

Umanotera Report

MARCH 2007, SUMMARY

***Mirror to the
Government 2006:
the practice and traits
of collaboration with
civil society***

“ In the area of public participation Slovenia has a very low level of democratic processes. These need to be considerably improved in order to enhance the effectiveness of legislation and the wellbeing of society.”

Contents

Introduction – Miro Cerar PhD.	2
1. What does the Mirror to the Government in Slovenia reflect?	3
2. Why should the public participate in the preparation of legislation?	4
3. Project Mirror to the Government	5
3.1. Contractor	5
3.2. Aim of the project	5
3.3. Indicators	6
3.4. Data acquisition procedure	9
3.5. Verification of obtained data	9
3.6. Answer evaluation and assessment methodology	10
4. Results of the project Mirror to the Government	11
4.1. Common evaluation of the ministries and government offices	11
4.2. Evaluation of general communication and support environment	13
4.3. Evaluation of act preparation procedures	15
5. Recommendation for improvements in current practice	16
5.1. Systemic recommendations to the Government of the RS	17
5.2. Recommendations to act proposers	18

Introduction

In the (more) developed contemporary democracies the government and the national administration are increasingly opening up to the public, providing different formats of participation of civil society and citizens in the processes of the preparation of government materials and acts. On one hand, such guidelines are an inevitable companion of the developing intellectual and information social milieu, on the other, principally a reflection of a conscious resolution of democratic governances to bring their legislative/normative and other activities closer to the public. Namely, participation of interested civil society groups, organisations and individuals into the processes of preparation of government acts presents additional effort and expenses to the government. But in a long term this kind of participation and partnership between the governance and the public leads into a distinct prevalence of positive results (effects), which is reflected in the higher degree of quality, legitimacy and effectiveness of the adopted government acts (constitutional changes, laws, national programmes, resolutions, regulations and rules of procedures, etc.). Insofar as the Government of the Republic of Slovenia is sincerely committed to the ideals of democracy it has to consider this kind of knowledge and guidelines and constitute and strengthen those public relations, which contribute to a higher level of democracy and quality of its activity. Of course, what is needed for such a democratic partnership are equally democratically aware and active citizens and expert civil society.

The present study presents an important step on the way of ensuring such partnership, but only on condition that both the government as well as the critical public welcome it. The study is an expert analysis of the activities of (all) the ministries and three government offices in the period from May to December 2006 in relation to participation of civil society in their activities. It holds, as it is stated in the report itself, a "mirror" to the work of the Government. Based on a carefully worked out methodology and despite the relatively undemanding criteria for the evaluation of the success of the Government in this perspective, the common (final) assessment of the study shows a poor condition of public participation in the work of the ministries and government offices. However, such a general assessment embraces considerable differences between individual ministries and offices, among which some of them are evaluated as above and some as below the average.

The study is methodologically and indicatively well defined, thus providing a relatively accurate insight into individual segments of cooperation between the ministries and government offices and the public and can, as such, be a highly useful instrument for internal analysis of the condition of individual ministries and Government offices. This study is not to be understood merely as a critique of the Government but primarily as an encouragement to eliminate the instances of maladministration and to adapt faster and more adequately to contemporary democratic flows with the development of the so called good practices. In this perspective the recommendations to the Government from the concluding part of the study present an important and constructive contribution to this area.

*Assoc. Prof. Miro Cerar PhD.
Faculty of Law University of Ljubljana, Slovenia*

1.

What does the Mirror to the Government in Slovenia reflect?

It appears that the public is infrequently included in the processes of the preparation of laws. Consequently, the level of democratic processes in Slovenia is very low and needs to be significantly improved in order to achieve greater effectiveness of legislation and the increase of welfare in society.

The results of the project, a reflection of the Government's work, reveal a *contradicting image*: in perspective of the investigated sets of the research it is evident that this practice varies considerably across individual ministries. The final joint evaluation discloses *a rather poor condition of public participation* in Slovenia. Nevertheless, certain instances in individual ministries produce promising results. The final summary assessment score "good" was awarded to two ministries, namely the Ministry of Labour, Family and Social Affairs and the Ministry of Culture.

That the future will be better is suggested by the general awareness about public participation being a process, which needs time, experience and dedication of the authorities and of the interested public. This is also confirmed with the fact that *the majority of proposers see a possibility and an urgency to improve the participatory processes*. Thus the prospects that in the "next mirror to the government" the answer of one of this year's respondents that 'all is being done according to the law' will prove to be a mere pleasant memory of the times when the regulations meant more than the culture of dialogue.

The project Mirror to the Government thus not only holds a mirror to the present state of affairs but also makes recommendations for improved activities. The recommendations are prepared also with a wish that in future, and in case of eventual re-measuring of public participation in the preparation of government materials, the level of participation will be decidedly higher.

2.

Why should the public participate in the preparation of legislation?

In consolidated democracies public participation in the preparation of legislative materials has a rich tradition, for it allows the formation of quality laws and other regulations, which consequently have a greater degree of societal consensus.

Public participation in the decision-making processes has clear advantages:

- acquisition of additional arguments, views and information provided by the participants during the process will contribute to greater quality of the document,
- ensured wider support for the implementation of adopted strategic documents and regulations,
- improved information about the contents of strategic documents and regulations,
- ensured solid dissemination of information to the public about the work of public service.

