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Theme 2: Structuring local communities and development of local democracy for engagement in Radioactive Waste Management governance

Brief: "Participatory Assessment of Decision Making Process"

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Research Brief "Participatory Assessment of Decision Making Process"

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1 Introduction

1.1 Research brief objective

The objective of this research brief is to present material (tools and cases) used in COWAM in Practice (CIP)[1] to aid stakeholders in analyzing and evaluating relevant parts of their national/local decision-making process for radioactive waste management (RWM). The potential role of local communities in governance is emphasized.

Tools allowed participants in National Stakeholder Groups (NSG) in France, Romania and Slovenia to:

- review best practice in stepwise decision making,
- visualize specific decision-making processes (DMP) in graphic form,
- identify points in the DMP where public participation can be optimized,
- develop criteria for evaluating relevant parts of their DMP, and
- undertake evaluation.

Case studies allowed stakeholders to deepen their understanding of DMP options, and to make international comparisons.

The research brief presents the tools and case studies provided to the three NSG. It recalls the discussions that took place, and the NSG findings and conclusions. **Annexes** provide detailed information about:

1 A case study (from outside the nuclear realm) regarding the ORDIMIP industrial waste repository siting process, discussed at NSG meetings in France and in Romania

2 Features of "stepwise" decision making, with international examples, presented in Romania

3 An historical and prospective view of Romanian decision making in the nuclear domain, as a basis for NSG discussion of public involvement in the DMP for the management of low- and intermediate-level waste (LILW)

4 DMP "best practice" findings from COWAM 2, as a further resource for future discussion by CIP participants

5 The self-evaluation of Local Partnership experience, undertaken in the Slovenian NSG

6 A case study of the Environmental Impact Assessment (EIA) as conducted in Finland during the siting search for a high level waste/spent nuclear fuel (HLW/SNF) repository.

1.2 Demands by the National Stakeholder Groups

In the first NSG meeting in each CIP country, stakeholders identified the research topics they wished to investigate. The demands pertinent to this research brief were:

France: Processes for identifying, selecting and accompanying a site for the management of radium-bearing and graphite waste,

[1] The first occurrence in this research brief of each acronym is underlined.

Romania: Local commissions as a best practice in Europe to support local democracy in the context of a stepwise decision-making process; the development of a legal framework at national level on nuclear-related matters.

Slovenia: Self assessment of the Slovenian Local Partnerships, and more generally of the Slovenian decision-making process on RWM; how the Environmental Impact Assessment EIA process can support and provide tools for participation and local development.

Below are mentioned the specific tools and case studies through which this research brief was subsequently developed in each of these NSG.

1.3 Methodological support offered

Specific tools were offered to facilitate the cooperative investigation of decision-making processes.

Graphic schemes depicting actual DMP, or depicting best practice elements of a stepwise DMP, were presented for discussion. According to the needs of the discussion, the graphics showed a high degree of complexity or they were simplified to highlight a certain phase of decision making.
Five sets of graphic representations of DMPs were developed by the CIP Methodological Task Force (MTF) and/or National Facilitators (NF):

- An ideal siting process (based on existing UK proposals), which was confronted with principles of stepwise decision-making in the second meeting of the Romanian NSG (NSG-2);
- An historical and prospective account of nuclear decision making in Romania, also considered in the same meeting;
- The Slovenian legal framework, for consideration in the Slovenian NSG-3;
- An historical account of the Finnish EIA process, reviewed in the same meeting;
- The ORDIMIP siting process, which was discussed in French and Romanian NSG-2 meetings.

The presentation at NSG meetings of these graphic schemes led to discussion in each context of a specific aspect of the country DMP. Framing questions were introduced which encouraged the NSG to develop objectives or advice to improve local influence in the DMP. In the research brief these NSG discussions will be reported, highlighting stakeholder findings on the opportunities for public influence, mechanisms to optimize these opportunities, and the obstacles encountered.

In addition, the SWOT (Strengths, Weaknesses, Opportunities, Threats) tool was proposed by the National Facilitators in response to the Slovenian NSG request to auto-evaluate the experience of the two Local Partnerships functioning in that country. This exercise was accompanied by a presentation of the Belgian Local Partnerships (see Research Brief A2) including an informal (researchers') SWOT review.

[2] "Belgian case study : Local partnerships for the siting of a LILW repository". CIP REPORT D2-3 / **A** (Final Research Briefs 1). Authors: Erik Laes, Jantine Schröder, Gaston Meskens (SCK-CEN).

2 NSG France cooperative investigation

2.1 ORDIMIP siting process: A stakeholder-led decision model

Participants in the first French NSG meeting recognized France's current need to identify a site for the storage of low-to-intermediate level, long-lived radium-bearing waste from the dismantling of six graphite-gas reactors. The NSG discussed recent foreign experience in the matter of siting, such as that in Slovenia, and expressed the will to further investigate that topic. On this occasion, the representative of IRSN mentioned that he had come across an interesting experience in France regarding a chemical waste disposal siting project. The process put into action in this case by the authorities seemed exemplary, in particular due to the involvement of all stakeholders in the discussions in the very early stages of the decision-making process. The NSG participants decided that the subject deserved examination, and asked for a presentation of the so-called "ORDIMIP" project at the next meeting (NSG-2, December 2007).

A short summary of the presentation follows, with detailed information provided in **Annex 1**.

The Regional Observatory of Industrial Waste of Midi-Pyrénées (ORDIMIP): a regional concertation process for the implementation of a repository for ultimate and special industrial waste

The 13th July 1992 Law on waste elimination and classified facilities for environment protection prescribes the elaboration of Regional Plans for Elimination of Special Industrial Waste (PREDIS), which should include the implementation of a repository to handle ultimate and special waste.

In the French Midi-Pyrénées region, the development of a PREDIS and the implementation of a repository was supported by an extensive dialogue process, which went far beyond the official consultation procedure provided for by the law. This dialogue process relied on an *ad hoc* body, the ORDIMIP, which gathered the stakeholders in the region (local governments, territorial divisions of State administrations, industries and business organizations, NGOs, experts, trade unions …). The ORDIMIP enabled the embodiment in a single dialogue process of different tasks such as: working out a shared diagnosis on industrial waste and its management, formulating recommendations for a regional policy for industrial waste management policy, and following up the implementation of a repository.

