

**CIVIC SPACE FOR
PARTICIPATION IN
CLIMATE POLICIES
IN COLOMBIA,
GEORGIA AND
UKRAINE**

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Abbreviations

ACC: Anti-Corruption Interagency Coordination Council

ACOLGEN: Colombian Association of Energy Providers (*Asociación Colombiana de Generadores de Energía Eléctrica*)

ANDESCO: Colombian National Association of Public Service and Communication Enterprises (*Asociación Nacional de Empresas de Servicios Públicos y Comunicaciones*)

ANDI: Colombian Chamber of the Pharmaceutical Industry (*Cámara de la Industria Farmacéutica*)

BMU: German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (*Bundesministerium für Umwelt, Naturschutz und nukleare Sicherheit*)

BTI: Bertelsmann Transformation Index

BTR: Biennial Transparency Report

BUR: Biennial Update Report

CAMACOL: Colombian Chamber of Construction (*Cámara Colombiana de la Construcción*)

CAP: Georgian Climate Action Plan

CAR: Environmental Councils of Regional Environmental Entities in Colombia (*Consejos Ambientales de las entidades ambientales de orden regional*)

CCCS: Colombian Council of Sustainable Construction (*Consejo Colombiano de Contrucción Sostenible*)

CCC: Georgian Climate Change Council

CCD: Georgian Climate Change Division

CCPI: Climate Change Performance Index

CDM: Clean Development Mechanism

CENN: Caucasus Environmental NGO Network

CESE: Economical, Social and Environmental Council of France (*Conseil Économique Social et Environnemental*)

CICC: Colombian Intersectoral Commission on Climate Change (*Comisión Intersectorial de Cambio Climático*)

CICC: Mexican Inter-Ministerial Commission on Climate Change (*Comisión Intersecretorial de Cambio Climático*)

CIF: Climate Investment Fund

CIM: Brazilian Inter-Ministerial Committee on Climate Change (*Comitê Interministerial sobre Mudança do Clima*)

CLI: Collective Leadership Institute

CMCG: Covenant of Mayors Coordinating Group

CNA: Colombian National Environmental Council (*Consejo Nacional Ambiental*)

CNCC: Colombian National Climate Change Council (*Consejo Nacional de Cambio Climático*)

CNMA: Brazilian National Conference on the Environment (*Conferência Nacional do Meio Ambiente*)

CoM: Covenant of Mayors

CONPES: Colombian National Council for Economic and Social Policy (*Consejo Nacional de Política Económica y Social*)

COP: Conference of the Parties

CPI: Corruption Perception Index

CRRC: Caucasus Resource Research Centre

CSO: Civil Society Organisation

DNP: Colombian National Planning Department (*Departamento Nacional de Planeación*)

EaP CSF: Eastern Partnership Civil Society Forum

EBRD: European Bank for Reconstruction and Development

ECCD: Georgian Environment and Climate Change Department

ECDDB: Colombian Low Carbon Development Strategy (*Estrategia Colombiana de Desarrollo Bajo en Carbono*)

EDI: Environmental Democracy Index

EEB: European Environmental Bureau

EEC: Georgian Energy Efficiency Centre

EESC: European Economic and Social Committee

EIA: Environmental impact assessment

EICDGB: Colombian Comprehensive Strategy to Control Deforestation and Manage Forests (*Estrategia Integral de Control a la Deforestación y Gestión de los Bosques*)

EIEC: Environmental Information and Education Centre

ELN: National Liberation Army (*Ejército de Liberación Nacional*), *revolutionary left-wing armed group in Colombia*

ENREDD+: Colombian National Strategy for Reducing Emissions from Deforestation and Forest Degradation (*Estrategia Nacional de Reducción de Emisiones por Deforestación y Degradación de los Bosques*)

ESAL: Non-profit entity in Colombia (*Entidad sin ánimo de lucro*)