3.

The project Mirror to the Government

In March 2006 the Government of the Republic of Slovenia defined in its new Rules of Procedure the inclusion of civil society as a component part of the preparation of legislative acts and other materials. Civil society participation is also delineated in the Methodology for the Compliance and Monitoring of the Declaration about the Elimination of Administration Obstacles and Participation of Interested Public, which was adopted in autumn 2005.

3.1. Contractor

Participation of civil society in the preparation of materials of the Government of the Republic of Slovenia in the year 2006 has been monitored by Umanotera, The Slovenian Foundation for Sustainable Development in the frame of the project Mirror to the Government.

Participation of civil society has been monitored from May 1 2006 to December 31 2006 according to the methodology prepared in advance. Participation of civil society in preparation of the Government's acts has been monitored and evaluated in all fifteen ministries of the Government of the Republic of Slovenia and in three government offices (Government Office for Nationalities, Government Office for Local Self-Government and Regional Policy, Government Office for Development).

The project has been carried out in collaboration with the Legal Information Centre for NGOs (PIC).

3.2. Aim of the project

This pilot project is unique in Slovenian and international space. Its aim is to:

- encourage government bodies to improved implementation of the principle of participation of civil society in the preparation of materials of the Government of the Republic of Slovenia, suggest standards of good functioning and present the examples of good practice,
- determine the extent in which the declarative and the practical level of civil society participation differ in the processes of preparing the materials of the Government of the Republic of Slovenia,
- constitute civil society as a reliable partner of the state.

3.3. Indicators

For the monitoring of 45 acts, selected by the project group from the Normative Programme of Work of the Government of the Republic of Slovenia, we have prepared ten indicators as criteria, with which we measured both the level civil society participation in the preparation of individual acts as well as communication and support environment for public participation in individual ministries and government offices.

Indicators are divided according to three content areas, namely:

- *set a: communication environment provided by the proposer of the act for participation of civil society in its activity* (general mechanisms for public participation);
- *set b: support environment for participation of civil society provided by the proposer of the act* (participation of civil society in the activities of the proposer of the act; financial-material support environment provided by the proposer for civil society participation in the preparations of acts; monitoring and evaluation of implementation of acts);
- *set c: preparation of acts* (announcement of the act preparation procedure, accessibility of expert groundwork for preparation of acts, proposer's feedback on proposals and remarks of civil society, consistency of the contents between the proposer and civil society).

Indicators for these three content areas are prepared as statements and are stated as examples of good practice of public participation in itself. The list of indicators with achieved assesment for individual national bodies is given below. The evaluators assessed the data obtained from national bodies for individual indicator on a scale from 1 to 5.

Table 1: Indicators of the project Mirror to the Government 2006; the table states the joint assessment for an individual indicator

set A

Communication support provided by the act proposer for participation of civil society in its activity (general mechanisms for public participation)

No. Ind.	Indicator	Assessment (maximum 5)
1.	General mechanisms of the proposer for public participation:	
1.1	The proposer has a person appointed for communication of information of public character.	5
1.2	The proposer provides publication/s about its work.	4
1.3	The proposer's website provides for:	
1.3.1	relevant information communication technologies (ICT) and instruments of electronic democracy:	
	publication of data bases and registers	5
	e-newsletters to target or general publics	5
	organizes ICT events (e.g. internet video conferences)	2
	organizes meetings of working bodies or groups, which include the public (e.g. e-sessions)	2
	organizes e-discussions for expert and general public	2
	applies e-surveys and e-questionnaires for acquisition of proposals and observations	2
1.3.2	proposals and observations of the public regarding the proposer's work are transparent	2
1.3.3	the proposer's feedback is available	3
	COMMUNICATION ENVIRONMENT TOTAL	3

set B**Support environment for participation of civil society in the activities of the proposer of the act**

No. Ind.	Indicator	Assessment (maximum 5)
2.	Participation of civil society in the activities of the act proposer	
2.1	Proposer has a person appointed for collaboration with civil society organisations.	2
2.2	Proposer provides the opportunity of the interested civil society organisations to express their interest in obtaining information and announcements.	4
2.3	The representatives of civil society are included in government councils (according to Article 5 of the Government's Rules of Procedure) or expert councils and commissions (Article 20 of the State Administration Act), operating in the proposer's office.	3
2.4	Proposer includes representatives of civil society in national delegations, who participate in international events in the frame of their work.	2
2.5	Proposer has a pre-defined format of selection of civil society representatives in case participation needs to be limited (e.g. election of representatives in a body, etc.).	1
2.6	Proposer trains the staff with regard to participation of civil society in the work of state bodies.	1
3.	Financial-material support environment provided by the proposer for civil society participation in the preparation of acts	
3.1	Proposer finances projects of nongovernmental and civil society organisations.	4
3.2	Proposer finances programmes of nongovernmental and civil society organisations.	4
3.3	Proposer has special funds for participation of civil society in the preparations of regulation (travel expenses, remuneration for work of representatives, pay for support service organizations, etc.).	2
3.4	Amount of resources and number of organisations, which were granted the resources.	/
3.5	Proposer provides other modes of support environment for participation of civil society (offers space for the needs of civil society free of charge, ensures subsidized rent of own spaces, etc.).	3
4.	Monitoring and evaluation of the implementation of acts	
4.1	Proposer monitors and evaluates the implementation of acts in own area of activity.	5
4.2	Proposer includes representatives of civil society in the monitoring and evaluation of acts (act implementation).	2
4.3	Reports on the monitoring and evaluation of acts are available at the proposer's website.	2
4.3.1	Information on participation in the bodies is available at the respondent's website.	2
	SUPPORT ENVIRONMENT TOTAL	3