Although it had no decision powers, the ORDIMIP constituted from 1993 to 2000 the steering organ in the process of setting up a repository, from the preparatory phase (in which the ORDIMIP made the initial diagnosis, worked out the specifications for the projects of repository and evaluation criteria) to the final phase of follow-up of the implementation of the repository (methodological and technical support to the Local Information Committee attached to the repository), and played a key role in the evaluation of the six proposed repository projects.

Discussion of ORDIMIP at the French NSG-2 meeting

The presentation of the ORDIMIP case study was made at the December 3rd 2007 meeting of the French NSG. On this occasion, several participants shared their remarks on the process.

A couple of civil society representatives expressed interest in the intensive ORDIMIP process. They noted that all stakeholders were given the opportunity to take part in building together a

process and then a repository project. They also underlined the fact that local people were involved in the decision-making process upstream, even before a tentative siting was proposed. This aspect of the process was found to be critical to the repository project's final success.

The main source of interest for people who participated in ORDIMIP was said to be the ability given to *participate in defining the evaluation criteria, requirements and specifications which were to be used in the analysis of the builder's proposal*. During the site selection process, the studies conducted to evaluate the competing projects also were designed and implemented in interaction with the different stakeholders. Moreover, in the end, not only the results but also the process of those studies, as well as the role played by the ORDIMIP oversight group in their implementation, were displayed for all to see.

One last observation highlighted a goal shared in the ORDIMIP case by all regional stakeholders: the strong will not to have to depend on another region for its chemical waste disposal. This common aim was interpreted as one of the reasons for ORDIMIP's success.

Conclusion and best practice elements

Overall, the presentation of this case study was found interesting as it gave an example of a successful process and some indication of the reasons for such a success. As mentioned above in other terms, those "good practices" were:

- early involvement of all potential stakeholders in the DMP
- a clearly identified, shared goal that provided direct motivation among regional stakeholders to cooperate on siting
- participation of the stakeholders in the design of the requirements for siting and for repository design
- regular interaction between the different stakeholders during the entirety of the process.

3 NSG Romania cooperative investigation

3.1 Public involvement in the DMP: Stepwise decision making

In its first meetings, the Romanian NSG identified the need to learn from international experience in decision making around RWM and nuclear matters. In particular, the focus was to be on public involvement in the DMP. This study theme was conceived of as part of the agreed investigation into Local Committees and their potential influence as an empowered stakeholder group.

The "Public Involvement in Decision Making Process" session of the NSG-2 of January 2008 thus comprised the following presentations and activities:

- **Stepwise Decision Making for LILW Management: A Model European Process** *by Claire Mays (Symlog)*

"Stepwise" or "phased" decision making is widely regarded as best practice for complex socio-technological issues[3]. The presentation was illustrated by an idealized siting process developed in another context[4]. The presentation is found in **Annex 2**.

To summarize, any RWM process will cover a long period comprising many generations and various types of decision. It should be designed with a clear plan of phases and milestones. The plan of the process should be flexible in order to retain the possibility to adjust it according to evolutions in knowledge and societal views. Stepwise progression means that each major decision can be assessed and reviewed and if necessary, the process can be brought back one step. Schematically, socio-technical decision making is a repeated, cyclical process starting with the problem definition, followed by research and assessment, concretized through management actions whose impact is then monitored and evaluated. Examples from Slovenia and the UK were given, pointing out the complexity of the process, and making explicit the objectives, participants, actions and decision makers at each stage. Among the most important elements of definition are coming to agreement on the decision sequence and on rules to balance between steps back and the necessity to "bank progress" and finalize the project.

In almost every country it has been necessary to build up explicit, innovative mechanisms to assure public involvement in the decision making process for radioactive waste management. Platforms and tools are needed for local level participation, as well as commitment by the local and national government to take public concerns into account. Overall, international experience shows that time is needed for local stakeholders to build competence and work out their interests. The national DMP plan should accommodate these needs.

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[3] The presentation drew notably on work accomplished in the OECD Nuclear Energy Agency "Forum on Stakeholder Confidence", published as: NEA (2004) "Stepwise Approach to Decision Making for Long-term Radioactive Waste Management – Experience, Issues and Guiding Principles". Principal authors: C. Pescatore and A. Vari. Online: www.nea.fr/html/rwm/reports/2004/nea4429-stepwise.pdf . Also available in French: *"La prise de décision par étapes dans la gestion à long terme des déchets radioactifs – Expérience, résultats et principes directeurs".* Online: www.nea.fr/html/rwm/reports/2005/nea6039-decision-etapes.pdf

[4] The original material was developed in: Miller, W., Richardson, P., Wylie, R. & Bond, A. (2006) *"The Implementation of a National Radioactive Waste Management Programme in the UK: Implications for Local Communities and Local Authorities*". A report for the Nuclear Legacy Advisory Forum (NuLeAF), June 2006.

- **Current Stage in the Decision Making Process in Romania** *by Marin Constantin (INR)*

Detailed graphic presentations facilitated understanding of the Romanian RWM decision-making framework and history, including the role potentially played by the CIP NSG as a dialogue forum. The presentation started with nuclear culture aspects in Romania. One lesson of political changes in 1989 was that the public must be consulted on major infrastructure decisions that will affect them. Public consultation for the Unit 1 and 2 of Cernavoda NPP however was conducted without major participation of the public. Regarding RWM, ANDRAD as waste manager entered into an historical situation already existing. ANDRAD has some deadlines that leave it enough time for its projects, but there is also an optimum period for implementing them. ANDRAD's strategies foresee public involvement in the decisions regarding waste disposal. The presentation is found in **Annex 3**.

- **A Stepwise Participatory Decision Process for Chemical Waste: The Regional Observatory for Industrial Waste from Midi-Pyrénées (ORDIMIP)** *by Stephane Baudé (Mutadis)*

The value of the ORDIMIP case study (previously presented in France; see section 2.1 above) in this context was to highlight the manner in which local entities organised themselves into a committee for study and decision making, and thereby shaped a successful siting process. The case study is found in **Annex 1**.