- EU:** European Union
- EWG:** Expert working group
- FAQ:** Frequently asked questions
- FARC:** Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*), *guerrilla movement in Colombia*
- FNMC:** Brazilian Climate Change Platform (*Fórum Brasileiro de Mudanças Climáticas*)
- FPIC:** Principle of free, prior, and informed consent
- GEF:** Global Environment Fund
- GHG:** Greenhouse gas
- GIZ:** German Society for International Cooperation (*Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH*)
- GMG:** Greens Movement of Georgia – Friends of the Earth Georgia
- GNP:** Georgian National Platform
- GT-VINC:** Working Group for Relations with Civil Society in Mexico (*Grupo de Trabajo de Vinculación con la Sociedad Civil*)
- HIK:** Heidelberg Institute for International Conflict Research (*Heidelberger Institut für Internationale Konfliktforschung*)
- IACHR:** Inter-American Commission on Human Rights
- ICCC:** Ukrainian Inter-Agency Commission on Climate Change
- IDEAM:** Colombian Institute of Hydrology, Meteorology and Environmental Studies (*Instituto de Hidrología, Meteorología y Estudios Ambientales*)
- IEKK:** Integrated Concept for Energy and Climate Protection of Baden-Württemberg (*Integriertes Energie- und Klimaschutzkonzept*)
- IKI:** International Climate Initiative (*Internationale Klimaschutzinitiative*)
- IKV PAX:** Interchurch Peace Council
- ILO:** International Labour Organisation
- INDC:** Intended Nationally Determined Contribution
- IPCC:** Intergovernmental Panel on Climate Change
- JIN:** Youth initiative of the sustainability strategy in Baden-Württemberg (*Jugendinitiative der Nachhaltigkeitsstrategie*)
- KLN:** Klimaforum Latinoamérica Network
- LEDS:** Low Emission Development Strategy
- LTS:** Long-term Strategy
- LULUCF:** Land Use, Land-use Change and Forestry
- MADS:** Colombian Ministry for the Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sostenible*)
- MEEP:** Ukrainian Ministry of Energy and Environmental Protection
- MENR:** Ukrainian Ministry of Ecology and Natural Resources
- MENRP:** Georgian Ministry of Environment and Natural Resources Protection
- MEPA:** Georgian Ministry of Environmental Protection and Agriculture
- MESD:** Georgian Ministry of Economy and Sustainable Development
- MMA:** Brazilian Ministry of the Environment (*Ministério do Meio Ambiente*)
- MPC:** Permanent Coordination Board with Indigenous Peoples and Organisations (*Mesa Permanente de Concertación con los Pueblos y Organizaciones Indígenas*)
- MSMEA:** Roundtable of Social Affairs, Mining and Energy, and Environment for Peace (*Mesa Social Minero-Energética y Ambiental por la Paz*)
- NAMA:** Nationally Appropriate Mitigation Action
- NAPR:** National Agency for Public Registry
- NASA:** National Aeronautics and Space Administration
- NC:** National Communication
- NCI:** NewClimate Institute
- NDC:** Nationally Determined Contribution
- NDCA:** Irish National Dialogue on Climate Action
- NDP:** National Development Plan of South Africa
- NEAP:** National Environmental Action Plans
- NECP:** Integrated National Energy and Climate Plan
- NEEAP:** National Energy Efficiency Action Plan
- NERP:** National Emission Reduction Plan
- NFI:** National Forestry Inventory
- NFP:** National Forest Programme
- NGO:** Non-governmental organisation

NOAA: National Oceanic and Atmospheric Administration

NPC: National Planning Commission of South Africa

NRCC: Regional Climate Change Hubs in Colombia (*Nodos Regionales de Cambio Climático*)

NREAP: National Renewable Energy Action Plan

OGP: Open Government Partnership

PAS: Colombian Sectoral Action Plans for Mitigation (*Planes de Acción Sectorial de Mitigación*)

PIGCCS: Colombian Comprehensive Sectoral Climate Change Management Plans (*Planes Integrales de Gestión del Cambio Climático Sectoriales*)

