during the pandemic. As a result, it will be feasible to conduct such hearings without the physical attendance of the members of the public. All other regulations that were previously in force during the COVID-19 pandemic will remain applicable to these hearings.

This present amending Government Decree has already generated administrative case law. Several EIA-related documents (public notices) that are available online refer to this amendment and apply the practice of "public hearing without personal attendance of those affected".



2.4 Legal and actual situation of electronic public participation in Slovenia

2.4.1 Slovenia before the COVID-19 pandemic

The Constitution of the Republic of Slovenia¹⁴ defines several rights, which impact public participation in environmental matters, including:

- the right to a healthy living environment,¹⁵
- the right to safe potable water¹⁶ and
- the right to participate in managing public affairs.¹⁷

The Constitution also transposes all international treaties, adopted by the Slovenian Parliament, into national legislation.¹⁸

The main laws from the field of public (and thus potentially digital) participation in environmental matters from the substantial and procedural point of view are:

- Environmental Protection Act¹⁹ (defining public participation in environmental permitting, EIA, SEA and adopting environmental legislation and plans),
- Building Act²⁰ (defining public participation in construction permitting, including integral procedures with EIA),
- Spatial Management Act²¹ (defining public participation in spatial planning, including procedures involving SEA) and
- Nature Conservation Act (defining public participation in nature protection measures).²²

An additional piece of legislation regarding digital participation and digital empowerment, which does not directly influence environmental matters, is the Promotion of Digital Inclusion Act.²³ Its primary focus is increasing digital capacity and digital knowledge of Slovenian residents in general, including using digital tools for the improvement of natural sciences knowledge and public trust in digital procedures, especially administrative ones.

¹⁴ Ustava Republike Slovenije (Uradni list RS, št. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a in 92/21 – UZ62a), <http://pisrs.si/Pis.web/pregledPredpisa?id=USTA1> (20.6.2023).

¹⁵ Article 72.

¹⁶ Article 70.a.

¹⁷ Article 44.

¹⁸ Relevant because of international treaties demanding effective public participation, such as the Aarhus Convention.

¹⁹ Zakon o varstvu okolja, Uradni list RS, št. 44/22 in 18/23 – ZDU-10, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8286> (20.6.2023).

²⁰ Gradbeni zakon, Uradni list RS, št. 199/21 in 105/22 – ZZNŠPP, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8244> (20.6.2023).

²¹ Zakon o urejanju prostora, Uradni list RS, št. 199/21 in 18/23 – ZDU-10, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8249> (20.6.2023).

²² Zakon o ohranjanju narave, Uradni list RS, št. 96/04 – uradno prečiščeno besedilo, 61/06 – ZDru-1, 8/10 – ZSKZ-B, 46/14, 21/18 – ZNOrg, 31/18, 82/20, 3/22 – ZDeb, 105/22 – ZZNŠPP in 18/23 – ZDU-10, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1600> (20.6.2023).

²³ Zakon o spodbujanju digitalne vključenosti, Uradni list RS, št. 35/22 in 40/23, <http://www.pisrs.si/Pis.web/pregledPredpisa?sop=2022-01-0653> (20.6.2023).



There is no relevant jurisprudence targeting specifically digital participation in environmental matters in Slovenia (at the Administrative or the Constitutional Court) and there were no new cases directly affecting digital participation during or after COVID-19.

In practice, digital participation is available in core environmental procedures and matters, such as the EIA, SEA, construction and environmental permits, adopting legislation at the Parliament or Government level, including strategic plans. Any kind of electronic message, comment, proposal or other form of document, formal or informal, can be a substitution for a physical copy. When it comes to general awareness of when and how to participate digitally in environmental matters, concrete examples are listed below, where also their effectiveness in practice is described.

Before the COVID-19 pandemic, national legislation generally enabled digital participation in environmental matters and directly addressed it in certain areas, or addressed it in a non-direct way, by generally defining public participation in key environmental matters and allowing digital participation through practice (and not necessarily through explicit mentioning of the digital options available). There were already online portals such as 'E-uprava' (My eGovernment), through which the public could (amongst other things):

- find calls for public participation and public consultations by the competent ministries (such as screening, EIA or SEA procedures, spatial planning and environmental permitting by the Ministry for the Environment and Spatial Planning),²⁴ and
- digitally participate in the above-mentioned procedures by forwarding comments in digital form.

In 2018, the project of setting up a 'Spatial Information System' began, further enabling digital public participation. This project of supporting the government and local authorities in performing their legal obligations to the public in spatial planning and construction procedures already began functioning with limited options before and during COVID-19. The portal enables users to see any construction permits being processed by competent authorities, also those including an EIA. Anyone can access the portal for free.

There was no significant difference between different legal or natural persons, including NGOs and other civil society organisations²⁵, regarding their ability to digitally participate in EIA, SEA, environmental and construction permits and other relevant environmental procedures, which enabled public participation. The differences lie only in which procedures natural persons, NGOs and other CSOs have legal interest to participate in, which of course does not directly impact digital participation.

²⁴ It is relevant to note, that this Ministry no longer exists and was separated into 2 new ministries under the Rober Golob Government in 2022: 1. Ministry of the Environment, Climate and Energy (<https://www.gov.si/en/state-authorities/ministries/ministry-of-the-environment-climate-and-energy/> , 20.6.2023) and 2. Ministry of Natural Resources and Spatial Planning (<https://www.gov.si/en/state-authorities/ministries/ministry-of-natural-resources-and-spatial-planning/> ,20.6.2023).

²⁵ A Slovenian specific form of CSO, defined by the Construction Act (Article 3, paragraph 47).



2.4.2 Slovenia after the COVID-19 pandemic

Change of the legal situation

In 2020, 2021 and 2022 there were no ad-hoc measures in Slovenia, which would directly impact digital participation, but the context explained below gives a short insight into limiting public participation in general because of COVID-19.

The new Spatial Planning Act, adopted in 2021, included Article 56, which demands that spatial planning is publicly available in the digital 'Spatial Information System'²⁶, and that the information there is correctly prepared and understandable for the public. The changes of the Construction Act (2021) and Environmental Protection Act (2022) also formally included provisions regarding digital participation wherever possible within existing public participation procedures. The Construction Act, for example, specifically states after its changes in 2021 that EIA public hearings can be performed via videoconference calls (Article 68 Paragraph 6).

For further context, it must be taken into consideration that at the beginning of the COVID-19 pandemic, Slovenia experienced a change in government. The new government began revising and proposing changed core environmental laws, specifically targeting the Construction Act, Nature Conservation Act and the Environmental Protection Act. Whilst these changes didn't directly affect digital public participation, they intended to limit public participation in general, especially regarding NGOs and other forms of CSOs.

In the beginning of April 2020, the new government took advantage of COVID-19 to limit public participation through the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigating its Consequences for Citizens and the Economy²⁷, which:

- adds new, additional and stricter conditions for NGOs for gaining the status of public interest which enables them to participate in administrative or court procedures and
- enables construction without a final construction permit.

In the beginning of June 2020, the amendments to Nature Conservation Act were adopted²⁸ with two major changes of the position of nature conservation NGOs:

- new, additional and stricter conditions for gaining the status of public interest,²⁹ and
- access to justice was almost completely removed.

²⁶ Mentioned in Title 2.1.3.

²⁷ Zakon o spremembah in dopolnitvah Zakona o interventnih ukrepih za zajezitev epidemije COVID-19 in omilitve njihovih posledic za državljanje in gospodarstvo (ZIUZEOP-A), Uradni list RS 61/2020, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-0901?sop=2020-01-0901> (20.6.2023) – Article 42 referring on the integral procedure regulated in the Building Act.

²⁸ Zakon o spremembah Zakona o ohranjanju narave (ZON-E), Uradni list RS 82/2020, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-1235?sop=2020-01-1235> (20.6.2023) – Article 3, referring Article 137.

²⁹ In accordance with the paragraph 5 of Article 2 of the Aarhus Convention.



Several other proposals have been made to remove the rights of NGOs or individuals in the Environmental Protection Act and the Construction Act. This was made possible also by several restrictive measures in the above-mentioned Act on Intervention Measures and its updates, which for example prohibited public gatherings and protests for an extended period of time.

Change of the actual situation

In the field of digital participation practice, the pandemic affected public participation events in environment related procedures, such as public hearings in spatial planning procedures, arising from Article 95 of the Spatial Planning Act (State Spatial Plans and Municipal Spatial Plans), and public hearings in integrated construction permit procedures based on paragraph 6 of Article 68 of the Construction Act (which includes the EIA). These public events decreased in number but have also been digitised for the relevant stakeholders and the public.



2.5 Legal and actual situation of electronic public participation in Spain

2.5.1 Spain before the COVID-19 pandemic

Article 23.1 of the [Spanish Constitution](#) proclaims the fundamental right "to participate in public affairs, directly or through representatives, freely chosen in periodic elections by universal suffrage". The right to public participation in environmental decision-making was explicitly regulated through [Law 27/2006 of 18 July 2006](#) (transposing Directives 2003/4/EC and 2003/35/EC), which establishes a series of public participation mechanisms to promote transparency in the adoption of decisions affecting the environment.

In the circumstance that the competent authority does not observe the guarantees of citizen participation in the elaboration of plans, programmes and provisions related to the environment, certain non-profit legal entities are entitled to exercise the popular action of Article 22 and are entitled to legal aid in the process. These entities will have the right to file a lawsuit in a court of law or to appear before a court if they can prove compliance with the following requirements (Article 23):

1. The protection of the environment in general, or of any of its elements in particular, is among the purposes accredited in their statutes.
2. They have been legally constituted for at least two years and have been actively carrying out the activities necessary to achieve the purposes set out in their statutes.
3. That according to their statutes, they carry out their activity in a territorial area that is affected for the purpose of this study by the plan, programme or project to be submitted to environmental assessment.

The importance of electronic public participation was emphasized through the enactment of [Law 19/2013 of 9 December 2013](#) on transparency, access to public information and good governance, which introduces the "implementation of a transparency culture that imposes the modernisation of the Administration, the reduction of bureaucratic burdens and the use of electronic means to facilitate participation, transparency and access to information". The precedence of electronic communication was thus emphasized through [Law 39/2015 of 1 October](#) on the Common Administrative Procedure, which proclaims the right of every natural person to interact with the public administrations through electronic means if they desire to do so. In the case of legal persons and entities without legal personality, electronic communication is an obligation. Article 133.1 of Law 39/2015 also sets forth that public participation processes will be carried out through the web portal of the competent administration.

Electronic public participation in environmental matters was specifically regulated through [Law 21/2013 of 9 December 2013](#) on environmental assessment, which provides for electronic participation throughout the entire EIA procedure. For example, Article 9.3 sets forth that all public information and consultation processes must be carried out through electronic means in order to guarantee effective participation. The same provision states that "the Public Administrations, as part of the public information procedure, shall adopt the necessary measures to ensure that the relevant information is electronically accessible to the public". Article 36.3 thus establishes that the competent body in the EIA procedure must adopt the necessary measures to



ensure that the documentation to be submitted for public information is disseminated as widely as possible to the public, using electronic means and other forms of communication.