set C**Act preparation procedure**

No. Ind.	Indicator	Assessment (maximum 5)
5.	Announcement of the act preparation procedure	
5.1.	Proposer informs the public about the initiation of the act preparation procedure:	
5.1.1	With publication in Normative programme of Work of the Government of the RS for the year 2006.	5
5.1.2	With the publication of act preparation at the proposer's website.	3
5.1.3.	With publication of act preparation with an announcement sent to the interested public.	3
5.2.	In case the proposer published an announcement it includes:	
5.2.1	title of the act	4
5.2.2.	objective of the preparation procedure	3
5.2.3	procedure time table with delineation of individual phases of the procedure	3
5.2.4	references to expert groundwork	3
5.2.5	estimated adoption period	4
5.2.6	estimated costs of the act preparation procedure	1
5.2.7	call for public participation	3
5.2.8	the name of the person in charge of the act preparation	2
5.2.9	indication of instruments for communication between proposer and the public.	2
6.	Accessibility of expert groundwork for act preparation	
6.1	Expert groundwork is available at the proposer's website.	3
6.2	Expert groundwork includes a summary for lay public.	1
6.3.	Proposer commissions expert studies by civil society organizations.	1
7.	Time table of the act preparation procedure	
7.1.	Proposer respected time limits specified in Normative Programme of Work of the Government of the RS: 3 points – no deviation 2 points – deviation from 0 to 3 months 1 point – deviation from 3 to 6 months 0 points – deviation more than 6 months maximum = 120 points.	3
7.2.	Deadlines for the receipt of written proposals and remarks of civil society: 4 points – time limit more than 30 business days 2 points – time limit from 14 to 30 business days 1 point – time limit from 7 to 14 business days 0 points – time limit shorter than 7 business days maximum = 160 points.	2
7.3	Time limits for invitations to events: 2 points – more than 15 business days before the event 1 point – from 7 to 15 business days before the event 0 points – less than 7 days before the event maximum = 80 points.	2
7.4	Consideration of circumstances (leaves, holidays, etc.) in laying down the time limits.	3

8. Carrying out the act preparation procedure		
8.1	Proposer provided expert procedural counselling for the preparation of the act.	2
8.2	Proposer organizes events intended for public participation (consultations, discussions, etc.) during the preparation procedure.	2
8.3	Proposer ensures independent moderating of participation of interested public.	2
8.4	Proposer ensures public participation in the earliest stage of act preparation, when all possibilities are still open.	2
8.5	Proposer presents different solutions and possibilities regarding the content of the act in the early stage.	1
9. Proposer's feedback on proposals and remarks of civil society		
9.1	Proposer took a position toward civil society proposals:	
9.1.1	took a global position	1
9.1.2	took a position toward individual proposals of civil society. maximum = 80 points.	2
9.2.	Proposer ensured public transparency of proposals, remarks and explanations at the website.	1
10. Consistency of the content of the act proposition between the proposer and civil society		
10.1	Proposer evaluates the level of consistency with proposals and remarks of the public on completion of the act preparation	2
REGULATION PREPARATION PROCEDURES TOTAL		2

3.4. Data acquisition procedure

The data were collected by way of questionnaires, which the project group (Umanotera, PIC) designed on the basis of indicators. Umanotera monitored public participation with the following:

- *Direct data acquisition from national bodies:* the questionnaires, which were sent to the proposers of the act and measured both the general activity of the ministry and support environment as well as individual procedures of act preparation, have been collected from June 2006 to January 2007;
- *Indirect monitoring of act preparation procedures with a weekly examination of websites of act proposers:* the questionnaires, intended for periodic weekly examination of public participation in selected acts, have been completed in the frame of the project on the basis of information available at the websites of national bodies;
- We have presented ourselves as *interested public* for obtaining the data on selected acts from national bodies, thus using the right of every citizen or organization in the Republic of Slovenia to be informed and to participate in preparation of the acts.

A considerable amount of information, collected during the project, has been assessed, evaluated and statistically treated by Legal-Information Centre of NGOs (PIC).

3.5. Verification of obtained data and deviations

On the examination of collected data PIC found that a part of the answers from completed questionnaires differs from the results of the inquiries carried out by Umanotera by way of examination of the respondents' websites and with the monitoring of website information.

Consequently, it has been concluded that it was not possible to perform a reliable verification of certain data. PIC found that the most important reasons for deviations are:

- different understanding of questions
- inaccurate and incomplete completion of the questionnaire
- respondent is not acquainted with the actual condition
- possible low precision of instructions for the completion of the questionnaire.