PIGCCT: Colombian Comprehensive Territorial Climate Change Management Plans (*Planes Integrales de Gestión del Cambio Climático Territoriales*)

PIVAC: Intergenerational Pact for the Life of the Colombian Amazon (*Pacto Intergeneracional por la Vida del Amazonas Colombiano*)

PNACC: Colombian National Climate Change Adaptation Plan (*Plan Nacional de Adaptación al Cambio Climático*)

PNCC: Colombian National Climate Change Policy (*Política Nacional de Cambio Climático*)

PND: Colombian National Development Plan (*Plano Nacional de Desarrollo*)

PNMC: National Policy on Climate Change of Brazil (*Política Nacional sobre Mudança do Clima*)

Q&A: Question and answer

RCDA: Rural Communities Development Agency

REC Caucasus: Regional Environmental Centre for the Caucasus

REDD+: Reducing Emissions from Deforestation and Forest Degradation

RIO +20: United Nations Conference on Sustainable Development

RPR: Reanimation Package of Reforms

SAEE: State Agency of Energy Efficiency

SDCA: Social Development Centre Akhaltsikhe

SEA: Strategic environmental assessment

SEAP: Sustainable Energy Action Plan

SECAP: Sustainable Energy and Climate Action Plans

SEMA: Georgian Ecological Agricultural Association

SEMARNAT: Mexican Secretariat for Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*)

SIDA: Swedish International Development Agency

SINACC: National Climate Change System of Mexico (*Sistema Nacional de Cambio Climático*)

SISCLIMA: Colombian National Climate Change Governance System (*Sistema Nacional de Cambio Climático*)

SNIF: Colombian National Forestry Information System (*Sistema Nacional de Información Forestal*)

UCN: Ukrainian Climate Network

UFU: Independent Institute for Environmental Issues (*Unabhängiges Institut für Umweltfragen*)

UN: United Nations

UNCED: United Nations Conference on Environment and Development

UNDP: United Nations Development Programme

UNECE: United Nations Economic Commission for Europe

UNECLAC: United Nations Economic Commission for Latin America and the Caribbean

UNEP: United Nations Environment Programme

UNFCCC: United Nations Framework Convention on Climate Change

USAID: United States Agency for International Development

WECEF: Women in Europe for a Common Future

WEG: World Experience Georgia

WWF: World Wildlife Fund

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Preface



Antje von Broock, Executive Director for Communication and Policy, BUND – Friends of the Earth Germany

Civil society actors are playing an increasingly important role around the world, especially when viewed in the context of the accelerating global crises of climate change and biodiversity loss. In many cases, it is civil society actors in particular who draw attention to the impact of these crises on the ground. They act as nature's advocate and voice, driven by the desire to protect the environment and preserve healthy living conditions for human beings. Environmental organisations fulfil many roles simultaneously: they are watchdogs that raise awareness of sensitive issues and unsustainable conditions. Their strong ties at the local level and knowledge of the local environment and the threats it faces are their greatest assets and also their most important legitimisation to fulfil this role. They are the mobilisers of change when putting issues and policies onto the agenda, rallying public opinion against the unsustainable use of natural resources or to support policies that protect the environment. They are not afraid to question the paradigms of growth and to trigger societal debates about how socio-ecological change can be fostered. Often, they take solutions into their own hands and implement innovative projects and actions themselves. They also act as mediators, pooling social interests and fighting for all to be able to participate in political processes. Working in an agile network, we observe that civil society organisations and activists around the world fulfil many of these roles in their work on climate protection. Unfortunately, we also see that our partners face numerous barriers and threats while doing their tremendously important work for the planet and the people.

The climate crisis and the need for all nations, regions and communities to deal with climate protection and adapt to climate change will be on the agenda for decades to come. The economic and social system must be adapted to changed framework conditions because the alternative to this is not the continuation of the status quo, but rather the collapse of society and ecosystems. The long-term perspective required for this enormous task is not something which politics and markets possess, but many civil society organisations do. Furthermore, there is a need to mediate the different legitimate interests and conflicts that arise. Involving civil society is a catalyst for the comprehensive, effective and professional implementation of climate protection and adaptation measures. However, there is a need for modern, effective and sustainable participation mechanisms on all political levels. Adequate representation, transparency about the opportunities for participation and the highest possible degree of commitment to the results of participation are desirable framework conditions for this.