2.5.2 Spain after the COVID-19 pandemic

During the COVID-19 pandemic, the Spanish government did not introduce specific legislative measures concerning digital public participation. It is important to bear in mind that public participation in Spain has been exercised through electronic means well before the pandemic, as is explained in the previous section. All public participation procedures are enabled through the web portals of the competent ministerial departments, through which interested individuals can make their written objections, and no in person hearings are provided for. This means that the Spanish regulatory framework for public participation remained unchanged during the pandemic, as rights were continued to be guaranteed through electronic means.

However, certain General Acts enacted during this time had an impact on the electronic participation rights envisaged for the EIA procedure. For example, Royal Decree 463/2020 of 14 March 2020 provided for the suspension of all administrative deadlines of procedures being processed by public sector entities, which included the EIA of plans, programmes and projects. The suspension of terms and the interruption of administrative deadlines was lifted shortly after, through the enactment of Royal Decree 537/2020 of 22 May 2020, which resumed all terms and deadlines starting on the 14th of March 2020.

However, the Spanish government enacted the Charter of Digital Rights in July 2021, as part of the national Recovery, Transformation and Resilience Plan. Although this Charter is not normative in nature, it aims to recognize the challenges surrounding the adaptation of fundamental rights to the new digital era, a challenge that was emphasized during the pandemic, given that those public procedures that were completely digitalised may have excluded those individuals with limited access to an electronic device. In this regard, the following guarantees were introduced for all electronic public participation procedures:

1. Complete and effective access to information
2. Full transparency and accountability of all persons and public administrations involved
3. Equality and non-discrimination
4. Accessibility of digital systems
5. High standards of security



3. Evaluation of the EIA portals and the possibilities of electronic public participation

Online EIA portals can be used by citizens and environmental organisations to obtain information about ongoing approval procedures for infrastructure projects and other procedures requiring an EIA. The study evaluates the situation of EIA portals in the five study countries, with a special focus on the possibilities of electronic public participation. It examines the current status of digital public participation in EIA-portals based on criteria as the setup of national and regional EIA portals and differences between existing portals.

In addition, this report examines the structure of the portals in greater depth. It aims to answer the following questions: How accessible are the portals? What information is available to the public via the EIA portals and what is missing? How clear is the information? Is information about the projects also available on social media?

EIA portals can provide the public with the opportunity to participate directly in environmental procedures. The study aims to answer the following questions: Can the public participate through the portal website? Can objections and comments on the project be submitted via the portal? How easy is it for the public to submit objections? Does the portal solely provide information on how to submit objections and comments, such as via e-mail? Does the competent authority respond to objections and comments? Is the feedback publicly available? Often not all projects are published on the EIA portals. Therefore, the number of projects published on the portal has been assessed.

Furthermore, where there is experience with EIA portals in the countries under review, information is provided on the following questions: At what point in the approval procedure does electronic public participation usually take place? Is it the most appropriate time? How easy or difficult is it to communicate via the communication channels provided on the portal? Which digital communication channels are preferred?

3.1 EIA portal in Estonia

3.1.1 EIA portals: general overview

There is no unified EIA portal in Estonia. All the public notifications in EIA proceedings must be published in the portal for official notifications [Ametlikud Teadaanded](#). EIA materials themselves (e. g. EIA programmes, reports) are published on different websites, depending on the type of permit proceedings and on which state authority is responsible for issuing the permit. The situation has been constantly changing in past years.

Currently (June 2023), the situation is quite complex and can be stated as follows. The official online portal for publishing EIA materials in environmental permit procedures conducted by the Environmental Board (Keskkonnaamet) is the portal for environmental permits – [KOTKAS](#). In addition, information about EIA procedures, which contain an appropriate assessment according to the EU Habitats Directive for



environmental permit procedures („Natura assessment“)³⁰ can be found on the [website of the Environmental Board](#). In case of EIAs carried out by other ministries or agencies, the materials are published on their respective website. For instance, in the construction of offshore wind farms, the construction permit is issued by the Consumer Protection and Technical Regulatory Authority (*Tarbijakaitse ja Tehnilise Järelevalve Amet*) and the accompanying EIA materials are available for public access on their [website](#). The materials for EIAs carried out for permits issued by local authorities (e.g. building permits) are solely accessible on the local government’s websites, there is no specific portal for this kind of announcements. There are 79 local governments in Estonia (15 towns and cities and 64 rural municipalities).

3.1.2 Details on the structure and content of the EIA portals

A) [Portal for Official Notifications \(Ametlikud Teadaanded\)](#)

[General introduction](#)

The portal for official Notifications ([Ametlikud Teadaanded](#)) is used to publish all notices required by law (e.g. bankruptcy, enforcement, building plans and defence services), a total of approximately 650 different types of notices, of which EIA notifications are only one. The portal is accessible to everyone (in Estonian). It works with a search system based on the type of notification or keyword. The notification system is easy to use and the notifications are also a valuable source of information on EIAs carried out in the past.

Figure 1 - The opening page of the portal Ametlikud Teadaanded (English version)

³⁰ There is no separate “Natura assessment” or “appropriate assessment” in Estonian law – the appropriate assessment has to be carried out within EIA or SEA procedures. However, the Ministry of Environment has proposed to change this and introduce a separate procedure for assessments according to the Habitats directive. The relevant draft has already been prepared and will likely be adopted by the end of 2023.



Information to be published

Separate notifications are to be published for the following stages in the EIA procedure:

- 1) initiation of or refusing to initiate EIA,
- 2) publication of draft EIA programme,
- 3) publication of the decision to recognize the EIA programme as meeting the requirements,
- 4) publication of draft EIA report,
- 5) publication of the decision to recognize the EIA report as meeting the requirements, together with the final conclusions of the EIA report on the significant environmental impact expected to accompany the implementation of the planned activity.

The information to be published in the EIA notifications is prescribed by law (Environmental Impact Assessment and Environmental Management System Act). In addition, within the permit procedures, notifications about initiation of the permit procedure, publication of the draft permit and issuing of the permit are also to be published.

What is missing

It is only a portal for publishing the official notifications. The notifications often do not provide the actual direct link to the materials on public display. For example, in recent practice the Environmental Board provides the general link to KOTKAS portal, but no direct link to the materials. However, the practice varies for other decision-makers.

Although the system of official notifications is undoubtedly necessary, it cannot be considered an effective means of informing the general public. It has been concluded in a survey about relevant improvements of the Estonian EIA system that *„the average person probably does not know that such information channel exists. It is also not a system where the average person would regularly monitor the publication of notices. Apparently, this is not the point of this system either”*.³¹

B) Portal for environmental decision-making - KOTKAS

General introduction

KOTKAS is a web-based portal operated by the Ministry of the Environment, initially meant to facilitate the permit procedures, but since recently (December 2022³²) used also as an EIA portal (though only for environmental permit procedures, see explanation above). The public version of the permit information system comprises the register of environmental permits that have already been issued and are valid, alongside information concerning ongoing permit procedures (section „Keskkonnakaitseload“). Furthermore, the portal

³¹ Keskkonnamõju hindamise süsteemi parandusettepanekute analüüs. Lemma OÜ, 2020; p 44.
<https://envir.ee/media/1240/download> (in Estonian).

³² <https://keskkonnaamet.ee/uudised/keskkonnamoju-hindamise-register-kolis-keskkonnaotsuste-infosusteemi-kotkas>



provides information about most EIAs carried out in the past or currently ongoing. This EIA register ("Keskonnämõju hindamiste register") can be accessed from the home page - although it is not obvious at first glance that this information has to be searched under the "registries" section and the different registers are displayed in a drop-down menu. The EIA materials currently on public display are accessible in a separate section on the opening page („KMH avalik väljapanek“) that is easy to notice and use.

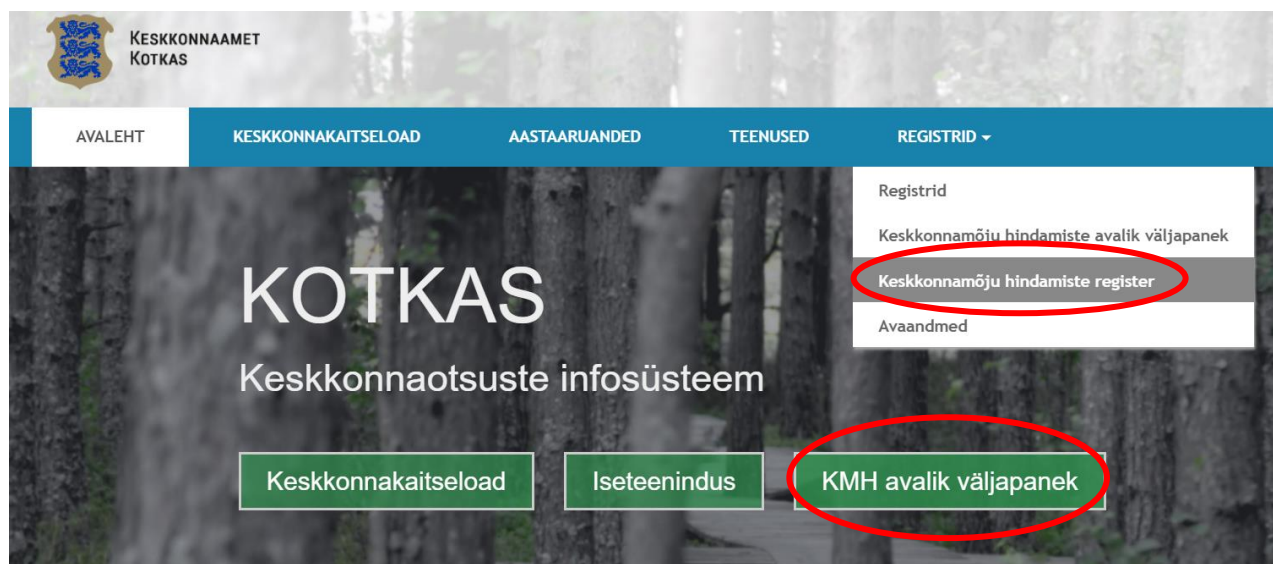


Figure 2 - Opening page of the portal for environmental decisions KOTKAS

Information made available to the public in the EIA register

The EIA register contains a list of EIAs including the name of the project, the field of activity, region, date of initiation, the reason for initiation (mandatory/discretionary), the status of the proceedings (initiated/ongoing/finished) and the name of the developer. The system enables to search for EIAs based on all the above-mentioned data, by the specific location (local government), the name of the EIA expert or just by keyword. For every EIA proceeding, there is a one-page summary with all the relevant data about the planned activity and EIA, names of the EIA experts as well as links to the EIA materials (decision to initiate an EIA, EIA programme, decision about the EIA programme, EIA report, decision about the EIA report). In some cases, there is also a link to the webpage with materials of the actual permit procedure, but the documents seem to be only available for the recent proceedings (proceedings from approximately 2-3 years ago).