Consequently, in awarding the points PIC did not take into account Umanotera's observations resulting from regular monitoring, thus the project points are based on the response of the ministries. The observations collected by way of Umanotera's regular monitoring and with participation in the procedures as interested public are stated in descriptive explanations of individual results.

3.6. Answer evaluation and assessment methodology

Answers from individual sets of indicators have been translated into points. Each individual ministry or government office had the possibility to collect the following amount of points: in set A (general communication environment) the maximum amount was 10, in set B (support environment) 14 points, and set C (act preparation procedure) 35 points, thus total 59 points.

Due to content relatedness communication and support environment (A + B) are shown together in the table, while the procedure of the preparation of individual acts (set C) is shown separately (according to individual monitored acts). Joint assessment of the ministry or government office presents a sum of awarded points in all three sets of indicators (A,B,C).

Since this is a pilot project the final assessment scale has been set according to mild criteria:

- Score 1 (lowest) - unsatisfactory (20 % and less of possible points: 11,7 points and less)
- Score 2 - poor (21 % to 40 % of possible points: 11,8 to 23,5 points)
- Score 3 – satisfactory (41 % to 60 % of possible points: 23,6 to 35,4 points)
- Score 4 – good (61 % to 80 % of possible points: 35,4 to 47,1 points)
- Score 5 (highest) – excellent (81 % to 100 % of possible points: 47,2 to 59 points).

4.

Results of the project Mirror to the Government

According to the common evaluation of the Mirror to the Government public participation is at an extremely low level in Slovenia. However, exceptions are visible at the level of the ministries as well as at the level of individual acts.

Project results are presented as a common evaluation, based on the achieved points according to individual indicator, of all the ministries and three government offices. These assessments are composed of two sets, namely, from the evaluation of the sets A and B (communication and general support environment) and set C (act preparation procedure), and are defined in detail below.

4.1. Common evaluation of the ministries and government offices

The final outcome of the project shows that the Ministry of Labour, Family and Social Affairs did best according to selection indicators and was awarded 40,3 out of 59 points. The general assessment "good" was given also to the Ministry of Culture with 36 points. The majority of the ministries and government offices received the assessment "satisfactory", though approximately the same number of the ministries received the mark "poor".

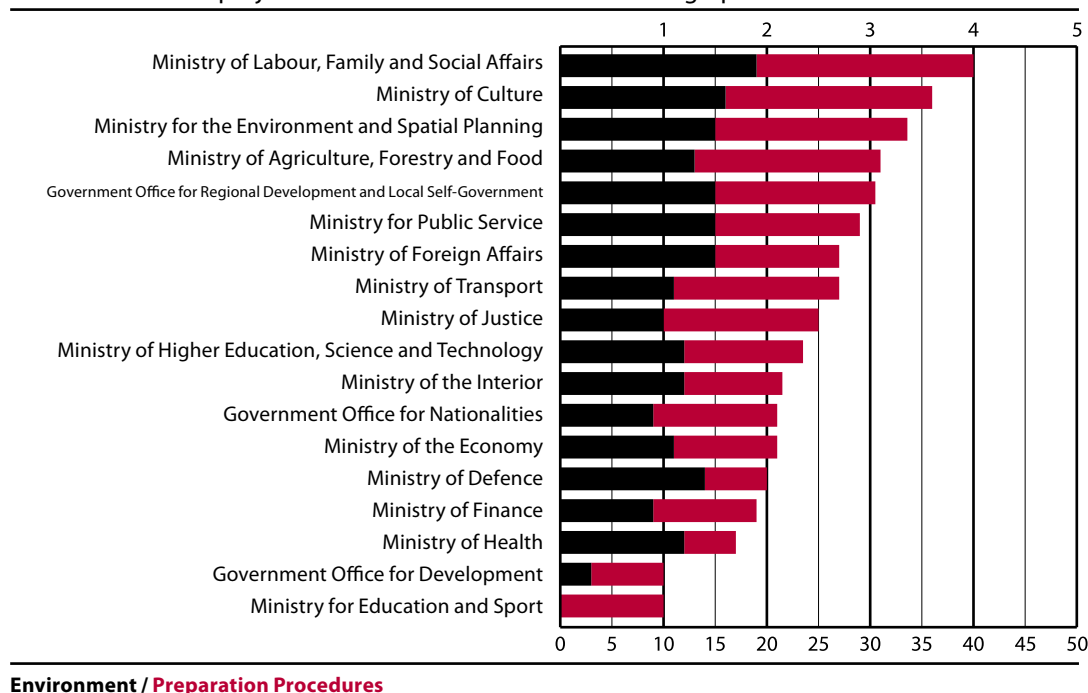
It is of great concern that despite the lowered criteria so many national organs received such low assessment scores, and also that two national organs received the mark "unsatisfactory", namely the Ministry of Education and Sport and Government Office of the Republic of Slovenia for Development.