- **DMP Exercise: Problem Definition, Steps, Prospective DMP** *by Marin Constantin (INR)*

A practical exercise in the Romanian NSG aiming at the improvement of the local contribution to the current DMP was supported by analysing the position and stakes of different actors in the LILW RWM context. Using the graphic representation of the cyclical nature of decision making (problem definition, policy formulation, management action and monitoring and evaluation), the presentation identified the hypothetical point of view of nuclear operators (ANDRAD, NPP) as well as the local communities' point of view. The complete set of graphics is found in **Annex 3**.

Discussion of public involvement in the DMP

NSG members responded to the presentations of international and Romanian experience in stepwise decision making and public involvement[5]. Both local stakeholders and institutional actors acknowledged the value of structuring a phased decision making plan and clarifying the role and influence of the different parties within that plan. A Local Committee was recognized as a potentially useful platform for communication among actors, ideally creating an articulation between national and local stakeholders, and providing in turn for reliable public information.

Interestingly, a "crisis" example was taken, highlighting a central concern of communities: environmental health. The example recalled was that of a recent local meeting (November 2007) called by Greenpeace, at which the militant organization urged pregnant women and children to leave Cernavoda, claiming that emissions from the nuclear power plant were harmful to them. This frightening claim was difficult to resolve, notably because scientific disagreements in the radiation protection community were amplified by the mass media.

[5] A detailed account of the discussion can be found in: "*Minutes of the Second NSG Meeting*". CIP REPORT D1-3/ROMANIA. Author: D. Diaconu, INR.

Prompt action was needed by the local administration to reassure citizens. A Local Committee was not in place to mediate the concerns and provide a platform for information.

This example led to discussion of the fact that local administration and citizens must rely upon the safety authorities to protect the public from risk. This reliance rests in part upon trust (which can be defined as the willingness to delegate such responsabilities[6]). However, such trust cannot be blind. Local players need concrete means to measure the trustworthiness of scientific authorities, and in particular, their independence from possible political pressures. One such means, mentioned positively in the NSG, is the permanent relation between Romanian safety regulators and the International Atomic Energy Agency (IAEA): the regulators receive assistance and respect apolitical standards controlled by that supranational authority. A second means ratified by the NSG would be the ability of a Local Committee to engage independent expertise or a "second opinion".

The discussion of this crisis also led to consideration of how to meet public information needs. While the nuclear power plant, for instance, offers a wealth of documentation, it was judged difficult to access by the common resident, because grasping the content would require a certain scientific training. Implementer ANDRAD has multiplied presentations in the local community of information about waste management and the decision making process.

Overall the NSG-2 discussion of public involvement in the DMP highlighted several major issues:

- Environmental health concerns in the community require scientific expertise. The local community needs ways to check the validity and reliability of that expertise. A Local Committee will usefully have the power to engage independent expertise. International standards and oversight build trust.
- Civil society organizations (commonly refered to as NGOs in Romania) provide a major impetus in the community for addressing local concerns (environmental health, compensation for limited land use…). A distinct role must be created in the DMP and in the Local Commission for these organizations.
- The Local Committee can play a role of transmitting technical and scientific information and sponsoring debate in order for local residents to integrate this information. Technical information from waste management requires "translation" into terms readily understandable by the local residents and the Local Committee requires resources (e.g., aid by institutional actors) for this.

This research brief also contains, in **Annex 4**, guidance on best practices in decision making processes compiled from the COWAM 2 cooperative investigations. This material forms a supplementary resource for stakeholder discussion.

3.2 Local Committee role

A stated objective of the Romanian NSG, identified in the NSG-1 meeting of June 2007, was to support the foundation of a Local Committee (LC) for information and appropriate decision making regarding the planned LILW repository.

The NSG-2 afternoon session contained two presentations to facilitate further discussion of building a Local Committee in Romania:

[6] See for example the EC part-sponsored "TRUSTNET in Action" program: www.trustnetinaction.com .

- A technical presentation *by Mariana Mircea*, Chair of the NSG, regarding the **Proposed Local Committee "Cernavoda Zone"**[7] for the area including Cernavoda and Saligny as well as other townships in the immediate vicinity. This talk covered proposed statutes, composition, financing and operation.

The proposed model was based notably on the STOLA (Belgian) Local Partnership[8] and on the "Roadmap"[9] elaborated in COWAM 2. The first draft of Local Committee statutes included a list of stakeholders, which can be completed, the access of any person interested in this process being unrestricted. The proposed role of the LC, already discussed and agreed at the 1st NSG meeting, consists in: the amplification of the local voice; continuous dialogue between the actors involved in the radioactive waste management; creation of an integrated vision of the local perspective; debate on the technical program of LIL waste disposal based on presentations easily understood by common people; reduction of stressful situations and relationships. The major missions of the LC as presented centered on information, debates and local influence on the decision-making process.

- A case study of "**Local Committees in France: CLIS and ANCLI**" *by Serge Gadbois (Mutadis)* (see Research Brief B[10]). This presentation reviewed the French committees' objectives, composition, legal statute, financial aspects, activities, operation and organization, outputs, and influences on the related DMP (RWM or nuclear plant governance).

The discussion by the Romanian NSG-2[11] subsequently centered on stakeholder ideas and requirements for building a Local Committee. The discussion revealed that it is particularly important to *achieve balance among stakeholders to allow a LC to play its role in a satisfactory manner*. This balance is achieved through several means. First could be the identification of actors involved in or affected by the objectives of the LC. In the case of "Cernavoda Area", according to the discussion, very possibly the mission and objectives could be double: the LC could center on both the Cernavoda nuclear power plant and the LILW repository siting, with the intention both to influence decisions and to inform the population. Selecting appropriate stakeholders thus depends on a prior negotiation of the focus and potential role of the LC.

Once identified (sometimes, self-identified), it is necessary to consider whether stakeholder interests will be more appropriately represented inside the committee or outside it. The conditions for feasible participation of each stakeholder category must also be elucidated and assured. These conditions range from financial support (which should be organized in a fair and transparent manner), to deliberation procedures (which should be carefully designed to simultaneously allow representation of divergent viewpoints, and reach effective decisions).