What is missing?

The EIA register does not contain information on decision-makers other than the Environmental Board (e.g. local governments, consumer protection and technical regulatory authority etc.). In addition, it does not necessarily contain the opinions and objections of other relevant authorities or the general public to the draft EIA programme or report, nor the responses of the EIA experts to them. By law, these comments must be part of the EIA programme or report when it is submitted to the Environmental Board for review after public



display. In practice, however, these opinions are usually presented in separate appendices to the EIA report, which are often missing from the EIA register.

Evaluation of the clarity of the information

The EIA register presents a significant improvement in the disclosure of EIA materials compared to the previous practice. It is obvious that the aim has been to make the process clearer, simpler and more accessible for the participants. For example: In addition to the content specifically required by law, the EIA notifications in KOTKAS provide an overview of the purpose of the EIA procedure, what happens at different stages of this procedure, and the current stage of the process. A diagram of the EIA procedure is attached to make the process easier to understand.

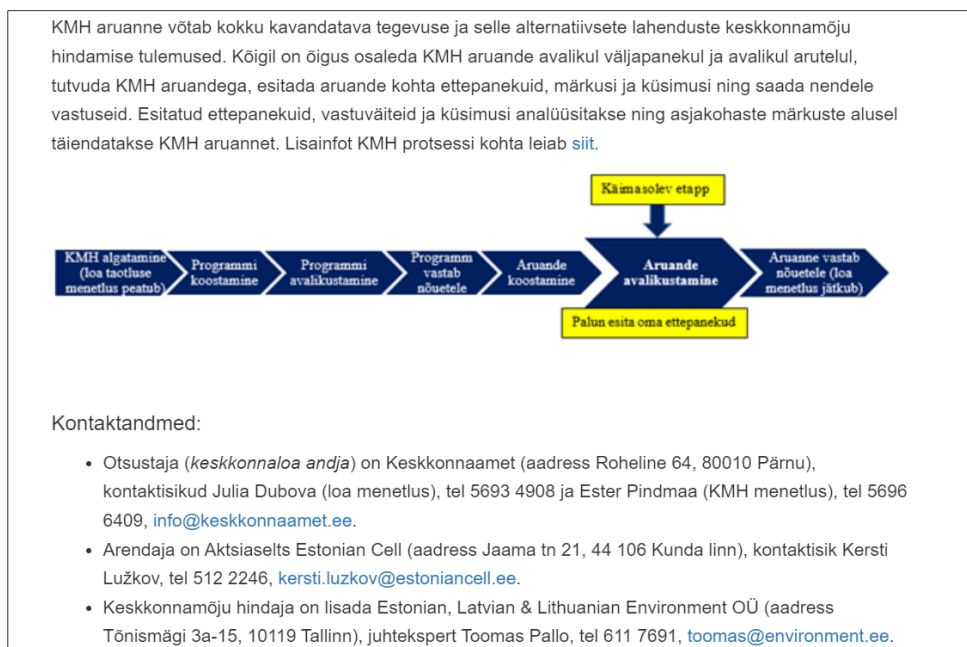


Figure 3 - An excerpt from the notification of public display in the KOTKAS portal. There is an explanation of what an EIA report is, followed by a diagram of the EIA process and an indication of its current stage, as well as contact details for parties involved.

However, as the EIA procedure is rather complicated from the point of view of an ordinary person, it is difficult for a lawyer to assess whether the information is presented in a simple enough way. Assessing the clarity of information from the point of view of an average person or the general public would require a different type of survey.

C) Webpage of the Environmental Board

General introduction

Until 2022, the subpage of the Environmental Board was used to publish information for all EIA programmes and reports on display (in proceedings of environmental permits). Since 2022, this webpage only includes information for EIA programmes and reports in display, concerning appropriate assessment according to Article 6 of the Habitats Directive (see explanation above).



The information made available for the public and the missing elements

The website is currently used to publish notifications about the ‘Natura assessment’ procedure and all relevant materials related to the decision-making process. For example, the currently published notification on the appropriate assessment for electricity production at the Linnamäe hydropower plant on the Jägala River includes links to the memo and recording of the public hearing, background information on the site and the decision-making process, etc. The webpage is not easily found so it cannot be considered an effective means of informing the general public.

D) Webpage of the Consumer Protection and Technical Regulatory Authority

General introduction

The webpage of the Consumer Protection and Technical Regulatory Authority is an ordinary webpage of a state agency, structured mainly by topics the agency deals with (for example, there are the following topics in the main menu: consumer rights, commission for consumer protection, safety, construction, services for media and communications etc). The EIA notifications are found under the separate headline “public notifications“, which is not visible on the front page.

The information made available for the public and the missing elements

Under this subpage “public notifications“, only the EIA notifications are published. The EIA materials themselves are available in the public register of documents of the agency (*dokumendiregister*). In practice, the notification usually contains a direct link to the materials in the register (in case of public display) or a general link to the register. Accordingly, the document can only be found by using the search function (in case the notification is about the approval of an EIA programme or report or a decision on the initiation of an EIA). The webpage is not easily found so it cannot be considered an effective means of informing the general public.

E) Webpages of local governments

Every local government has its webpage, the complexity of which depends on the size and complexity of the local government. The webpages usually include EIA notifications as well as subpages for publishing the EIA materials, but the practice may differ in different local governments.

For example: in order to find an EIA notification on the webpage of the City of Tartu, the pathway from the front page is as follows: *Valdkonnad*-> *heakord ja keskkond* -> *Keskkond* -> *Keskkonnamõjud* (Fields -> wellbeing and environment -> environment -> environmental impacts).



3.1.3 Opportunities for public participation

Communication channels

The public has opportunities to present objections and comments to the draft of the EIA programme and the draft of the EIA report. As a rule, the objections and comments must be sent in writing to the decision maker by e-mail or regular mail and cannot be submitted via the portal. The notifications published in the portal (and other required channels of information) must contain the contact details of the decision maker and the expert, to whom it is possible to send objections and views via e-mail.

The public has a right to express views on a public hearing, although it is not entirely clear how such views are recorded and answered (see below).

The developer must answer to the objections and comments with help from an EIA expert. The obligation and procedure for responding to comments and objections is regulated in Section 17 of the EIA Act. The main requirements are:

- 1) The developer together with the EIA expert or expert group, on the basis of the proposals and objections submitted regarding the EIA programme/report, makes the necessary amendments to the programme/report, explains why proposals and objections are taken into account and states the reasons why they are not taken into account and respond to the questions.
- 2) Within 30 days after the public consultation, the developer by electronic means, by regular mail or by registered mail sends an explanation or states the reasons as to why the proposals or objections regarding the environmental impact assessment programme were taken into account or disregarded and responds to the questions of the persons:
 - a. who submitted their proposal, objection or question in writing;
 - b. whose proposal, objection or question submitted at the public consultation remained unanswered at the public consultation.

The responses to the objections and comments should be public, as they should be added to the EIA programme/report. In practice, there are serious obstacles when trying to access this information:

- 1) the annexes of EIA report with the comments and responses are often not published online;
- 2) the comments and responses should also be available in the document register of the relevant authority, but it is difficult to find them and often the access to these documents is restricted on basis of protection of personal data.

Social media

As far as we know, the state agencies do not use social media as a systematic channel for the publication of EIA notifications. In some cases, active social media groups disseminate information about EIAs amongst themselves (e. g. groups of activists for forest protection, activists working on mineral extraction projects, sometimes also the local groups).



3.1.4 Number of projects published on the portal

There are 442 records of EIA processes in the KOTKAS EIA register, for the period of 2003 to 2023. We have no information on how many EIAs were actually carried out during that period. However, some deductions can be made from the number of EIAs registered in KOTKAS that started within a certain timeframe, compared to the number of official notifications of all EIAs initiated. For example, the numbers for the past 3 years are as follows:

	2020	2021	2022
EIA proceedings registered in KOTKAS portal as initiated	7	18	18
Official notifications about initiation of EIA in http://www.ametlikudteadaanded.ee	20	27	25



3.2 EIA portal in Germany

3.2.1 EIA portals: general overview

In Germany, the public, in particular citizens and environmental associations, can use EIA portals to find out about ongoing approval procedures for infrastructure projects and about procedures with EIAs that have already been completed. Since May 2017, the federal and state governments have been required to publish infrastructure projects via internet portals. Due to the delayed implementation of the EIA Amendment Directive 2014/52/EU, this obligation only became national law in 2018. In March 2020, the federal government confirmed that "the potential of central EIA internet portals to improve public information and participation" should be used.³³ The federal and state governments were unable to agree on a single portal, so there is a federal EIA portal and a joint state portal (each of the 16 states has a sub-page on the state portal). The federal EIA portal is operated by the Federal Environment Agency.

According to Paragraphs 19 and 20 of the Environmental Impact Assessment Act (UVPG), the approval authorities are obliged to inform the public about the participation procedures by means of public announcements and to publish the relevant information on the central internet portals of the federal government and the Länder. In addition to the announcement, this includes the developer's application documents, the EIA report and other reports relevant to the decision, as well as the authority's decision. In case of approval, the positive decision has to be published.

3.2.2 Details on the structure and content of the EIA portals

Accessibility of the portal

Since November 2020, the Ordinance on Central Internet Portals of the Federal Government and the Länder in the Context of Environmental Impact Assessments (UVPPortV) has regulated the way in which the relevant content must be made available by the authorities. According to Paragraph 3 UVPPortV, the central internet portals must be set up and operated by the portal-operating authority in such a way as to enable easy access to the data through the following functions:

- free and registration-free access
- an interactive map view visualizing the projects
- a list view of all projects in which information is displayed for each project
- a generally understandable designation of the project
- a brief description of the project
- a search and filter function with which projects can be searched for and filtered according to the project designation
- contact data for the competent authority

³³ Decision of the coalition committee (Koalitionsausschuss) of March 8, 2020, no. 4.3.



In addition, the data must be made accessible and remain accessible in such a way that it can be saved and printed by users of the central internet portal, § 4 para. 1 UVPPortV. The UVPPortV stipulates that the data must be publicly accessible until the end of the approval procedure, after which the data is often deleted.



Figure 4 - The federal EIA portal initially provides an overview of all federal projects posted on the site

Information provided on the portal

The following information can be filtered using a search and filter function:

- General search term
- Is the project subject to EIA or not?
- EIA project category (e.g. transport project)
- SEA planning category
- Authority
- Status (ongoing or completed)
- Filtration by date of change or ID of the project



Figure 5 - This page provides an overview of the entries available in the federal EIA Portal



UVP-PFLICHTIGES VORHABEN

Planfeststellung Komplex Umbau Bahnhof Wiederitzsch

ID: 3222

Änderungsdatum: 25.04.2023

UVP-Vorhabenkategorie: Verkehrsvorhaben

Zuständige Behörde: Eisenbahn-Bundesamt (Außenstelle Dresden)

Vorhabenträger: DB Netz AG

Status: Laufend




Figure 6 - [Project page](#) for Wiederitzsch railway station in Saxony

By way of example, the above information is provided according with Paragraph 3 UVPPortV on the basis of a project requiring an EIA for planning approval for the reconstruction of the Wiederitzsch railway station (Saxony). The associated project page contains a brief description of the project, the location of the project using an interactive map, information on the date of entry of the application documents, the type of approval procedure, the EIA category, the competent authority, the project operator and information on public participation. There is also a link leading to the page of the competent authority, where further procedural information as well as the procedural documents can be found.