Table 2: Common assessment of the ministries and government offices in the project Mirror to the Government 2006:

No.	Body	Environment points (max. 24)	Preparation Procedures points (max. 35)	Sum points (max. 59)	Asses. ¹ (max. 5)
1	Ministry of Labour, Family and Social Affairs	19	21,3	40,3	4
2	Ministry of Culture	16	20	36	4
3	Ministry for the Environment and Spatial Planning	15	18,6	33,6	3
4	Ministry of Agriculture, Forestry and Food	13	18	31	3
5	Government Office of Republic of Slovenia for Regional Development and Local Self-Government	15	15,5	30,5	3
6	Ministry for Public Service	15	14	29	3
7	Ministry of Foreign Affairs	15	12	27	3
8	Ministry of Transport	11	15,7	26,7	3
9	Ministry of Justice	10	15	25	3
10	Ministry of Higher Education, Science and Technology	12	11,5	23,5	2
11	Ministry of the Interior	12	9,5	21,5	2
12-13	Government Office for Nationalities	9	12	21	2
12-13	Ministry of the Economy	11	10	21	2
14	Ministry of Defence	14	6	20	2
15	Ministry of Finance	9	9,7	18,7	2
16	Ministry of Health	12	5	17	2
17-18	Government Office of Republic of Slovenia for Development	3	7	10	1
17-18	Ministry for Education and Sport	0	10	10	1

1. Since this is a pilot project the scale is less demanding. Assessment criteria are as follows: lowest score 1 (20 % and less of possible points), score 2 (from 21 % to 40 % of possible points), score 3 (from 41 % to 60 % of possible points), score 4 (from 61 % to 80% of possible points), and the highest score 5 (from 81% to 100% of possible points). Translated into points this means: lowest score 1 (11,7 points or less), score 2 (11,8 points to 23,5 points), 3 (23,6 points to 35,3 points), 4 (35,4 points to 47,1 points) and the highest score 5 (47,2 point to 59 points).

Final results of the project Mirror to the Government 2006 in graphical form:



Environment / Preparation Procedures

Irrespective of slight deviations in the preparation of individual acts the Ministry of Labour, Family and Social Affairs is best equipped with mechanisms for public participation. Ongoing provision of participation opportunities, the politics of dialogue, openness for improvements and relevant awareness of the environment supporting the preparation of the acts provides integrated opportunities for quality regulation, relative satisfaction of the interested public, and consequently a high level of consensus in realization of regulation.

4.2. Evaluation of general communication and support environment

An integral part of the general evaluation of an individual ministry is its communication and general support environment provided for participation of civil society, which is relatively evenly developed across the monitored national bodies.

Data obtained from the ministries and government offices reveal that the overall activity of the ministries is relatively unified in the communication and support environment area. Despite the lowered criteria the majority of the bodies were evaluated as “good” or “satisfactory”. Only the Ministry for Education and Sport was not assessed in this set because it did not complete the questionnaires.

Comparatively speaking, the results show a more consistent compliance with legal duties in the area of public participation, which again confirms the thesis about Slovenia being a country in transition, where the areas, which are not strictly regulated, present only a discretion field of national organs, mainly with few positive practices, while the development is slow and unsystematic.

Table 3: State organs, included in the project Mirror to the Government 2006, classified according to collected points in relation to general communication and support environment for participation of civil society in their activities:

No.	Body	Environment points (max. 24)	Preparation Procedures points (max. 35)	Sum points (max. 59)	Asses. ¹ (max. 5)
1	Ministry of Labour, Family and Social Affairs	6	13	19	4
2	Ministry of Culture	7	9	16	4
3-6	Ministry for Public Service	9	6	15	4
3-6	Ministry of Foreign Affairs	8	7	15	4
3-6	Government Office of Republic of Slovenia for Regional Development and Local Self-Government	8	7	15	4
3-6	Ministry for the Environment and Spatial Planning	5	10	15	4
7	Ministry of Defence	6	8	14	3
8	Ministry of Agriculture, Forestry and Food	6	7	13	3
9-11	Ministry of Higher Education, Science and Technology	4	8	12	3
9-11	Ministry of Health	4	8	12	3
9-11	Ministry of the Interior	6	6	12	3
12-13	Ministry of the Economy	6	5	11	3
12-13	Ministry of Transport	7	4	11	3
14	Ministry of Justice	4	6	10	3
15-16	Ministry of Finance	5	4	9	2
15-16	Government Office for Nationalities	3	6	9	2
17	Government Office of Republic of Slovenia for Development	2	1	3	1
18	Ministry for Education and Sport	/	/	/	1

1. Since this is a pilot project the scale is set less demanding. Classification is as follows: lowest score 1 (20 % and less of possible points), score 2 (from 21 % to 40 % of possible points), score 3 (from 41 % to 60 % of possible points), score 4 (from 61 % to 80 % of possible points), and the highest score 5 (from 81 % to 100 % of possible points). In points the lowest score 1 presents 4,7 points, score 2 4,8 points to 9,5 points, score 3 9,6 points to 14,3 points, score 4 14,4 points to 19,1 points, and score 5 19,2 points to 24 points.

Pattern and responsiveness of the ministries and government offices

General time responsiveness of the respondents, who sent in the completed first questionnaire, is evaluated as poor. That the individual time limits for the receipt of written proposals and remarks by civil society are not shorter than 30 business days has been determined as a minimal standard. This can also be followed in the ministries' response to the questionnaire.