This study has comprehensively dealt with how civil society is currently involved in setting climate policy at the national level. In addition to analysing the global framework for participation, the authors present studies of three countries, identify barriers and examples of good practice, and formulate specific recommendations of measures that could make the participation of civil society more effective. With this, they describe a participatory approach to reach our vision of a future living within the planetary boundaries, with decarbonised societies and social justice for all.

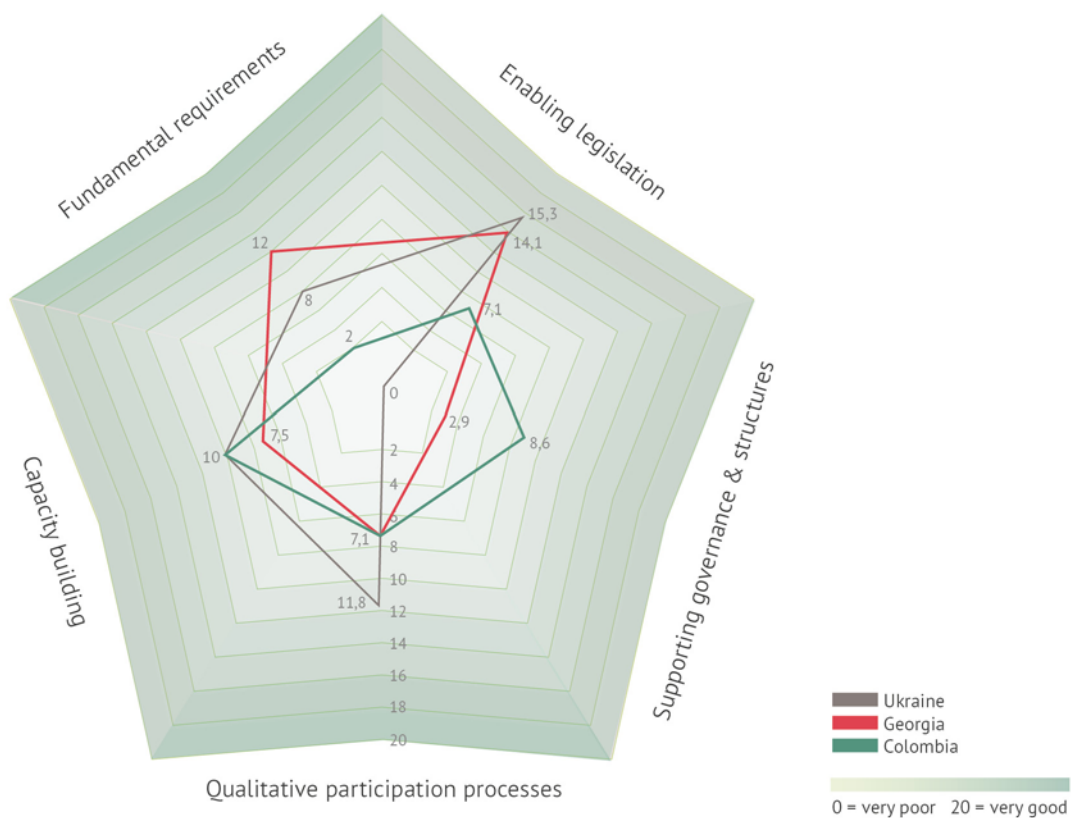


Dr. Michael Zschiesche, Executive Director, Independent Institute for Environmental Issues (UfU)