Clarity of the information

In principle, the example shows that the relevant information according to UVPPortV is available online. However, there is still room for improvement in many cases. In particular, the uploaded documents often do not contain clear and user-friendly information. The documents sometimes have incomprehensible titles or contain abbreviations that are unfamiliar to non-specialists. Clear and intuitive captions and numbering of the documents are often missing because there is no predefined filing system for identifying documents. Uploaded documents are often not available as pdf files, but as .docx files or as data-rich zip folders that need to be downloaded. In many projects, the number of documents is so large that it takes a long time for the user to click through them. A transport project in Lower Saxony, for example, where 757 files were uploaded, turned out to be just the tip of the iceberg. In addition, there is no way for the user to determine whether the uploaded documents are actually complete and consistent with the paper version on-site. Furthermore, information is usually deleted immediately after the public participation period has ended.

3.2.3 Opportunities for public participation

Communication channels

Neither comments nor objections from citizens to the procedures can be posted on the portals. There is no communication channel provided on the portal. Often, the only way to submit comments to the authorities is by e-mail or by post. Besides e-mails, phone calls are also possible if a phone number is provided. However, there should be a possibility to provide the public with easier and barrier-free access to participation procedures.



In Germany, authorities do not provide feedback on objections and comments. As a rule, individual objections are not addressed, or at least this is not mandatory. However, written objections are collected, summarized and thus processed and answered in the approval notice. A collected "processing" therefore only sometimes shows how the approval authority has assessed the facts with regard to the objection. The response to the collected and processed objections is published in the permit notice, but this is the only information the public receives about the agency's reasoning because no individual objections are answered.

Timing of public participation in the approval procedure

The formal public participation starts with the announcement of the project by the competent authority. However, the announcement only takes place after the project owner has conducted a site assessment and prepared extensive application documentation, which usually takes one to two years (depending on the type of procedure and the size of the project). In contrast, early public participation starts much sooner and already involves the public before many decisions have been made and time-consuming and costly documents have been prepared. Thus, in early public participation, the public can often exert more influence on the permit decision. In addition, early public participation is not as heavily regulated as the formal participation and therefore enables various forms of digital participation. It can be very effective to find out more about the interests of the public and environmental associations within the scope of early public participation and to integrate them into the projects. In Germany, the Association of German Engineers (VDI) has published a guideline on dealing with early public participation in infrastructure projects (VDI 7000). Companies and project developers increasingly use this sub-legal set of rules to raise the acceptance of infrastructure projects.

Social Media

While many specialized agencies have a social media presence, they do not post information about ongoing environmental impact assessments. It is also possible that the EIAs are lost in the mass of posts. One exception is the Federal Network Agency (Bundesnetzagentur), which is primarily responsible for the expansion of the power grid. The agency regularly provides information about ongoing procedures on Twitter, Mastodon and Facebook. Some local authorities, such as cities and district offices, also publish information on EIAs, but not all. It is unclear how many local agencies do so.

3.2.4 Number of projects published on the portal

According to the information on www.uvp-verbund.de, a total of 3,793 EIA projects were processed by the federal states in 2022. Research by the UfU³⁴ for the years 2018 and 2019 has shown that the procedures entered in the portals do not correspond by far to the number of planning procedures that actually took place in the infrastructure sector in Germany. A comparison of the data with that of the environmental associations showed that many more procedures should have been entered into the EIA portals. In 2018, 190 procedures were entered into the federal and state EIA portals, while around 2,000 unregistered participation procedures for infrastructure projects were identified. In 2019, significantly more procedures were already entered into

³⁴ https://www.ufu.de/wp-content/uploads/2022/07/MOeB2019_Ausfuhrlicher-Bericht_final_mit_PDF_V2.pdf.



the portals (409 registered to approx. 1,900 not registered). Although the number of registered procedures has increased, it can still be assumed that not all participation procedures relevant to the public are registered on the portals.



3.3 EIA portal in Hungary

3.3.1 EIA portals: general overview

In Hungary, there is no such thing as an EIA portal. It means that there is no central EIA portal for the entire country and there are no regional or local EIA portals either.

Instead, there is a central website for all the county government offices (the main regional administrative public authorities) where information about EIA procedures (screening and permitting included) is published. While this central website contains information of all the county government offices, there is an option to visit the website of a specific selected county government office.

3.3.2 Details on the structure and content of the EIA portal

The central website is not structured to highlight EIA cases. However, it is searchable and there are different search options. You can search for a particular date, a particular county in which the document originated, and there is also a free text search field. In addition, there is an option to select environmental procedures. Within the environmental procedures, there is one selectable category for EIA proceedings and another for IPPC/IED proceedings (permits). In this way, all ongoing EIA and IPPC/IED cases in Hungary are published on the central website, together with many other administrative cases.

The information available on these websites is either a public notice on the start of the case or on the decision made in the case. In the former (start of the case), usually a pdf document is published that contains all relevant information on the case (applicant, legal basis, subject matter, name and contact information of the person dealing with the case at the competent authority etc.). Also, this document contains a call for communicating comments to the competent authority. This document may contain either a link to where the substantive documentation can be found in zip format, or information on where the documentation can be accessed, or a link to the website of a county government office where another link contains the substantive documentation (in zip format or under a Filr³⁵ platform, this one sometimes protected by password, sometimes not). If the case has already been decided, the public notice will contain the decision in pdf format (or zip format) or a link to the website of a county government office where a further link contains the decision in a pdf format (or zip format).

3.3.3 Opportunities for public participation

Communication channels

Participation rights are those guaranteed by the EIA Decree (see in the foregoing), but these rights cannot be exercised via any portal (since there is no such thing as a national or regional or local EIA portal in Hungary). Instead, commenting can be done using those options that are defined by the competent authority in its

³⁵ Filr is a platform that provides file access and sharing, and lets users access their home directories and network folders from desktops, mobile devices, and the internet. Users can also synchronize their files to their PC or Mac. Changes that they make to downloaded copies are kept in sync with the originals on their network file servers. Users can also share files internally and externally, and those with the share can collaborate with each other by commenting on the files.



public notice. These are the same as those listed by the Administrative Procedure Act as communication methods, such as

1. either in writing, electronically (according to a separate law on electronic case management),
2. or in person, including via the application of a telecommunications tool that can ensure direct, mutual and continuous video and audio connection
3. or in an electronic way that does not qualify as a written form (verbally)

It is relatively easy to use electronic communication methods, since most of the citizens who use electronic communication tools have an account for managing administrative matters. It is called Client Gate (Ügyfélkapu) where a number of government services and administrative procedures are available and can be initiated and managed online. This includes sending comments or other submissions to public authorities via the electronic paper (e-Papír) service.

This type of electronic case management where citizens can interact with the public authorities on an online surface after having logged in with their login and password was already set up many years before COVID and it was not the pandemic that forced the government to install it in order to minimize personal encounters. Rather, it was already introduced as part of a general digitisation of the state administration. However, it was not much improved during the pandemic.

There is usually no direct feedback on the submitted comments, and they are not answered individually. They are answered usually in bulk (topic by topic) but sometimes also individually in the reasoning of the administrative decision published at the end of the procedure. The feedback is public in this sense since the decision of the public authority is published at the end of the procedure.

Social media

This information is not made available via social media.

3.3.4 Number of projects published on the portal

Regarding the question of how many EIA procedures are published online, it can be concluded that all EIA procedures are published on the central website because that is mandatory by law. However, since there is no EIA portal and the procedures are published on the website along with a lot of other information, it is very difficult to get an overview of all published EIA procedures.



3.4 EIA portal in Slovenia

3.4.1 EIA portals: general overview

There are three existing EIA portals at the national level, through which the general public in Slovenia is notified that an EIA procedure is underway and where the public can find information on how to participate in the EIA:

- [e-Uprava](#) or 'eDemocracy' portal
- [Prostorski informacijski sistem](#) or Spatial Informational System
- the [general webpage](#) of the Slovenian Ministry of the Environment, Climate and Energy.

A newly proposed portal [eGraditev](#) or 'eConstruction' is planned, which will include the EIA information as well, but is not functional yet.

There is no local or regional EIA portal.

3.4.2 Details on the structure and content of the EIA portal

The eDemocracy and the Ministries' portal offer project documentation and general instructions on how and when to participate in EIA procedures (deadlines). Screening procedures are included in the form of decisions that an EIA procedure is not required in a particular case, against which the qualified public can appeal. The Spatial Informational System offers a graphic representation of all the current EIA procedures in Slovenia. Each procedure on the map includes a link with the administrative number of the specific procedure and the competent institution performing it.

Below are examples of the portals (in Slovenian).

The Spatial Informational system:

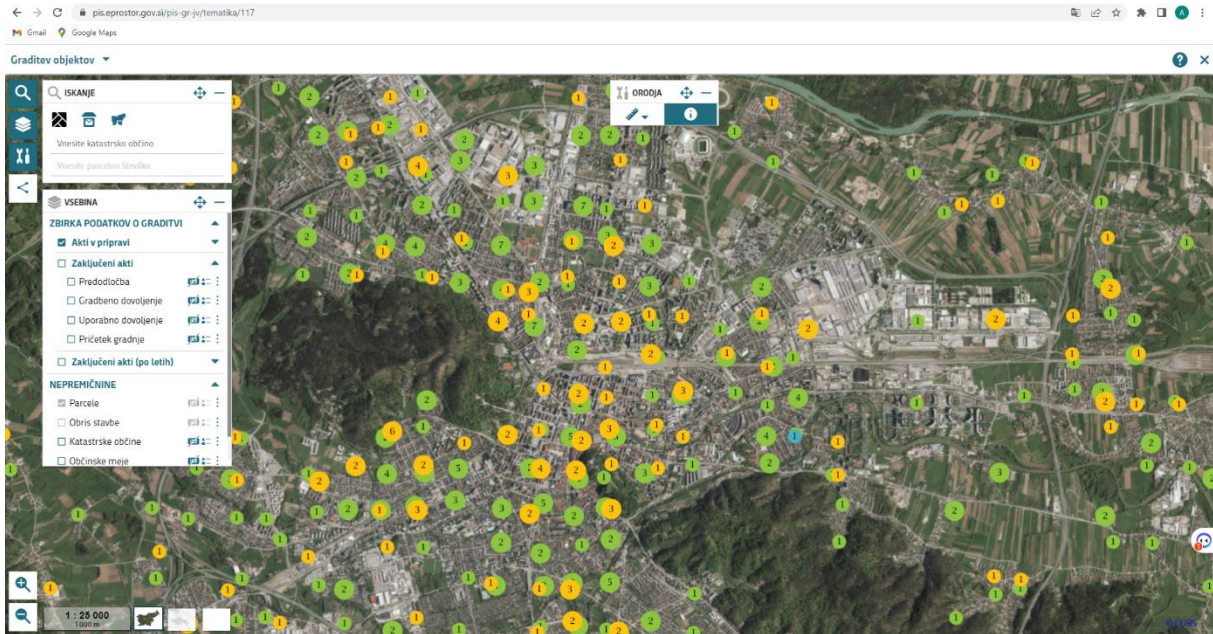


Figure 7 - General overview of construction permitting

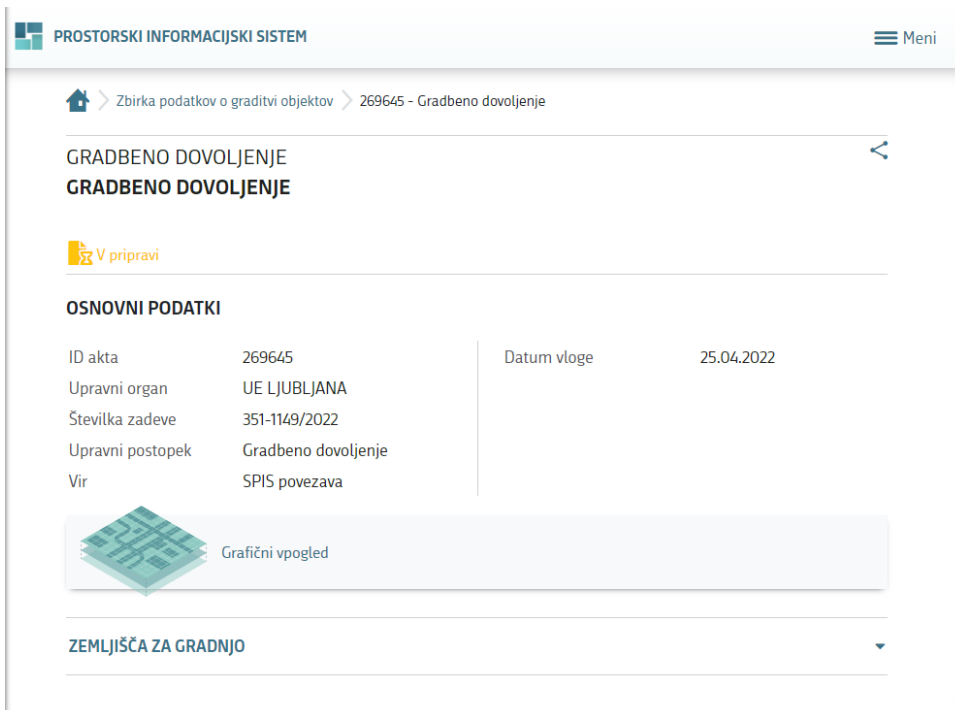


Figure 8 - The information after clicking a particular construction procedure



The Ministry's webpage (which is in essence the same as the eDemocracy portal):

ŠIFRA	NAZIV	INSTITUCIJA	DATUM OBJAVE	ROK PRIJAVE	STATUS
	Naziv gradnje: Rekonstrukcija hale A2 zaradi gradnje naprave za površinsko zaščito	Ministrstvo za naravne vire in prostor	27. 3. 2023	25. 4. 2023	ZAKLJUČENO
	Naziv gradnje: gradnja Glavne ceste I. reda št. 2 Hajdina – Ormož, 0396 Markovci - Gorišnica od km 1+200 do km 6+927.39 z navezavo na R1/0228 Spuhlja – Zavrč	Ministrstvo za naravne vire in prostor	21. 3. 2023	20. 4. 2023	ZAKLJUČENO
	Naziv gradnje: Skladiščno poslovni objekt LCK	Ministrstvo za okolje in prostor	20. 1. 2023	18. 2. 2023	ZAKLJUČENO
	Naziv gradnje: Litostroj JUG - prostorske enote P1, P2 in P3	Ministrstvo za okolje in prostor	23. 12. 2022	23. 1. 2023	ZAKLJUČENO
	Naziv gradnje: Štirisežedežnici Kopnik in Pahernik ter vlečnico Velika Kopa	Ministrstvo za okolje in prostor	6. 12. 2022	5. 1. 2023	ZAKLJUČENO
	Naziv gradnje: Razširjeni center za ravnanje z odpadki Spodnji Stari Grad	Ministrstvo za okolje in prostor	14. 10. 2022	14. 11. 2022	ZAKLJUČENO

Figure 9 - The information includes the title of the project, a link to the documentation and the deadlines that must be followed for public participation

Accessibility of the portal

The portals are freely accessible (no log-in is required) but require a certain number of clicks and time to access. The Ministry's webpage as a first-time visitor requires opening at least 5 links/subpages, while the Spatial Informational System requires knowing the exact name of the project or its exact location.

3.4.3 Opportunities for public participation

Communication channels

The portals offer information on how to participate in EIA procedures (e-mails, deadlines etc.) and potential public hearing events, but do not offer direct ways of submitting comments or entering the procedure as side interveners.



While it is fairly simple for the public to submit comments via e-mail, it still presents an extra step for the users. There are no online forms or other help available to be used to submit comments.

After comments are forwarded to the competent authority (the Ministry), it forwards them to the investor and calls for a public hearing. The investor is not obliged to respond to the comments of the public (at the public hearing or in written form after or before the hearing) if the Ministry doesn't explicitly demand that they do so after the public hearing (paragraph 6 and 7 of Article 68 of the Construction Act). The public hearing is recorded, and its transcript is available through access to public information but is not published on the EIA portals.

In practice, there is no feedback on the submitted objections or comments published online. The comments of the public are addressed by the Ministry (competent authority) only in the published decisions – the environmental permits.

Timing of public participation

According to the Construction Act and Environmental Protection Act the public participation in EIA procedures happens after all the project documentation is prepared and all the relevant opinions on the acceptability of the project of competent state institutions are acquired.

In practice, this means that if the investor wants to avoid extra costs, there is little chance of making significant changes to the project in response to the public's comments. The moment of public participation should therefore be sooner, when different options are still available and less costly to investors.

Social media

There is no EIA information made available for the public via social media.

3.4.4 Number of projects published on the portal

All EIA procedures are published on all EIA portals. In our experience, there are no projects missing unless it is a result of an unintentional error.



3.5 EIA portal in Spain

3.5.1 EIA portals: general overview

The responsibility to carry out an Environmental Impact Assessment lies with the environmental body of the administration competent to prepare the environmental impact statement. Therefore, the environmental body competent to assess potential impacts will be the Ministry for Ecological Transition and the Demographic Challenge (MITECO) in the case of projects that fall under the responsibility of the General State Administration, and the regional environmental body in the case of projects that fall under the responsibility of the Autonomous Community. In principle, this means that there is a [national participation portal](#) (for public participation within the EIA procedure for projects under the responsibility of the MITECO), as well as one participation portal in each of the 17 Autonomous Communities. However, only four Autonomous Communities have an easily accessible e-participation portal:

Autonomous Community	Setup of the EIA portal
Galicia	The portal is almost identical to that of MITECO, given that the citizen is provided with a specific space to make comments and is simply required to provide an e-mail address as identification. However, the comments cannot exceed 3500 characters and files cannot be attached (limitations that do not exist in the MITECO portal).
Asturias	In order to access the participation portal itself, the applicant must first prove their identity by means of an electronic certificate or an identity card code.
Cataluña	It is the only participation portal that does not provide a specific space to write comments directly. All commentaries must be submitted via e-mail to the competent body, although the portal is set up in such a way that the e-mail address and subject are defined automatically.
Aragón	All participants must provide their home address, for notification purposes. There is thus no specific space to write comments, given that these must be formulated by means of an annex attached as a document.

After a comprehensive online search, it must be concluded that the other 13 Autonomous Communities do not have a specific electronic participation portal for EIA procedures.³⁶ This is because the very purpose of an e-portal is to guarantee effective citizen participation (in accordance with article 9.3 of Law 21/2013), and this

³⁶ However, every Autonomous Community has a General Electronic Register to facilitate access to the electronic register of all dependent administrative bodies, in accordance with article 16 of Law 39/15 on the Common Administrative Procedure.

principle is undermined if the interested citizen must carry out an exhaustive online search to find the corresponding browser. Anyhow, the abovementioned regional e-portals are stricter than that of the MITECO, especially with regards to citizen identification and the possible extent of the comments made, although all are very similar in format.

3.5.2 Details on the structure and content of the EIA portal

Accessibility of the portal

In terms of the national participation portal, it is easily accessible through the MITECO website (in the environmental quality and assessment section). To access the e-portal with all the plans, programmes and projects that are currently under a public participation procedure, the citizen is only required to complete three steps from the moment they enter the MITECO website. The configuration of the portal is the result of a project developed by the Sub-Directorate General for Environmental Assessment to improve the overall management of public participation in EIA procedures, by incorporating their georeferences and creating an interface for the remote processing of all comments presented in the public information phase. This new organisation allows citizens to access the environmental documentation of all plans, programmes and projects that are subject to an EIA, consequently guaranteeing the effective exercise of the right of access to environmental information.

Information provided on the portal

With regards to the configuration of the MITECO electronic portal, a systematic organisation is followed for each plan, programme or project currently in the public participation phase. All projects are chronologically structured according to the deadline of the public information procedure, in descending order from the latest closing date. Each project has a box to consult its geographical location and its environmental documentation, as well as a participation mailbox. This uniform organisation in the presentation of information harmonises the participation portal, as is shown in the following example:



The environmental documentation made available through the participation portal is the information that is required from the project developer in the first phase of the environmental assessment, in accordance with Article 35 of Law 21/2013. In this regard, the Environmental Impact Study (EIS) prepared by the developer, containing a complete analysis of the project from an ecological perspective, must be provided. The EIS must include the following data:

- a general description of the project (location, design and dimensions)
- a forecasts on the use of land and other natural resources,
- an estimate of the types and quantities of waste discharged and emissions of matter or energy resulting from the activity
- the foreseeable direct or indirect, secondary, cumulative and synergistic effects of the project



- measures to prevent, correct or compensate for adverse effects on the environment and the landscape
- an environmental monitoring programme to ensure compliance with those measures

Clarity of the information

By providing the EIS through the portal, the interested citizen has direct access to all environmental information related to the project. The problem is that the documents are usually large (organised in zip files), which means that the download is not always straightforward. The EIS should include a non-technical summary of the study and the conclusions reached in easily understandable terms to ensure that the general population is capable of understanding all the information provided for in the public participation procedure. Regardless of having access to all the technical information, the public should be able to understand the overall impact of the project without having to read the entire EIS. The project documentation also includes a list of all interested persons and affected Public Administrations that have been consulted, in accordance with article 37 of Law 21/2013. This information is made available via a Word document with the full name of the consulted entities and their respective address. In consequence, it can be determined that all information related to the EIA file is made available through the MITECO e-portal and there are no identifiable infringements in this respect.