Some interesting statistical data on communication environment of the ministries and government offices

We find that the proposers' (100 %) *general mechanisms* for public participation include an appointed person for providing information of public character according to Access to Public Information Act. 77,7 % of the respondents issue publications about their activities. It is of interest that among the ministries the Ministry of Higher Education, Science and Technology, the Ministry of Culture, the Ministry of Health and the Ministry of Defence do not issue publications.

A special set of questions focused on the evaluation of the suitability of respondents' constituted information-communication technologies and instruments of electronic democracy. 16 out of 18 respondents publish different data bases and registers at their website; the Government Office of RS for Development does not provide for this, while the Ministry of Higher Education, Science and Technology did not provide an answer. E-newsletters to target and general publics are sent by 83,3 % of the respondents. Only six (33,3 %) respondents organize events based on information-communication technology ICT (e.g. internet videoconferences). Six respondents organize functioning of working bodies or groups with public participation by way of ICT technologies (e.g. e-sessions).

Modest four respondents (22,2 %) ensure the visibility of proposals and observations, communicated by the public in relation to the respondent's activities, at the website. A significantly higher number of them (55,5 %) ensure the publication of their feedback on questions and remarks of different publics. One of the ministries stated that the answers to frequent questions are available at their website.

Some statistical data on support environment of the proposer of the act:

In the area of *participation of civil society in the activities of the proposer* we find that seven (38,8 %) of the respondents have a person appointed for collaboration with civil society organisations. Fourteen (77,7 %) respondents provide the opportunity to the interested civil society organisations to express their interest in receiving information and announcements about the body's activities, while the Ministry for Public Service is in the process of establishing the system. In a good half (55,5 %) of the respondents expert councils or commissions including representatives of civil society are active. The biggest number of them (eight) is active at the Ministry of Labour, Family and Social Affairs.

One third of the bodies include civil society representatives in international delegations for participation at international events: some of them on their own initiative, others at the initiative of the interested (e.g. the Ministry of Labour, Family and Social Affairs at the initiative of trade unions). Only three (16,6 %) respondents have a pre-delineated format of selection of civil society representatives in case their participation needs to be limited.

In *ensuring financial-material support environment provided by the proposer for participation of civil society in act preparation procedures* we find that five respondents do not finance projects of non-governmental and civil society organisations. Seven respondents ensure special resources for participation of civil society in the act preparation procedures (travel expenses, remuneration for the work of the representatives, resources for support service organisations, etc.). The majority of the ministries stated the amount of the resources and the number of organisations, which were granted the resources. The highest amount of resources was granted by the Ministry of Labour, Family and Social Affairs (1.547 billion tolar was divided among 486 organisations in the year 2006) and the Ministry of Defence (1.775 billion tolar). The amount of granted resources was not translated into points.

A half of the respondents also allow for other modes of support environment, namely offering space for civil society needs free of charge (especially space for conferences and education programmes,

and also certain nongovernmental organisations' programmes) or the use of space on subsidized rent (e.g. for seminars).

4.3. Evaluation of act preparation procedures

Set C indicators were intended to measure public participation as a comprehensive evaluation of the procedure of the preparation of an individual act. In the frame of the project 45 acts were monitored and are classified from more to less successful examples. In this set the maximum amount of points is 35. With regard to act preparation procedures and public participation only 5 of the acts scored as excellent and good, namely:

- Operational Programme of Reduction of Greenhouse Gas, *Ministry for the Environment and Spatial Planning*, 30 points,
- Action Programme for Disabled People 2007–2013, *Ministry of Labour, Family and Social Affairs*, 29 points,
- Cultural Heritage Protection Act, *Ministry of Culture*, 25 points,
- Wild Game and Hunting Act, *Ministry for Agriculture, Forestry and Food*, 22 points,
- Regions Act, *Government Office of the RS for Local-Government and Regional Policy*, 22 points.

Less than one tenth of the monitored acts thus received a satisfactory evaluation, despite the lowered criteria. Therefore these procedures can be qualified as *relative examples of good practice*. In the preparation of the Action Programme for Disabled People 2007–13 the following procedures, prepared by the proposer, should be mentioned:

- the working group for act preparation included representatives of organisations for the disabled
- expert groundwork was available at the proposer's website
- expert procedural counselling was ensured for the preparation of the act, participation of interested public was possible through events or web forums, interested civil society was included in the earliest stage, when the possibilities were open, special events, intended for public participation, were organized
- proposer provided a relatively long time limit for the receipt of written proposals and remarks of civil society (from 7 to 14 days), it is recommended that the limit be prolonged to 30 days
- proposer took a position toward civil society response in relation to individual content areas
- proposer also evaluated to what extent civil society proposals have been taken into consideration, namely, the propositions were coordinated in the extent from 30 to 80 %.

The following nine acts were awarded with 6 or less points out of 35, thus receiving the assessment "*unsatisfactory*" (1):

- National Housing Strategy, *Ministry for the Environment and Spatial Planning*, 6 points.
- Long Term Care and Long Term Care Insurance Act, *Ministry of Health*, 5 points.
- Patient Rights Act, *Ministry of Health*, 5 points.
- Alternative Medicine Act, *Ministry of Health*, 5 points.
- Act on Provision of Finance for Basic Development Programmes for the Slovene Army from 2007 to 2015, *Ministry of Defence*, 5 points.
- Budget Implementation Act of RS for the years 2007 and 2008, *Ministry of Finance*, 4 points.
- Constitutional Act Amending the Constitutional Act Implementing the Basic Constitutional Charter on the Independence and Sovereignty, *Ministry of the Interior*, 1 point.
- Public Undertaking Act (amendments), *Ministry of the Economy*, 1 point.