Summary of findings

This study analyses the conditions for and practices of civil society participation in climate policies in Colombia, Georgia and Ukraine. For each country, the study starts with an overview of the most important developments in climate policy in recent years. This is followed by an introduction and description of national civil society stakeholders with a focus on civil society organisations (CSOs) that work in the field of climate protection and climate policy. Then, the study analyses the legal framework for participation in each country and describes structures and institutions enabling participation in climate policy making. Additionally, some selected examples for participation procedures in national climate policy development are described for each country. Based on these analyses, the most important barriers for effective civil society participation were identified for each of the three countries, followed by recommendations how to overcome these barriers. The country-specific analyses are complemented by standardised assessments of the situation of climate-related civil society participation, considering five evaluation criteria including a point system to rate them. These criteria are: (1) fundamental requirements for participation, (2) enabling legislation, (3) supporting governance and structures, (4) qualitative participation processes, and (5) capacity building. Figure 1 gives an overview of the results of the assessments.

Figure 1: Assessment of the environment and opportunities to participate in climate policies in Colombia, Georgia and Ukraine (scaled to a maximum of 20 points)



For **Colombia**, the slowed-down peace process and the alarming lack of security of citizens, especially of environmental and human rights defenders, were identified as fundamental barriers for effective civil society participation in climate policies. Furthermore, shortcomings in the execution of laws and the implementation of agreements and the restriction of participation rights by the case-law of the Constitutional Court were identified as major legal barriers. Structural and institutional barriers were identified, including unclear competencies, the limited capacities of responsible authorities, the very technical debate on climate change, a lack of awareness for participation rights, and a lack of trust. Moreover, missing standards for civil society participation, the limited representation of civil society within participation processes, and a different understanding of the purpose of participation between the state and civil society decrease the effectiveness of participation processes. To overcome the identified barriers in Colombia, it is essential to increase security for citizens and environmental defenders. Furthermore, it is recommended to ratify and fully implement the Escazú Agreement, to define mandatory legal procedures for public participation, to define competencies and responsibilities clearly, and to strengthen the budget for environmental participation. The quality of participation processes should be enhanced by facilitating access to target-group specific information, including a broader range of civil society stakeholders and increasing transparency and traceability of decision-making processes. Finally, it is recommended that capacity building on formal and informal participation mechanisms is carried out, and the amount of media coverage and education on climate policies and civic rights is increased.

The fundamental barriers for effective participation in climate policies that were identified for **Georgia** are a lack of political will, corruption, a weak lobby for climate issues, a lack of trust in decision makers and a lack of support of civil engagement by the media. Furthermore, it is problematic that Georgia did not fully incorporate the provisions of the Aarhus Convention into national legislation. At the political level, hierarchical power structures, unclear responsibilities and inefficient institutional cooperation hinder effective civil society participation. In addition, low awareness and interest for climate issues and low political engagement on behalf of civil society may relate to the problem that the voices of civil society and CSOs are often ignored, not taken seriously by decision-makers, or have only little influence on political decisions. Finally, participation procedures in Georgia are not very inclusive or transparent, and there is not an appropriate variety of participation instruments and methods adapted to different conditions and topics. To overcome the barriers in Georgia, it is needed to raise the political will and to consider participation and the contributions of civil society as a benefit for policy development. In addition, it is essential to make decision-making including participation procedures more transparent. Furthermore, it is recommended that Georgia implements Articles 7 and 8 of the Aarhus Convention into national legislation, specifying the requirements for participation in the development of policies, plans and programmes. It is also important to improve coordination and cooperation regarding participation processes, to strengthen long-term structures, and to provide more human and financial resources for participation. Moreover, to enhance the quality of participation processes, it is recommended to ensure a broad range of civil society stakeholders are invited to participate at an early stage, to organise appropriate formats, to provide transparency and information, to take due account of recommendations, and to evaluate the participation processes. Finally, capacity building in terms of raising public awareness and skill development for CSOs would be desirable to increase the quality of civil society participation in Georgia.