However, it should be noted that the map on the potential location of the project does not represent a particularly useful tool. It is the Google map of Spain, with various lines and dots painted over it. While this allows for an understanding of the approximate location of the project, it is not possible to reach a congruent conclusion without contextualising data, such as the scale of the map or the geographical coordinates. In addition, several potential locations are drawn on the map based on the project alternatives considered by the developer and, although the alternatives are explained and justified in the EIS, it is not possible to interpret the map correctly without analysing the EIS in depth. An example of a map for a project under public consultation on the MITECO portal is presented below:

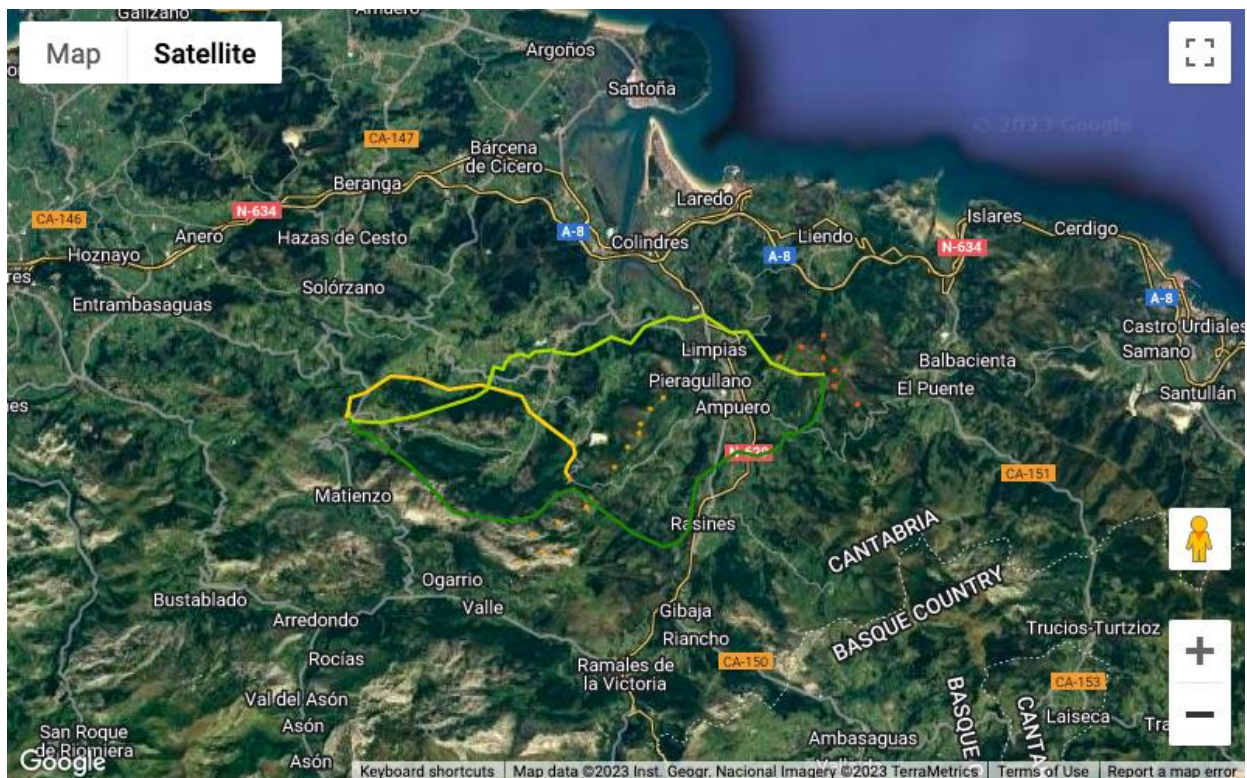


Figure 10 - Map for a project under public consultation on the MITECO portal

3.5.3 Opportunities for public participation

Concerning the formal aspects of the national e-portal, it must first be pointed out that any interested citizen has the right to participate in the EIA procedure without having to justify their status as an interested party. In accordance with Article 36.1 of Law 21/2013, the project and the EIS must be submitted to the public information procedure for a minimum period of 30 working days, to be calculated from the day after the publication of the notice in the State Official Journal. It is thus important to bear in mind that the substantive body (the public body competent to authorise the project) may extend this period depending on the complexity of the project, the need to carry out cross-border consultations or the coincidence with summer periods or public holidays.

Communication channels

The submission of comments is straightforward, as the interested party can write them directly in a space specifically provided for this purpose, with no limit on the number of characters and being able to attach a document of a maximum size of 10 MB (a sufficient size for the submission of comments of a non-technical nature). The MITECO participation mailbox is configured as follows:



Buzón de participación

Código de expediente seleccionado: 20220637

Correo electrónico: *

Asunto:

Contenido: *

Adjunto: No file chosen
(Sólo se permite un fichero adjunto de tamaño máximo 10MB)

Figure 11 - MITECO participation mailbox

Law 21/2013 requires the developer to duly consider all the comments presented in the public information phase, a duty whose compliance must be examined by the environmental body during the technical analysis of the file. In this sense, the substantive body forwards the reports and comments received during the public information phase for due consideration by the developer, who may modify the project or the EIA accordingly. If the environmental body considers that the public information and consultation procedures have not been carried out in accordance with the provisions of Law 21/2013 or if the comments received have not been duly considered, it may require the repetition of these procedures.

However, the MITECO portal does not provide information regarding the potential impact that the comments could have on the outcome of the project. The only clarification that is provided below the participation mailbox is that "the information sent through this channel, after official submission through the Common Electronic Register, will be incorporated into the corresponding administrative file, which is subject, among other regulations, to Law 27/2006, of 18 July, which regulates the rights of access to information, public participation and access to justice in environmental matters".

The interested citizen does not receive any comments regarding the direct impact their comments had on the EIA file, given that none of the applicable legal texts (at national and international level) provide for such obligation from the part of the competent administration. However, the participant can deduce the indirect impact of such comments through an analysis of the Environmental Impact Statement (EIS) prepared by the environmental body. In accordance with article 41 of Law 21/2013, the EIS must contain a summary of the result of the public information process and of the consultations with the affected public administrations and interested parties, as well as the manner in which they have been taken into consideration. The EIS is published in the State Official Journal (without prejudice to its publication in the electronic headquarters of the environmental body), making it easily accessible to any interested party. The problem is that the EIS does



not always contain a clear and defined evaluation of the public participation and consultation procedure, which obliges the interested party to carry out an exhaustive interpretation exercise to deduce the possible impact of their comments.

It is also important to note that the EIS can only be challenged before the courts when the final resolution authorising or approving the project is appealed (in accordance with Article 41.4 of Law 21/2013). A recent judgment of the Constitutional Court (judgment number 53/2017, of 11 May 2017) confirms the non-appealable nature of the EIS itself, justifying this condition in its nature as a procedural act that is not subject to an autonomous appeal. This means that the review of a possible infringement during the public information phase is under a procedural constraint, given that the interested party must wait until the final decision authorising the project in question is appealable.

Social Media

Another problem related to the national e-portal is that it is not provided with an account on any social media platform, which consequently hinders the effective dissemination of the public participation procedure of project EIAs. Although the MITECO has an account on the most popular social networks, such as Twitter or Instagram, no publications aimed at promoting public participation in EIA procedures have been found.

3.5.4 Number of projects published on the portal

The number of EIA files currently in the public participation phase varies across the national and regional portals. For example, there are currently a total of 25 EIA files in the national participation portal of the MITECO. Likewise, there are a total of 94 EIA files in the regional public participation portals (50 in Galicia, 29 in Cataluña, 9 in Asturias and 6 in Aragón). However, the number of EIA files scattered across the remaining thirteen Autonomous Communities is not possible to determine in this report, given that their public participation portals have not been identified and it is not feasible to single them out independently.



4. Summary and Recommendations for action

Finally, the main findings on the status of electronic public participation in each country are briefly summarized. In addition, legal and policy recommendations are given for each country to improve the effectiveness and efficiency of electronic public participation.

4.1 Estonia: Summary and recommendations for action

Summary of findings

Before the COVID pandemic, according to Estonian laws the possibilities for electronic participation in environmental decision-making were as follows: the public could get access to the materials electronically, submit their views and receive answers to them electronically (electronic conduct was considered equal to written conduct), but public hearings were held physically in location of the planned project or decision-maker.

Following the ban on public gatherings due to COVID outbreak in March 2020, the public hearings were first skipped or postponed. After the first months of the pandemic, authorities began to allow the public hearings to be held via electronic means (mainly via MS Teams). In most cases the hearings were still held physically.

The state authorities also issued guidelines as to whether the current legal regulations allowed public discussions to be held exclusively online. The conclusions of the different authorities varied, depending on the nature of the procedure and the applicable legislation. The Planning Act was subsequently amended in January 2022, to regulate the possibilities for electronic participation in public hearings in spatial planning procedures. With regard to EIA procedure, the Ministry of Environment stated that the EIA Act does not prohibit the holding of public hearings by electronic means, provided that effective participation opportunities of all participants and the general public are guaranteed, including the existence of a technical solution and its practical functioning. In practice, electronic means – usually MS Teams – have been used for public hearings.

After the end of restrictions to public gatherings, the practice of allowing participation in public hearings via electronic means has continued, although unevenly. In some cases, the Environmental Board organised the public hearing only physically, in some cases the public hearing was held in a hybrid format, i.e. the public was also able to participate in the hearing electronically (e.g. via MS Teams). However, this change has improved the implementation of public participation processes, at least for environmental associations participating in EIA processes of national importance.

The use of electronic means to publish EIA materials has improved in recent years. At the end of 2022, the Ministry of Environment introduced an additional feature to the existing portal for environmental decision-making (KOTKAS) – an EIA register and portal for publishing EIA materials.

However, there is no unified EIA portal in Estonia. The public notifications in EIA proceedings must be published in the portal for official notifications *Ametlikud Teadaanded*, but EIA materials themselves (e.g. EIA programmes, reports) are published on different websites, depending on the type of permit proceedings and responsible state authority.



Although the information published in EIA proceedings is capacious and meaningful, there are some missing elements. For example, the responses to the objections and comments from participants should be public, but in practice there are serious obstacles when trying to access them: the annexes of the EIA report with the comments and responses are often not published online together with other EIA materials. They are published in a document register of the relevant authority, but it is difficult to find them and often the access to these documents is restricted on basis of protection of personal data.

Also, the websites for publishing EIA notifications and materials are not easily found so they cannot really be considered an effective means of informing the general public. Getting the information about EIAs to the people seems to be a bigger challenge than only the access to documents.