Minimal levers for public participation were employed in the preparation of these acts. Among the act proposals receiving a negative score is also the so called "Act on the Erased", a number of acts from the area of health, and primarily the acts on budget implementation, namely those with great social and political significance. It should be mentioned at this point that certain act procedures have not yet been terminated, thus the respondents were not able to receive all possible points for further conduct of the process.

Detailed interpretation of the stated data together with a comprehensive list of assessed acts is available in the comprehensive project report at www.umanotera.org.

5.

Recommendations for improvements of the current practice

The project Mirror to the Government was conceived with an aim to evaluate current public participation and at the same time to encourage improved and quality public participation in the processes of preparation of government acts. Therefore, the project indicators themselves were conceived as examples of effective and good practice, which may suggest quality decision-making processes to act proposers, which are also laid down with international conventions and practices (Aarhus Convention, EU recommendations, OECD, UN).

The spectre of public engagement is also delineated in the scheme of International Association for Public Participation IAP2, which is widely used in Western democracies and delineates five levels of public participation. The traits of public participation, indicated higher in the scale, are that the publics have greater powers, freedom and impact and that they participate in the early stages of the process. This is manifest in greater support to the decisions and in effectiveness of their implementation. If public support is needed for programme implementation then it is recommended that the public is included as high as possible in the scale. In different stages of the process participation can take place at different levels.

IAP2 Public Participation Spectrum:

Increasing level of public impact

Inform	Consult	Involve	Collaborate	Empower
Public Participation Goal: To provide the public with objective information to assist them in understanding the problems, alternatives and/or solutions.	Public Participation Goal: To obtain public feedback on analyses, alternatives and/or decisions.	Public Participation Goal: To work directly with the public throughout the process to ensure that the public concerns and aspirations are consistently understood and considered.	Public Participation Goal: To partner with the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solution.	Public Participation Goal: To place final decision-making in the hands of the public.
Promise to the Public: We will keep you informed.	Promise to the Public: We will keep you informed, listen to acknowledge concerns, and provide feedback on how public input influenced the decision.	Promise to the Public: We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed, and provide feedback on how public input influenced the decision.	Promise to the Public: We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the	Promise to the Public: We will implement what you decide.
Example Tools: Fact sheets Websites "Open houses"	Example Tools: Public comments Focus groups Surveys Public meetings	Example Tools: Workshops	Example Tools: Citizen advisory committees Consensus building Participatory decision-making	Example Tools: "Citizen juries" Ballots Delegated decisions.

We recommend to the Government of the Republic of Slovenia and to the authorities to use the above scheme for public participation systemically and to consider the indicators stated in the frame of the project Mirror to the Government.

Recommendations to the Government of the Republic of Slovenia and to act proposers were prepared at a workshop, which included representatives of nongovernmental organisations and representatives of act proposers. Recommendations are stated below.

5.1. Systemic recommendations to the Government of the Republic of Slovenia

It is recommended that the Government of the Republic of Slovenia adopts systemic regulation in the area of public participation with applying the following principles:

Principle of equality:

Proposals, initiatives, remarks and comments of nongovernmental organisations are not reviewed in view of their relative strength.

Principle of timeliness:

Timely informing of the public (expert, interested or affected) and ensured reasonable time limit for participation (material reviews, preparation of remarks ...).

Principle of openness:

Possibility of communicating the remarks and proposals, and participation in the earliest possible stage of the document preparation.

Principle of accessibility:

Accessibility of materials and groundwork used in the preparation of decisions.

Principle of responsiveness:

Informing the participants about the causes for (not) taking their remarks and proposals into consideration.

Principle of transparency:

The process needs to ensure transparency at the level of field definition, which is open for modifications, of procedures (clear rules) and of collaboration (publication of remarks and proposals of all participants).

Principle of traceability:

Traceability of participating processes presupposes the traceability of expressed opinions, remarks and comments as well as of the procedural material (e.g. records) and its accessibility (see principle of transparency)

For higher quality of public participation processes we recommend to the Government the following:

1. *Training* of decision-makers and expert offices for communication with the publics about the planning and implementation of public participation processes. The programme is established in the frame of the Academy of Administration, modelled on the training modules of the International Association for Public Participation (www.iap2.org).
2. *Instructions* for planning, conduct and evaluation of public participation procedures should be adopted by the Government.
3. *Prescribed* publication and standard content of the announcement. On initiation of act preparation procedure each government body prepares and publicly publishes an announcement containing:

- title of the act,
- goal of preparation procedure,
- timetable of preparation procedure with delineation of individual procedure stages,
- reference to expert groundwork,
- planned receipt deadline,
- call for public participation,
- person appointed for act preparation,
- necessary tools of the proposer's communication with the public, other.