The main decision outputs, as recorded in the Romanian NSG-2 Minutes, were the following:

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[7] According to different translations, this proposed committee has been refered to as "Cernavoda Zone" (by Mariana Mircea) and as "Cernavoda Area" (by Marin Constantin, notably in the graphics seen in Annex 3).
[8] See e.g., Bergmans, A., Van Steenberge, A., and Verjans, G. (2006) *CARL Country Report – Belgium*. Online: www.carl-research.org/docs/20070914152818OZSV.pdf
[9] *Roadmap for Local Committee Construction: Better paths towards the governance of radioactive waste*. WP1 Final Report, COWAM 2. Authors: C. Mays (Symlog) and members of the WP1 seminar on "Implementing Local Democracy and Participatory Assessment". Online: www.cowam.com/IMG/pdf_Cowam_2_WP1_ROADMAP_for_Local_Committee_Construction.pdf
[10] "Local Liaison Committees and National Association of Local Liaison Committees: The French experience". CIP REPORT D2-3 / **B** (Final Research Briefs 1). Authors: S. Baudé, S. Gadbois, G. Hériard Dubreuil, I. Travert-Lavelle (Mutadis).
[11] See "*Minutes of the Second NSG Meeting*". CIP REPORT D1-3/ROMANIA. Author: D. Diaconu, INR.

- Waste operator ANDRAD and waste producer SNN appreciated that a LC is important to structure the local voice, but they do not find appropriate their participation as members in the LC [Regulator CNCAN expressed a need for neutrality, best defended by acting as an observer];
- ANDRAD and SNN intend to sign protocols for collaboration with the LC and to support some of its activities; special funds have been already allocated in this regard;
- Cernavoda and Saligny Municipalities support the creation of the LC "Cernavoda Area" as a formal legal entity;
- A meeting of all stakeholders involved in the LC was to be organized at Cernavoda on March 14, 2008 in order to better define the mission and the role of the LC as well as to detail the decisional aspects.

Subsequent developments in the life of the two communities, and the following CIP NSG meetings, demonstrated that the foundation of a Local Committee is a highly strategic activity. At the time of writing this research brief (April 2009), a unified LC was not in formal operation. Ongoing learning and experience in Saligny and Cernavoda indicated that the interests of the two communities were not identical regarding the LILW repository siting, or the potential benefits to be drawn from a LC and moreover from nuclear facilities. However, at the NSG-4 meeting of February 2009 it became clear in statements by notably the Saligny mayor, that the CIP experience of cooperative investigation and pluralistic dialogue was a valuable model for future negotiations among actors. It was proposed that the local communities, whose knowledge, competence and empowerment had been improved through this participation, could make a common front with other actors (including institutions and NGOs). Together they could seek to prevail upon central authority and obtain needed resources and opportunities for community influence regarding both the presence of the nuclear power plant, and the future LILW repository.

4 NSG Slovenia cooperative investigation

4.1 Participative evaluation of the Slovenian Local Partnerships[12]

The Slovenian NSG requested to reflect on the experience of the two Local Partnerships (LP) after almost two years of functioning in the municipalities of Krško and Brežice. The Local Partnerships formed with national agency ARAO are central to RWM governance in the context of the current LILW repository siting process.

The Slovenian siting context[13]

First attempts to site a disposal facility in Slovenia failed in 1993 due to strong opposition at the local levels but also because there was no political support. National agency for radioactive waste management ARAO as responsible organization started with second siting in 1995 by using mixed mode approach and in this way combining technical screening and public participation. It followed IAEA recommendations and was divided into 4 stages as described in the figure below. At the moment, there are 2 local communities which are voluntarily involved in the siting, each with one potential location. They retain the right to withdraw at any moment. High sums are allocated to local communities as a partial compensation for the limitation of land use during site evaluation, and later for hosting a waste facility.

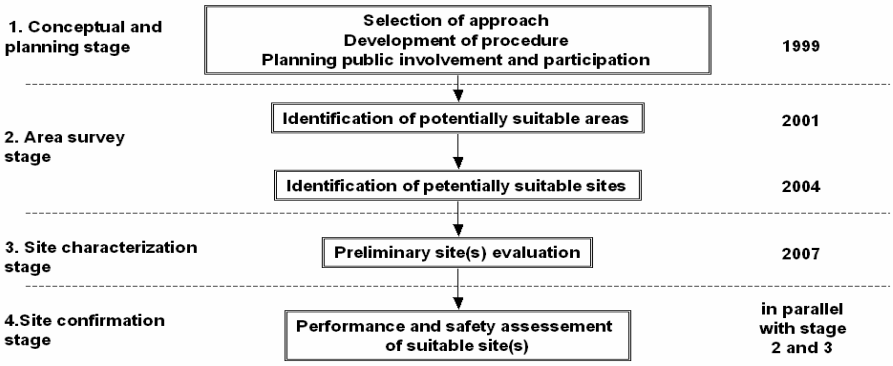

Figure: Four stages of the site selection process.

In 2009 the siting is reaching its final phase which will result in confirmation of one of the potential locations in a volunteer local community. A Local Partnership[14] was created in 2006 between each candidate community and the implementer ARAO. Formal administrative roles of the LP include participation in the preparation of the national spatial plan for the LILW repository, of the EIA process and in other administrative procedures. Less formal roles and activities include discussion about field investigations, design solutions, safety, development

[12] This section relies on the documents prepared for Cowam in Practice by the Slovenian NF: Report D1-3 / Slovenia, *Minutes of the second NSG meeting*; author: N. Železnik) and Report D1-8 (First Draft - January 2009) *Prospective Case Study; Country Report on the Cooperative Investigation: Slovenia*; authors: Nadja Železnik (ARAO), Milena Marega (REC). As well, the section is informed by the panel presentation by M. Kralj (ARAO), B. Petan (Krško) & S. Bradanovič (Brežice), and M. Marega at the "European Workshop on the Practical Implementation of the Aarhus Convention in the Nuclear Field", Luxembourg, 24-25 June 2009.

[13] Drawn from the *Prospective Case Study/Slovenia*.