Recommendations for action in Estonia

1. Use other means than newspapers or general websites for getting the public to know about planned projects and EIA proceedings: social media, developing electronic portal for people to get automatic notifications about projects in certain area or field of interest³⁷;
2. Electronic participation at public hearings should be made possible in all cases so that people located further away or with disabilities can participate. At the same time, there is still the digital divide and opportunities for participation must also be there to those who do not use electronic channels. The design of inclusion should be considered carefully.

³⁷ Such an electronic solution has been proposed and discussed in Estonia for a long time, but has not been realized.



4.2 Germany: Summary and recommendations for action

Summary of findings

In Germany, digital public participation had already found its way into some sectoral laws and in some federal states before the COVID-19 pandemic. However, these regulations served to inform the public rather than to ensure a broader public participation. It was only in the course of the COVID-19 pandemic that the Planning Security Act (PlanSiG) began to enable the digitisation of public participation on a larger scale. For the first time, it introduced uniform provisions for the implementation of optional digital procedural steps in public administration in the area of planning and approval procedures. As the government saw the need for digitisation regardless of the pandemic, the PlanSiG was extended several times, most recently until the end of 2023. From 2024, its main provisions will be incorporated into the Administrative Procedure Act.

The PlanSiG makes it possible to publish the public announcement and the documents and decisions relating to the project online. In addition, instead of holding a public hearing in person, the authorities may hold an “online consultation” to discuss comments from the public. The online consultation is a written procedure in which comments from the public and environmental associations are exchanged via a portal or by e-mail. This form of exchange does not adequately replace a dialogical exchange format such as the public hearing. The authority can only replace an online consultation with a telephone or video conference if all parties involved have given their consent. This is an obstacle to effective electronic public participation.

In Germany, there is one federal EIA portal and one portal to access all EIA procedures of the 16 federal states. This makes it more accessible than 16 separate portals. These two EIA portals do not cover all legal requirements, i.e. not all projects are published on the portals. The level of digitisation is rather low. The portals are not being developed. Information is usually deleted immediately after the public participation period. In addition, there is no possibility of interaction. For example, objections cannot be posted on the EIA portals. Another major problem is the completeness and identification of documents. There is no way for the user to determine whether all documents have been uploaded. There is also no predefined filing system for identifying documents. In some cases, many files are uploaded with cryptic names. The user has to laboriously click through them. Furthermore, and this is the main problem, in recent years only about 20-40 per cent of projects have been published on the EIA portals.

Recommendations for action in Germany

General recommendations

1. Electronic public participation needs more attention from legislators. Consideration should be given to creating a separate law on electronic public participation to take account of the complex matter.
2. Electronic public participation should at least include the standards that have applied to physical public participation to date. This is currently not guaranteed in Germany.



3. In addition, funding programmes and pilot projects are needed to test electronic public participation formats. Currently, there are hardly any prerequisites for regulatory authorities to use electronic participation formats.
4. According to Paragraph 27c Section 1 VwVfG, a telephone or video conference may be held instead of an online consultation if all persons authorized to participate have given their consent. Since this prevents authorities from holding telephone and video conferences, the provision should be adapted to make telephone and video conferences easier.

Recommendations concerning the EIA portal

1. EIA portals need further development. The level of digitisation is outdated. In particular, the possibility to interact and leave comments on the portal should be enabled. The competent authority should provide feedback on the comments in the portal.
2. The management of documents in the portals should be more transparent. The documents should be organized in a pre-defined filing system with easily identifiable names. In addition, the completeness of procedural documents should be ensured.
3. Information on the EIA portals is deleted too quickly. Information should stay available on the portals after the end of the project for a reasonable period of time. Ideally, the cases should be organized in an archive.
4. The competent authorities should make more use of social media to make electronic public participation and the EIA portals more easily accessible and well-known.
5. All participation procedures relevant to the public should be entered into the EIA portals. Although the numbers of registered procedures have increased in the last years, there is still a significant amount of procedures lacking.



4.3 Hungary: Summary and recommendations for action

Summary of findings

National legislation provides for public participation in legislative, planning/programming and individual project-related decision-making in environmental matters in Hungary. Its regulation dates back many years before the outbreak of the COVID-19 pandemic and, as shown above, the emergency has not significantly affected the regulation of these opportunities, except in relation to project-related administrative procedures. The most important change introduced during the pandemic, and later reversed after its end, was the elimination of face-to-face meetings in administrative procedures, but without prescribing a specific method to replace them, or providing assistance to the affected administrations or the public in coping with the extraordinary situation. Instead, a number of improvised solutions were put in place, ranging from commenting by e-mail to online video chat and voice messaging based on telephone calls.

These options were eventually discarded after the emergency, with one exception that has returned and now prevails in environmental procedures due to the state of emergency caused by a war in a neighbouring country: public hearings without the presence of the public. As there is no central EIA portal in Hungary, and relevant information can only be obtained from the central website of government agencies using the site's search function, access to information and public participation is not fully user-friendly. It is also necessary to be alert and attentive to these issues and to search for relevant information, as this information is not communicated by the state administration on social media, although this is the most frequently used source of information for the lay public.

Recommendations for action in Hungary

Having concluded the foregoing, our recommendations to the Government are the following in order to improve the system and enhance electronic public participation in environmental matters:

1. Set up a dedicated website for EIA and IPPC/IED related administrative proceedings (an EIA Portal) where information is easily accessible and documents are downloadable in a user-friendly format, in addition to offering a search function that is able to find text within the contained documents.
2. Amend legislation and eliminate the option of having a public hearing in EIA and IPPC/IED cases without the presence of members of the public concerned.
3. Spread information actively and more broadly on EIA and IPPC/IED cases using online channels frequented by the members of the public, including the most popular social media platforms.



4.4 Slovenia: Summary and recommendations for action

Summary of findings

In Slovenia, digital public participation is well established and available, but could benefit from certain legislative or practical changes.

During the COVID-19 pandemic, digital participation was positively addressed in legislative changes through enabling and even demanding virtual hearings and digital participation options, but public participation in general, specifically regarding environmental NGOs, was under attack by the Government.

Digital public hearings in EIA procedures were introduced in practice and legislation during COVID-19.

There are three online portals in Slovenia which qualify as EIA portals. Whilst two are offering the public general information, documentation and deadlines for participation, the last one is a graphical representation of a digital map of Slovenia and includes a link to the administrative number given to the project.

There are no current projects missing from any of the three portals.

None of the portals offers direct, digital channels for submitting comments. All comments must be submitted via e-mail, which is provided by two out of three EIA portals in Slovenia.

Public (digital) participation in EIA procedures takes place after all the project documentation is prepared and all the necessary consents from competent state institutions are acquired, thus making it difficult for the public to impact the project in a significant way.

Recommendations for action in Slovenia

1. It would be easier for the general public if there were only one, dedicated EIA portal in Slovenia. This would reduce the possible confusion arising from three different portals.
2. EIA portals should include the option to directly submit comments digitally through a channel, available on the portal. This would reduce the time needed to submit the comments and the reluctance of the general public to prepare a separate, new and well-structured e-mail with comments. This is relevant especially for persons who engage in these procedures for the first time.
3. Follow-up to the comments of the public should be digitally available on EIA portals before the final decision in a case is made or published.
4. The recordings or notes of the public hearing in EIA procedures should be made digitally available on EIA portals.
5. The public participation (digital or otherwise) in EIA procedures should take place sooner in the procedure, where it can still have a significant impact on the project and does not involve significant costs for the investors.



4.5 Spain: Summary and recommendations for action

Summary of findings

The national electronic portal is well-structured and easily accessible through the MITECO website. In contrast to the analysed regional e-portals (those of Galicia, Asturias, Cataluña and Aragón), the national e-portal appears to be the least restrictive, especially in terms of identification formats and the manner in which comments must be presented in the participation mailbox. In terms of the environmental documentation made available through the MITECO participation portal, this includes the EIS prepared by the developer and a list of all interested persons and public administrations that have been consulted during the EIA procedure. The EIS must include a non-technical summary of the project's main characteristics and its overall impact on the environment, which is intended to inform the nonspecialized public during the public participation process. Although the potential location of each project is also provided via the portal, the lack of data contextualising the map (such as geographical coordinates or cartographic scale) makes interpretation difficult and requires the interested citizen to consult the EIS.

The MITECO portal does not provide the interested person with information relating to the potential impact that the comments could have on the outcome of the project, given that the applicable law does contain such an obligation. The general influence of the public participation procedure can be deduced from analysing the EIS, although the summary of such outcome is usually drafted in general and vague terms.

Recommendations for action in Spain

Based on these findings, the following recommendations have been identified:

1. In order to foster informed and well-founded participation, the administration should ensure that the non-technical summary of the Environmental Impact Study (EIS) is easily accessible through the portal. These straightforward and nonspecialized conclusions are essential to ensure effective public participation in the EIA procedure of projects, plans and programmes. Although project developers provide the summary *within* the EIS, the problem is that it's not easily identifiable (as there is no rule providing that it be included in a standard section of the EIS) and the document can be difficult to download (due to its significant size). As a means to guarantee accessibility of the EIS summary, a good practice would be to provide it in a separate section within the portal, so that the interested person is not required to download the projects' entire environmental documentation. Furthermore, the summary should provide a contextualized map of the potential location of the project (with an explanation of the alternatives), so that the interested person can obtain a comprehensive understanding of the project without having to consult the EIS.
2. The administration should ensure that the interested person comprehends the manner in which their comments will be considered by the project promoter and the environmental body, as this could be an incentive to participate. Although Law 21/2013 regulates the way the project developer and the competent organs must consider the comments made in the public information phase, citizens should



not have to refer to the relevant rules to understand how their comments are examined and the potential influence they may have. This is emphasized by the fact that Law 21/2013 is not referred to in the MITECO portal. In addition, the outcome of the public information procedure is not always possible to determine from reading the EIS, given that the summary of such outcome is usually written in very general terms. A good practice would therefore be for the competent authorities to prepare a report with the consultations carried out and the outcome of the public information procedure that could later be disseminated via the e-mail addresses provided through the participation mailbox.

3. In those Autonomous Communities without a specific public participation portal for EIA procedures, the MITECO could encourage the Regional Environmental Departments to push for the creation of such electronic portals. The vast majority of projects are subject to the competence of the regional administration, and therefore most public participation procedures must be managed through their respective portals. This is emphasized by the fact that there are currently only 14 projects being managed through the national MITECO portal, in contrast to possibly hundreds of projects being managed at a regional and local level. This means that effective electronic participation rights must be promoted and guaranteed at the level of the Autonomous Communities.



5. Conclusion

This study provides an initial overview of digital public participation in environmental matters in five EU countries: Estonia, Germany, Hungary, Slovenia, and Spain. Public participation through digital means is possible to some extent in all countries under review. However, the study reveals a significant variation in the quality and accessibility of digital tools used to facilitate public participation. In all countries, there are some good examples of best practices, but there is still room for improvement as demonstrated by the recommendations provided for each country.