4. *Central portal of all government bodies for public participation*; the portal provides public and transparent act preparation procedures, and includes:

- announcements of all acts,
- opportunity to participate in the preparation of acts as interested public,
- e-discussion for expert and general public in different stages of act preparation,
- drafts of all acts in public debate and the pertaining expert materials,
- form for filing remarks on act drafts and the mechanism providing the continuous public transparency at the website,
- reports on public participation processes, including the feedback of a government body to given remarks,
- uniform website entry in all ministries and government offices to facilitate identification and orientation in act implementation procedures.
- Users' representatives are included in the formation and testing of the portal.

5. *Methodology for monitoring and evaluation of act implementation*, which includes models for monitoring (timetable, criteria, content ...) and setting up of a web rubric for transparent monitoring and evaluation of particular acts at the website.

5.2. Recommendations to act proposers:

For enhanced *support environment* we recommend:

- Appointment and training of a person for collaboration with civil society organisations, which has a role of the "stakeholder manager", i.e. a person appointed for inclusion of different participants of civil society in the decision-making processes (not only a person appointed for public relations).
- Comprehensive information about the remarks and proposals of the public to the proposer in relation to its activity. An example of such provision of information is an e-book of remarks and suggestions and of the opinions about the work of the ministries and government offices available online. In view of key critical remarks the bodies prepare an action plan for improvement measures.
- More frequent use of e-surveys and e-questionnaires for getting feedback from civil society, while public debate is also effectively conducted via e-forums.
- The selection of representatives of civil society (consulting bodies, delegations), in case their number is limited, should be prepared in advance within the civil society sector, or selection should be made with a clearly defined public call.
- Events, where participation of civil society representatives in the national delegations of the proposer is necessary/requisite, should be identified, and the financing for this should be regulated.

For enhanced *public participation in the act preparation procedures* we recommend:

a. Initiation of act preparation procedure

- Recording of interested publics: based on the interest expressed in advance (Ministry for Public Service) and the examination of who is affected by the act or who influences act implementation.

- Direct notification of interested publics on the initiation of the act preparation procedure and the publication of the announcement at the website. Until the uniform content of the announcement is prescribed it is recommended that it includes:
 - title of the act,
 - goal of preparation procedure,
 - timetable of preparation procedure with delineation of individual procedure stages,
 - reference to expert groundwork,
 - planned receipt deadline,
 - estimated costs of act preparation procedure,
 - call for public participation and goals of public participation,
 - appointed person for act preparation,
 - necessary tools of the proposer's communication with the public.
- Expert procedural counselling is ensured for public participation in the act preparation procedure.
- Public participation plan:
 - public participation in the earliest stage of the act preparation, when possibilities are still open,
 - organisation of events for active public participation (discussions, consultations, etc.), with the focus not on one-way provision of information but on an interactive relation, i.e. a moderated event,
 - events, intended for public participation, should be enhanced with the opportunity of e-remarks and e-forum,
 - ensured independent professional moderating.
- Time schedule for public participation should take into consideration the circumstances (leaves, holidays, etc.).

b. Early stage of act preparation

- Formation of different solutions for reasonably selected elements of the act in participation with the public, which needs to be included in the earliest stage of act preparation, when all possibilities are still open. The proposer should prepare solutions in a way that they:
 - are acceptable (not only formal)
 - are of quality
 - provide clear criteria for selection
 - reflect a possible solution of key problems, dilemmas (possible solutions of the entire act are not expected).
- Equal participation of civil society organisations is provided for in the preparation of expert materials, which needs to be clearly defined in the project work (content and objectives of the tender).
- Expert groundwork should include summaries for lay public, where the preparation of such summaries is included already in the project work for the contract for expert groundwork.

c. Public debate of act draft

- General guidelines for time limits:
 - for the receipt of written proposals and remarks of civil society time limits should not be shorter than 30 business days,
 - invitations to events should be received at least 15 days prior to the event,
 - circumstances (leaves, holidays, etc.).
- For comments of civil society the following is ensured:
 - continuous public transparency of proposals and remarks at the website.
 - proposer's position on individual civil society proposals (were the propositions accepted or not; if not, reasons for refusal),
 - report on received civil society remarks with the proposer's position on them and the publication of the level of consistency at the website,
 - final report on received remarks, which is an integral part of the materials for act preparation (following the model of Spatial Planning Act).



The project Mirror to the Government 2006 was financed by the Trust for Civil Society in Central and Eastern Europe within the programme Good Society (Dobra družba) in Slovenia.

Report title: Umanotera Reports – Mirror to the Government 2006, the practice and traits of collaboration with civil society

Prepared by: Umanotera, Slovenian Foundation for Sustainable Development, in collaboration with Legal-Information Centre for NGOs PIC

Editor and project leader: Mateja Kurir Borovčič

Monitoring for project realization: Barbara Skaberne, Mateja Kurir Borovčič,

Gaja Brecelj, Marjana Dermelj, Maja Papež Iskra PhD, Matej Rauch, Črt Poglajen

Authors of the text: Primož Šporar, Mateja Kurir Borovčič, mag. Vida Ogorelec Wagner,

Miro Cerar PhD. (Introduction), Matej Verbajs, mag. Tomaž Klenovšek

Typeset: Igor Medjugorac

Design: Blaž Medja

Translated by: Katja Kosi

Comprehensive report available at: www.umanotera.org
Ljubljana, March 2007