Like in Georgia, also in **Ukraine** the missing political will to involve civil society in decision-making was identified as being a fundamental barrier for effective participation. Likewise, the insufficient incorporation of the requirements of the Aarhus Convention into national legislation results in significant restrictions on the public able to participate. In addition, recent parliamentary elections and reshuffling of responsibilities have required CSOs to establish new contacts to foster their involvement in and influence on political processes. In Ukraine, the consolidation of policy planning processes including public participation is weak and possible synergies between the development of required strategies, plans and documents are not fully exploited. Furthermore, political decisions are often driven by opinions and interests instead of scientific facts. At the civil society level, it is obvious that the Ukrainian public lacks a profound understanding of the opportunities and tools to influence climate policy. In addition, it is sceptical or underestimates its role within political processes. A lack of capacity on different levels of CSOs is a further identified barrier. Finally, the lack of accessible information and the lack of cooperation between the government and scientific institutions are major obstacles for them to participate in climate-related decision-making processes. Hence, also in Ukraine it is essential to raise the political will and to make decision-making and participation processes more transparent. From a legal perspective, it is recommended to amend the Law of Ukraine on the Protection of the Environment, to revise the Law on Strategic Environmental Assessment and to amend legislation to enable better access to information. Regarding supporting governance and structures, improvements could be made by strengthening cooperation and consolidation of planning processes, sharing responsibilities adequately between state, civil society and science to ensure the fair and efficient involvement of CSOs within the drafting and revision of climate-related plans, programmes and strategies, and to provide more resources for civil society participation. As Georgia and Ukraine face similar problems, also the recommendations for improving participation processes are similar, including the need to ensure a broad range of civil society stakeholders are invited to participate at an early stage, to provide more transparency and information, to take due account of recommendations, and to evaluate participation processes. Furthermore, capacity building, raising public awareness, and the development of skills of both representatives of CSOs and representatives of administrations are needed in both countries.

In addition to the detailed analyses of the three countries mentioned above, the third section of the study presents good practice examples for public participation in climate-related issues from a further nine countries, including France, the Netherlands, Ireland, Brazil, South Africa, Germany, Mexico and Peru. These can be an inspiration for other countries to improve their national climate-related decision-making and show how countries can learn from each other to improve the effectiveness of civil society participation in climate policies worldwide.



Part 1

Tuning in:

Background and study design

1 Background and overarching questions

1.1 International climate policy

Analyses by the National Aeronautics and Space Administration (NASA) and the National Oceanic and Atmospheric Administration (NOAA) show that Earth's global surface temperatures in 2019 were the second warmest since modern recordkeeping started in 1880. The five years between 2015 and 2019 were the warmest in the last 140 years.¹ Climate scientists predict a continuous warming trend, an increasing rate of sea-level rise, and loss of sea ice in both northern and southern polar regions over the next few years (World Meteorological Organization (WMO), 2019). The United Nations Framework Convention on Climate Change (UNFCCC), adopted in May 1992, set limits on greenhouse gas (GHG) emissions which aimed to prevent dangerous anthropogenic global warming. At the Conference of the Parties of the UNFCCC in 2015 (COP 21), 195 countries agreed on a treaty to limit global warming and its impacts (known as the Paris Agreement). The parties committed themselves to undertake ambitious efforts to keep the rise in global temperature in this century well below 2 °C above pre-industrial levels. The Paris Agreement even aims to limit the temperature increase to 1.5 °C. The latest IPCC Special Report clearly showed that achieving this goal is still possible and absolutely necessary to avoid catastrophic ecological, social and economic impacts (IPCC, 2018). Therefore, rapid and far-reaching shifts across all sectors are required, and a fundamental socio-ecological transformation is needed.

Analyses show that Earth's global surface temperatures in 2019 were the second warmest since modern recordkeeping started in 1880.