[14] For information on the development of the Local Partnership paradigm see e.g. Bergmans et al. (cf. footnote 8) and CIP Research Brief A (cf. footnote 2).

possibilities related to compensation, and societal and health issues. The Local Partnerships have the responsibility to organize broader discussion between citizens and to form working groups, inform the public, and obtain independent expert opinions. The veto/go ahead decision stays with the local council and other bodies of local autonomy, to whom the LP has an advisory role.

A tool was sought to assess the Local Partnership situation and identify both current obstacles and difficulties that need to be solved in the future, and topics that need further analysis or exchange of European experience. In response to this request, the National Facilitators proposed a SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis for the second NSG meeting. This was identified as a workable manner to collect participative assessment data, allowing detailed and confidential expression by any NSG participant who so desired. It was considered appropriate to conduct this participatory assessment among the entire NSG (rather than only among the actual members of each LP) because each stakeholder in the NSG has a specific interest in the good functioning of an LP. For instance, alongside the actual members of the LP, the NSG contains representatives of ministries and agencies who interact with the siting communities. As well, the NSG includes stakeholders of another municipality who are *de facto* involved with RWM. (This municipality, Dol pri Ljubljani, went on to sign a formal partnership agreement with national agency ARAO at the close of the 3rd NSG meeting in June 2008, in a move to introduce greater balance and to reinforce transparency in the Slovenian RWM context.)

A SWOT questionnaire was sent prior to the 2nd NSG meeting of January 2008 so as to have results in hand for discussion at the meeting itself. The questionnaire asked:

1. *What are the (internal) strengths of the local partnership in the process of siting a LILW repository?*
2. *What (internal) weaknesses hinder a more effective operation of the local partnership in the process of siting a repository?*
3. *What (external) opportunities can improve the efficiency of the local partnership and successfully conclude the process of siting a repository?*
4. *What (external) threats can in your opinion hinder or even jeopardize the operation of the local partnership and the process of siting a repository?*

By the day before the meeting, nine completed questionnaires were returned. The available findings were posted on paper boards. Divided into four groups mixing types of stakeholders, NSG participants considered the preliminary findings. To complete the analysis, they circulated among the poster boards and added new comments and evaluations. During this period of free expression, a number of delicate yet crucial aspects of LP operation were brought into the pool of data. In a second step, participants ranked according to their significance the strengths, weaknesses, opportunities and threats mentioned. This step allows minority views to be discussed, while placing majority views at the center of further analysis. Aspects that the participants agreed were most important were then presented and discussed in plenary. Conclusions were copied from drafts to the final ranked version of the SWOT analysis presented here in **Annex 5**.

The National Facilitators noted: “In the future process, the findings of the analysis can help both to improve the operation of local partnerships (resolving disputable issues, seizing opportunities) and to define further tasks and research fields in the CIP Project. The decision was made that the findings of the SWOT analysis would be used to direct the work of the NSG in the CIP Project.”

Interpretation of the SWOT findings

The first author of the present research brief, who did not attend the NSG discussion, proposes the following interpretation regarding the highest-ranked SWOT descriptions. It should be understood that these comments are based on reading the evaluations, and not on direct observation of either of the two LPs considered. Thus, the interpretation below concerns a single composite image created by the various SWOT descriptions of the LPs[15].

Main **strengths** of the Local Partnership as assessed may be grouped in several categories. One strength is grounded in the *character* of such a partnership: its pluralism. Another vector of strength is related to LP *roles*: generating learning and information, and providing a forum for consultation and for participation in the siting DMP. Finally, strength is found in the *substantive outcomes* of LP activities: contributing to the quality of the DMP; making arrangements for the use of compensation; enhancing a culture of cooperation among partners.

The major **opportunities** to be seized by the LP are threefold. The partnerships can *create a mutual learning dynamic*: building awareness of and mutual understanding of interests on all sides. Pragmatically, the LP can obtain compensation for the community and allocate it, and thereby *contribute to equity and fairness*. Finally, the LP can *build social capital*: it can allow the community to improve multilevel networks, joint problem-solving competence, and social relations. These opportunities offer potential lasting benefits for the participating community, even beyond the subject area (LILW facility siting) for which the LP is arranged.

In this way, on the basis of their own experience the NSG participants identified positive features of the local partnership approach which also are widely recognized in the social science literature. These features correspond to the ability of any pluralistic governance approach to *provide fuller treatment of pertinent information and to empower involved stakeholders*. The positive evaluations highlight the manners in which the Slovenian LPs resemble the ideal of a fair and competent deliberative mechanism[16]. The SWOT evaluations recognize the lasting structural contributions to the community that potentially can be provided by such a mechanism[17], and by the democratic practice of dialogue it can encourage. Such democratic dialogue is typically recognized as a necessary factor to reach societal agreement on RWM solutions[18].

The NSG findings on strengths and opportunities of the Slovenien LPs thus suggest that the partnerships are (at least to some extent) successful on dimensions that are commonly recognized beyond the Slovenian context, and theoretically supported. At the same time, the Slovenian findings reinforce the international social science literature by confirming it on the basis of genuine, direct experience. The NSG members have performed a valuable service to science and to their own context, by highlighting ideal partnership features: what works and what stakeholders appreciate in LP arrangements.

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[15] The interpretations appear to be confirmed by the panel presentation cited in footnote 12.

[16] See Renn, O., Webler, T., and Wiedemann, P. (eds) (1995) *Fairness and competence in citizen participation: Evaluating new models for environmental discourse*. Dordrecht and Boston: Kluwer.

[17] See e.g. the survey of local experience contained in NEA (2007) *Fostering a Durable Relationship Between a Waste Management Facility and Its Host Community: Adding Value Through Design and Process*. Online: www.nea.fr/html/rwm/reports/2007/nea6176-fostering.pdf

[18] See e.g.: National Research Council (2001) *Disposition of High-Level Radioactive Waste and Spent Nuclear Fuel: The Societal and Technical Challenges*. Washington DC: National Academies Press. Online: www.nap.edu/catalog.php?record_id=10119

and

NEA (2004) *Learning and Adapting to Societal Requirements for Radioactive Waste Management – Key Findings and Experience*. Online: www.nea.fr/html/rwm/reports/2004/nea5296-societal.pdf

The main **weaknesses** identified by NSG participants correspond to *shortcomings in respecting the ideal and in using the potential of the LP*. The evaluations point to a "defective dialogue culture"[19]. They point to disregard for the "rules and principles" of LP operation and more fundamentally, of participatory democracy. One form taken by this disregard is an alleged use of the LP not for its stated objectives regarding LILW siting, but instead to increase the power and influence of established "opinion leaders". Participants observed that these shortcomings deny the "importance" of the LP, i.e. the legitimate political role it can play in the LILW decision making process. The shortcomings undermine, at least in part, the LP's ability to respond to the broad "expectations for access and influence" in that DMP. The outcome is diminished motivation of members to continue their participation.