The COVID-19 pandemic has had a varying impact on the development of digital public participation regulations and practices across different countries. In Germany, for instance, the pandemic has acted as a catalyst for enhancing regulation and practice on digital public participation. In response to the pandemic, a new law on digital public participation in environmental matters has been adopted to ensure compliance with public participation requirements in the planning process for environmentally relevant projects. In contrast, Spain did not need to change legal provisions on digital public participation or related practices. This is because a digital infrastructure for participation was already in place, and in-person hearings in environmental matters never existed that needed to be organized digitally during contact restrictions due to the pandemic. In all countries studied except Spain, COVID-19 has led to a significant change in the way hearings are conducted. They were either skipped or held in digital or hybrid formats. In Hungary and Germany, in-person hearings can be replaced by the exchange of written statements. In Slovenia, the number of hearings has decreased, but they can still be held digitally. In Estonia, hearings were only skipped for a brief period from March to May 2020, and were then transferred to a digital format where necessary.

The assessment of EIA portals in the various study countries reveals a significant diversity in their setup. None of the countries reviewed have a satisfactory EIA portal in place that ensures complete and effective public participation rights. Spain and Germany have established specific EIA portals that offer useful tools for digital public participation, such as a summary of proposed projects. In Spain, comments can be submitted through the portal, which facilitates accessibility. However, both the Spanish and German portals are incomplete, registering only a fraction of projects subject to an EIA. In Hungary, there is no dedicated EIA portal, only the government's general website, which announces information on EIAs to the public. In both Estonia and Slovenia, information on EIAs is published on various websites, some of which have EIA portal features.

The research indicates that digital public participation in environmental matters is fragmented across the EU. The use of digital tools has had limited positive impact on public participation effectiveness. Furthermore, the COVID-19 pandemic has mostly negatively impacted public participation practices, particularly in relation to public hearings. To fully implement Article 6 of the Aarhus Convention, significant progress is still required. To achieve effective digital participation in the EU, it is necessary to study more countries to assess their current situation and identify good practices. These practices should be adopted by countries that lack the implementation of useful digital tools to improve digital skills and capacities within regulatory authorities.



6. Appendix: Overview of the status of digital participation in the study countries (as of January 2024)

This table provides an overview of the impact of the COVID-19 pandemic on digital public participation in the countries studied, as well as the current practice of digital participation regarding important aspects such as the possibility to submit comments, the conduct of (online) hearings and the use of social media.

	Estonia	Germany	Hungary	Slovenia	Spain
Impact of the COVID-19 pandemic					
Legislative changes due to COVID-19	Amendment to the Planning Act in January 2022: hearings in spatial planning procedures may be hybrid or fully electronic (if all parties agree). No changes to legislation on EIA procedures.	In May 2020, the Planning Security Act (PlanSiG) was passed: for the first time, uniform regulations for digital public participation came into force. Mainly due to the energy crisis, further changes were made to specialised legislation, leading to legal fragmentation. From January 2024: Attempt to reduce legal fragmentation with a general amendment to the Administrative Procedure Act (VwVfG). Digital display of documents will be mandatory and videoconferencing will continue to require the consent of all participants.	The pandemic did not have a significant impact on legislation. However, a government decree has been issued stating that a public hearing can be held during the state of emergency without the personal presence of those affected.	No ad hoc legislative changes as a result of COVID-19. At the beginning of the COVID-19 pandemic, there was a change of government that changed environmental laws with the intention of restricting public participation in general. However, the new government took a positive approach to digital participation through legislative changes allowing for virtual hearings and digital participation options.	No legislative changes during the COVID-19 pandemic, as public participation was conducted electronically well before the pandemic.
Changes in practice due to COVID-19	First, public hearings were skipped or postponed. From May 2020, some hearings were held via video conference, and many were still held in person.	Projects are more often announced online. Public hearings have mostly been cancelled and replaced by written exchanges (so-called online consultations).	In-person meetings in administrative procedures were cancelled. Instead, improvised solutions were put into place, such as commenting by e-mail or voice messaging through telephone.	Public hearings decreased in number and/or were held digitally.	No changes in practice, as public hearings have never been held in Spain.
Current practice of digital participation					
EIA online portals	There is no unified portal. The public notifications about EIA proceedings must be published on the government's portal used for all official notifications. The EIA materials themselves are published on the websites of the various responsible ministries. In addition, there is a portal for	There are two EIA portals: A federal portal and a portal containing the EIA procedures of the 16 federal states.	There is no EIA portal. Information on EIA procedures are published on a central website for all county government offices. This website can be searched for EIA and environmental procedures. Links on the central website lead to the websites of the competent authorities where further information can be found.	There are three online portals in Slovenia which have EIA portal features: -e-Uprava or 'eDemocracy' portal -Prostorski informacijski sistem or Spatial Informational System -the general webpage of the Slovenian Ministry of the Environment, Climate and Energy. There is no local or regional EIA portal.	There is one national participation portal managed by the Ministry for Ecological Transition and the Demographic Challenge (MITECO) for projects that fall under the responsibility of the General State Administration. The majority of projects fall under the responsibility of the Autonomous



	environmental permits (KOTKAS), which as of December 2022 includes an EIA register and portal for publishing EIA materials. Moreover, EIAs carried out by local authorities are only published on the local government's website.		There is also an online platform, E-TÉR, where local plans and certain local planning instruments are published, comments can be submitted, and recordings and minutes of public hearings are available.	A newly proposed portal eGraditev or 'eConstruction' is planned, which will include the EIA information as well, but is not functional yet.	Communities, but only four of the 17 Autonomous Communities have an easily accessible e-participation portal (Galicia, Asturias, Cataluña, Aragón).
Number of projects published online	Difficult to assess, but more and more projects are being published online.	In recent years, only about 20-40 % of projects have been published on EIA portals.	All ongoing EIA procedures are published on the central website. However, it is very difficult to get an overview of EIA procedures on the central website.	All EIA procedures are published on all EIA portals.	The vast majority of projects at regional and local level are not published, as only four out of 17 Autonomous Communities have a portal.
Social media use by authorities	No	Mostly not, only projects on the federal power grid (BNetzA).	No	No	No, although the MITECO has an account on the most popular social networks.
Communication channels for submitting comments and receiving feedback	Comments must be sent by email or post to the decision maker, it is not possible to send comments via an internet portal. The developer must answer to the objections and comments with the help of an EIA expert. The EIA Act states that the responses must be made public, but in practice they are not accessible.	Comments must be sent by email to the competent authority, it is not possible to send comments via the EIA portal. Written objections are collected, summarised and responded to in the approval notice. Individual objections are usually not responded to.	Each authority defines the options for commenting on a specific case, e. g. in writing, electronically or in person, including via video or phone. Electronic communication is possible through Client Gate, which is an official electronic communication tool for managing administrative matters used by most citizens. Comments are usually responded to collectively. Individual responses are usually not given.	There are no direct ways of submitting comment in the portals. Comments must be submitted via e-mails. Authority forwards comments to the investor, but in practice, there is no feedback on comments.	Comments can be submitted directly in the MITECO portal via a comment field. The competent authority is not obliged to answer comments directly. The participant can only deduce indirect impact of comments through an analysis of the Environmental Impact Statement.
Implementation of public hearings	In person, hybrid or entirely online. Practices vary from authority to authority.	Either in person or online, very rarely hybrid. Online hearings are mostly replaced by written online consultation, as video conferences require the prior consent of all participants.	In person or replaced by improvised solutions. With COVID and now the Russian attack on Ukraine, public hearings can take place without personal attendance of those affected.	Digital public hearings in EIA procedures were introduced in practice and legislation during COVID-19.	Public hearings are not part of public participation procedure in Spain.
Good practices	The KOTKAS online portal has a registry function (archive). There is a one-page summary of each EIA process on KOTKAS. KOTKAS provides a general overview of the purpose of the EIA procedure, what happens at	There are only two EIA portals to access both federal and regional EIA projects. A non-technical summary is available on the EIA portals.	It is relatively easy to use electronic communication methods, since most of the citizens already have a Client Gate account for managing administrative matters.	The public hearing is recorded.	The national electronic portal is well-structured and accessible. Comments can be entered and submitted directly in the portal. A non-technical summary is provided on the MITECO participation portal which informs the nonspecialised public.



	different stages of the procedure, and the current stage of the process. A diagram of the EIA procedure is attached to make the process easier to understand.				
Suggestions for improving digital participation practices	<p>A unified portal that includes all documents should be created.</p> <p>The public should be informed more effectively about EIA procedures, e. g. through social media or an electronic portal that generates automatic notifications about projects in certain areas or fields of interest.</p> <p>Responses to participants' comments should be public and easily accessible.</p> <p>Public hearings should be accessible online and offline to include everyone.</p>	<p>All projects should be published on the EIA Portal. Completed projects should not be deleted, so the EIA portal will serve as an archive.</p> <p>The documents on the portal should be organised in a user-friendly way. Documents should be complete and consistent with the paper version.</p> <p>It should be possible to leave comments on the portal. The authority should provide feedback on the comments in the portal.</p> <p>Public hearings should be held instead of written online consultations.</p> <p>Social media should be used to make EIA procedures more accessible and known.</p> <p>Consideration should be given to creating a separate law on electronic public participation to take account of the complex matter.</p>	<p>Setup of an EIA Portal where information is easily accessible and documents are downloadable in a user-friendly format, in addition to offering a search function that can find text within the contained documents.</p> <p>The authorities should use online channels and social media to inform the public more effectively.</p> <p>Public hearings should be accessible to the public concerned. There must be an opportunity to attend the hearing in person.</p>	<p>It would be easier for the general public if there were only one dedicated EIA portal in Slovenia.</p> <p>EIA portals should include the option to directly submit comments digitally through a channel, available on the portal. Follow-up to the comments of the public should be digitally available on EIA portals.</p> <p>The recordings or notes of the public hearing in EIA procedures should be made digitally available on EIA portals.</p>	<p>In those Autonomous Communities without a specific public participation portal for EIA procedures, the MITECO could encourage the Regional Environmental Departments to push for the creation of such electronic portals.</p> <p>Competent authorities should ensure that participants understand the impact of their comments, e.g. a report on the outcome of the public participation procedure could be sent to participants by e-mail.</p> <p>The administration should ensure that the non-technical summary of the Environmental Impact Study (EIS) is easily accessible through the portal.</p> <p>The maps showing the potential location of the project on the portal need to be improved. Contextual information such as geographical coordinates or cartographic scale needs to be added.</p>
Conclusion	The electronic participation practice has improved in recent years. However, a unified portal is still lacking.	The pandemic has acted as a catalyst for improving digital public participation, but the digitisation of public participation still needs to be improved.	The level of digital public participation is insufficient. Information on EIA procedures is difficult to access, and public hearings are held without the presence of the public.	Digital public participation is well established and available but could benefit from certain legislative or practical changes.	In Spain, the digital infrastructure for participation was already in place before COVID-19 and in-person hearings in environmental matters never existed.



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