Threats to the LP, as described, indicate that *the conditions to allow the LP to deliver its potential are not assured*. The "criteria to examine regions and allocate compensations" are described as "unsuitable". Overly "complex procedures" in the legal landscape, and the fact that the DMP framework is not adapted to uptake partnership input, mean that it is difficult for the LP to have actual impact. Incomplete pluralism makes the LP "inefficient": national actors, like concerned citizens, are not included in direct exchange; instead, issues are mediated by municipal actors. The partnership in such conditions becomes a ground for the pursuit of political ambition, and for empowered actors to "solve problems on the street" rather than through transparent, due process. The structure imparted "fosters rivalry instead of cooperation" between the neighboring municipalities in the territory which seems likely to host the LILW repository.

These evaluations of the negative aspects surrounding LP operation highlight once again participants' strong awareness, described in their positive evaluations, of the benefits potentially offered by a LP. Such shortcomings in practice, and inadequacies in context, might combine to defeat a LP of its agreed purposes: to provide fair, competent, legitimate, transparent and effective means for local citizens to contribute directly to RWM governance, and thus to decision making about their community future. By hampering access to the possible fruits of LP, such shortcomings and inadequacies could also bar communities from reaping the longer term benefits of "cooperation", and instead possibly introduce rifts between neighbors which would have to be mended.

The CIP Research Brief focussed on the Belgian LPs [20] allows us to observe some shortcomings and inadequacies in another context. In principle, however, such evaluations are not reasons to end a partnership, nor to discourage other stakeholders from building new partnerships. (Indeed, the panelists cited in footnote 12 insisted that the Slovenian LP experience itself should not be considered a failure, but as a learning opportunity.) The SWOT participatory assessment and the discussions it produced in the NSG provided valuable information to help guide the improvement of the Slovenian RWM governance situation. As well, the NSG assessment exercise can help future partnerships to start out with a clear view of what they can achieve, pitfalls to be avoided, and contextual elements that must be tuned to allow a partnership to make its full contribution.

Conclusion and recommendation

The SWOT analysis appears to have been an appropriate tool to highlight participants' insights about an inclusive governance approach for RWM. This participatory assessment allowed NSG members to elaborate together the positive benefits to be gained from local

[19] In this discussion of the weaknesses and threats, all descriptions in quotation marks are quoted directly from the SWOT evaluation data found in Annex 5.
[20] See the CIP Research Brief A (cf. footnote 2).

partnership arrangements. Reviewed here by an outside researcher, these positive aspects match those identified in the theoretical and practical literature. Thus, the findings validate not only the positive aspects of LP arrangements but also, the clearsightedness of the assessors and finally the value of the participatory assessment methodology to produce consistent results.

The SWOT analysis also allowed participants to put a finger on shortcomings in LP operation and on inadequacies in the surrounding governance framework. These negative descriptions pointed the way to possible adjustments that could improve access to positive benefits. Alongside the CIP research brief on Belgian LPs, the Slovenian assessment thus provides valuable guidance for other communities and institutional stakeholders who may envision partnership arrangements.

One particularly striking outcome of the NSG discussion was a proposal for rectifying the national criteria applied to select the final host site. It was suggested that *the presence of a proper "dialogue culture", i.e. a proven record of the ability of elected and other concerned stakeholders to cooperate in analysing and resolving their situation, should be counted as an essential criterion for siting.* This proposal enshrines the positive features of the partnership and the DMP context described as "strengths and opportunities" above. It offers traction for developing not only the quality of RWM solutions but also, host community cohesiveness. As such, this proposal can be highlighted as a CIP recommendation to the EU level.

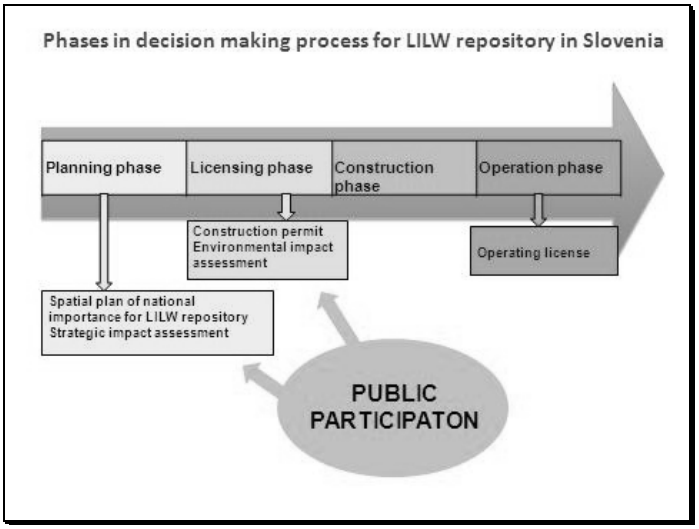
4.2 Environmental Impact Assessment (EIA) comparative case study

A decision was taken for the following NSG meeting to examine a part of the LILW repository siting process that could effectively be influenced by the Slovenian Local Partnerships and the affected communities they represent. Thus, the 3rd meeting of the Slovenian National Stakeholder Group, held in Dol pri Ljubljani, was devoted to "*Environmental Impact Assessment (EIA): How to understand it and use it to form a sustainable solution for low and intermediate level waste management*". Two sessions dealt directly with the EIA, exploring the Slovenian legislative context and a case study from Finland. Detailed subgroup discussions allowed NSG stakeholder participants to identify good practice, opportunities for public participation, and recommendations for improving Slovenian decision making with the EIA tool.

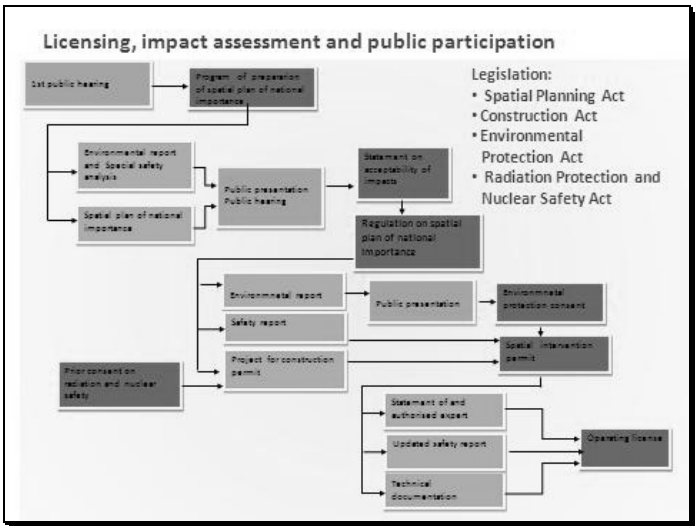
SESSION 1: EIA, a formal procedure needing definition

- EIA in Slovenian legislation (technical presentation by Metka Kralj, ARAO). The format as given by law. Formal notions of Scoping, Access to Information, Consultation, Report, Integration with decision.

The presentation identified points in the ongoing Slovenian DMP for repository siting where the public has a right to access information, and a right to give input (consultation). There was a focus on which input can/must be integrated by decision makers (when does public input influence the decision, when are there links between individual/local/national levels).



Three different types of law structure the context (see figure below), and the upcoming EIA is just one feature of the process.



While only 10 minutes had been scheduled in the NSG agenda for presenting this legal structure, its complexity meant that the actual discussion lasted at least 30 minutes. It was very interesting to note that the complex legal framework is challenging to understand by all stakeholders – certainly not only by local stakeholders. In fact, the discussion was made most lengthy by questions posed by NSG representatives of central ministerial authority!

- Citizens' rights and Aarhus Convention (technical presentation by a represesntative of the Slovenian Human Rights Ombudsman). European rights under the Aarhus Convention and its transposition into SLO law.

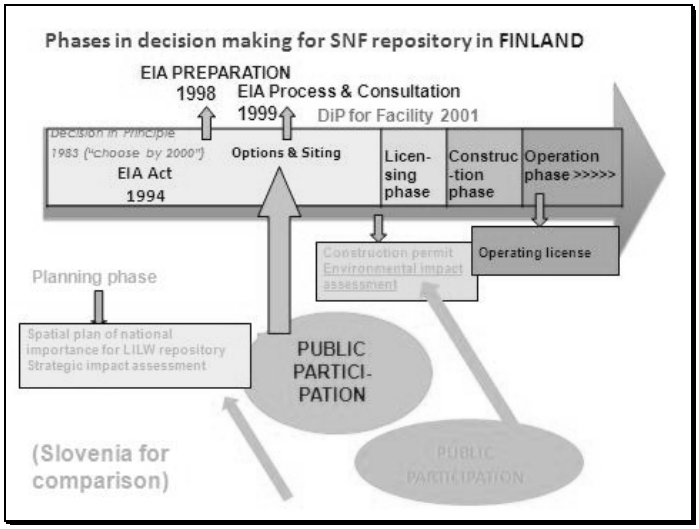
The presentation illuminated the prescribed opportunities for public access to information and participation in decisions affecting the environment. It acknowledged the limits set by the law and highlighted the degree of flexibility that remains.

The presentation was well received by NSG participants for it showed that there are opportunities for recourse when citizens feel their interests have not been properly taken into account by the application of legal procedures. As an outcome of group discussion, the

Ombudsman representative agreed that her office could take the repository siting as a test case.

- The Finnish HLW/SNF Repository EIA (international case study, by Claire Mays, SYMLOG). One step in a multi-year process. Official format for the consultation (scoping, assessment, response to report).

The Finnish EIA process was compared, using similar graphics, to the Slovenian one.



The international case study provided by the CIP MTF representative is reproduced in full in **Annex 6**.

- Participative work: NSG participants were arranged into three groups, each comprising representatives of various institutions i.e. stakeholders. Each group considered the following questions:

Environmental impact assessment as an opportunity for public participation

- Is EIA a good opportunity for public integration and participation in the decision-making process (preparation of environmental protection consent)?
- How can EIA help the local administration when making decisions?
- What are the deficiencies and the opportunities?
- How to eliminate potential deficiencies and how to use the opportunities to their full potential?

What is required for effective public participation?

- What ways of public participation in environmental impact assessment would you propose?
- What aspects of good foreign practice are worth imitating?
- How could good practices be sensibly transferred to the Slovenian context, taking into account the specific situation in Slovenia?

Details of the subgroup discussion findings in response to these questions are reproduced in **Annex 6**.

Report on the discussion following workshop results presentation

After the presentation of workshop results the participants put forward some aspects that can be improved in the execution of LILW repository siting procedure.

Slovenia has ratified the Aarhus convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, also dictating public integration in the procedure of LILW repository siting. According to participants, the access to information in this procedure is exemplary, yet the access to integration and justice is insufficient. All provisions of the convention have so far not been transferred into Slovenian legislation appropriately. In the LILW repository DMP, a public display and discussion have been executed within the procedure of drawing up the National spatial plan. Within the law, this part is limited to 30 days (in the case of LILW repository, this was extended to 40 days due to school holidays), but so short a period makes it practically impossible to review and discuss all the materials, comprising 800 pages or more of elaborate text. Because of this it is necessary **to improve the procedure so as to enable submitting comments in a longer period or time i.e. while expert solutions are being constructed.**.

Participants emphasised it would help if, like in some other countries, **the environmental impact assessment procedure should comprise the so-called scoping (scope determination) of environmental impact assessment.** This would make it possible for stakeholders and not only the expert public (power holders) to determine, which impacts are important and should be observed in the report on environmental impact assessment. In some countries this part is very long, up to one year. Thus stakeholders and operators can determine together the scope of environmental impact assessment. At the same time the situations would be avoided when public comments on the displayed materials are submitted but later not observed or even dismissed as unjustified. As far as trust is concerned, it is consistent consideration of rules that is extremely important, especially in Slovenia, where acts and the related regulatory acts are still being changed and are not mutually harmonized. A case that was particularly resonant among CIP stakeholders is the change of Spatial Planning Act (envisaging a comparison of different variants of repository realisation at the site and among various sites) into the new Spatial Planning Act (in force since 2007), which only envisaged a discussion on the proposed best variant at one site.

Participants also emphasised that **methods and measures used by competent bodies for observing the public complaints should be known in advance.** The stated example was siting of the airport in Cerklje, where Ministry of the Environment and Spatial Planning considered only a small part of submitted and received comments, while as much as 80% of comments were dismissed for unknown reasons. CIP participants are afraid that something similar should happen in the case of repository siting at the potential location in Vrbina, as many comments were submitted with regard to the displayed materials of variant studies in the procedure of National spatial plan preparation (ca. 70 pages of questions, stances, opinions and initiatives), but despite the legislative deadline no answers have yet been provided by the Ministry of the Environment and Spatial Planning, Spatial Planning Directorate after one month. Currently the observation of public comments that were submitted depends on the will of competent bodies, thus causing much dissatisfaction and inconsistent with the Aarhus Convention.

Participants warned that at national level or at the level of Posavje region **there is no comprehensive (strategic) environmental impact assessment for all the objects planned, and there are many in the region** (all the new hydroelectric power plants, overhead power line, new nuclear power station, LILW repository, Cerklje airport, Feniks project...).

Therefore it is necessary that due to demands and interdependency or co-influence of the object, the competent ministry should execute this strategic assessment. It should be done by a competent institution independent of investors. The process of assessment creation should integrate the public accordingly, in compliance with the provisions of Aarhus Convention.

An agreement was formed for the validated Minutes of the NSG discussions to be sent to all competent ministries and administrative bodies.

5 Key findings (Executive summary)

This research brief reviews a variety of participatory assessments of decision making processes (DMP) which took place in Cowam in Practice - National Stakeholder Group (NSG) meetings in 2008.

Specific tools were introduced to help NSG members analyze and assess their decision making context. These were:

- Simplified graphic representations of DMP,
- international case study material, and
- evaluation tools like SWOT (Strengths, Weaknesses, Opportunities and Threats).

The tools supported insightful expression and elaboration about an inclusive governance approach for radioactive waste management (RWM).

These participatory assessments showed that reviewing DMP and considering best practice can help stakeholders to clarify their view of what they desire and appreciate in their own DMP, and to identify aspects that need correction or development.

The most systematic assessment was obtained through the use of the SWOT tool, which was applied in Slovenia to evaluate the Local Partnerships after some 18 months of operation. The NSG vision of positive benefits to be gained from local partnership arrangements matches the ideal portrayed in the theoretical and practical literature. (This validates the participatory assessment method and findings, while adding a valuable example to the literature.) The SWOT analysis also allowed participants to put a finger on shortcomings in LP operation and on inadequacies in the outside governance framework. These negative descriptions pointed the way to possible adjustments.

Moreover, the cumulative CIP experience of cooperative investigation and pluralistic dialogue was found in at least one NSG to be a valuable model for future negotiations among actors. This was the case in Romania, where the knowledge, competence and empowerment of local communities was recognized to be improved through repeated CIP elaborations, including participatory assessment. While the different interests of the communities were emphasized, it was found that they could possibly make a common front with other actors (including institutions and NGOs) to seek needed resources and opportunities for community influence in RWM decisions.

The various CIP participatory assessment exercises yielded the following **key findings**.

On DMP Frameworks

- Existing legal frameworks can be very complex and not fully understood even by the actors tasked to implement them.
- Legal frameworks provide "*a minima*" participation opportunities but do not limit them. Non-legislated and parallel instruments of influence are developed. These range from local partnerships (Slovenia) or commissions (Romania) to non-binding cooperative schemes (ORDIMIP) to bilateral discussions between local authorities and national ministries (Slovenia). Rules and agreements need to be developed in each context to regulate these informal mechanisms and ensure that they effectively enable influence by the local community and serve their needs.
- Regarding DMP for facility siting, good practices include:

- early involvement of all potential stakeholders in the DMP
- a clearly identified, shared goal that provided direct motivation among regional stakeholders to cooperate on siting
- regular interaction between the different stakeholders during the entirety of the process.

On Siting Criteria

- Stakeholders should participate in the design of the requirements for siting and for repository design.
- The presence of a proper "dialogue culture", i.e. a proven record of the ability of elected and other concerned stakeholders to cooperate in analysing and resolving their situation, should be counted as an essential criterion for siting.

On Local Committee or Partnership Arrangements

- Platforms and tools are needed for local level participation in the decision making process for radioactive waste management. In almost every country it has been necessary to build up *explicit, innovative* mechanisms to assure public involvement.
- To draw the benefits of this involvement, there must be commitment by the local and national government to take public concerns into account.
- Local Committees or Partnerships play an important role of generating learning and information on such central concerns as repository safety and environmental health. They can create a mutual learning dynamic, building awareness of and mutual understanding of interests on all sides.
- Local Committees or Partnerships can provide a forum for consultation and for participation in decisions on such important stakes as e.g., equitable compensation and its fair allocation.
- The community can gain broad structural benefits from partnership arrangements, by improving multilevel networks and social relations.
- Balance among stakeholders must be achieved to allow a Local Commission or Partnership to play its role in a satisfactory manner. This balance is achieved through several means.
    - First is the identification of involved actors; that definition depends on a prior negotiation of the focus and potential role of the committee.
    - Once these actors are identified (sometimes, self-identified), they must consider whether their interests will be more appropriately represented inside the committee or outside it.
- The conditions for feasible participation of each stakeholder category must also be elucidated and assured. These conditions include
    - financial support organized in a fair and transparent manner
    - deliberation procedures carefully designed to simultaneously allow representation of divergent viewpoints, and reaching effective decisions.
- The national DMP plan should give adequate time for local stakeholders to build competence and work out their interests.