However, time is running out and current climate actions are insufficient. Five years after Paris, the global community is still far away from achieving the commitments set out in the agreement. The Emissions Gap Report of 2018 points out that “current commitments expressed in the Nationally Determined Contributions (NDCs)² are inadequate to bridge the emissions gap in 2030” (United Nations Environment Programme (UNEP), 2018, p. XIV). More ambitious NDCs, as well as more effective policies are needed to achieve the goals of the Paris Agreement. The Climate Change Performance Index confirms these findings: “None of the 56 countries nor the EU are on a well-below-2°C pathway in their overall performance, [...]” (Burck, Hagen, Marten, Höhne, & Bals, 2018, p. 5). The Climate Actions Tracker³ demonstrates that current policies around the world are projected to lead to warming between 3.1–3.5 °C above pre-industrial levels. Even if the pledges and targets (including the NDCs) that governments have formulated are implemented in full, it would result in warming of around 3.0 °C.

Current national commitments are inadequate to achieve the goals of the Paris Agreement to keep the rise in global temperature in this century well below 1.5 °C above pre-industrial levels.

1.2 Civil society participation in climate matters

Apart from international agreements, which are described in Chapter 1.4, the UNFCCC provisions and the Paris Agreement require public participation in climate matters. Article 4 of the UNFCCC specifies that all parties shall “promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of

¹ www.ncdc.noaa.gov/sotc/global/201913, accessed 20 January 2020.

² The Nationally Determined Contributions (NDCs) demonstrate the long-term goals of each country to reduce national emissions and adapt to the impacts of climate change.

³ <https://climateactiontracker.org/global/temperatures>, accessed 13 May 2019.

non-governmental organisations”⁴. The Paris Agreement clearly demands public participation and public access to information in Article 12 by indicating that “Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information”⁵.

Civil society actors, such as civil society organisations (CSOs) and non-governmental organisations (NGOs) should be involved in developing and implementing climate policy because they play a crucial role as “watchdogs” and “advocates” for a fair socio-environmental transformation. The scope of their activities and advocacy work ranges from raising awareness about climate change, building capacity, supporting climate change mitigation and adaptation activities to conducting research, developing strategies and measures, and influencing concrete climate policies (Reid, Ampomah, Olazábal Prera, et al., 2012). CSOs have many different forms and operate from the local to the global level. They often have deep insights into the needs and social values of the society and can speak up for those who are not heard (Shaw, 2011). They have the potential to be the “motor of a moral revolution” starting with a cultural transformation, followed by institutional, economic, and technological change (Schneidewind, 2018). The participation of civil society actors in climate policy should be strengthened as they act as important “climate advocates” and “advocates or stewards of the global commons” (Wissenschaftlicher Beirat der Bundesregierung Globale Umweltveränderungen (WBGU), 2014).

With regard to global climate governance, international literature agrees that non-state actors including CSOs play an important role, for instance, within international climate change negotiations (Andonova et al., 2009; Bäckstrand et al., 2017; Betsill & Corel, 2008). Environmental NGOs are transnationally well-connected, and use diverse channels and formats to participate and to advocate for their causes (Beisheim, 2004). They are gaining authority in global governance through different sources of power, such as their knowledge or their access to networks. Many of them have established good contacts with decision-makers and have become important partners to states. Moreover, they use established media strategies and are especially recognised for their work in awareness raising and representation (Nasiritousi et al., 2016).

The involvement of non-state actors, as well as the dialogue, knowledge exchange and cooperation between state and non-state actors have become more and more common within international climate change negotiations. Over the last few years, the number of participants from civil society at the Conference of the Parties (COP) has increased. 8,000 of 28,000 accredited participants were registered as non-state observers in 2015 in Paris (Bäckstrand et al., 2017). The Talanoa Dialogue⁶ was launched at COP 23 in Bonn in 2017 in order to include many different stakeholders in a participatory and transparent dialogue about long-term climate goals. The process, including the enhancement of the NDCs, started in 2018. Recent studies confirm a trend towards bottom-up governance that is characterised by governments collaborating with civil society internationally and new forms of global governance (Ludwig & Kok, 2018).

Civil society actors should be involved in developing and implementing climate policies because they play a crucial role as “watchdogs” and “advocates” for a fair socio-environmental transformation.

4 UNFCCC (1994), Article 4, Paragraph i; <https://unfccc.int/resource/docs/convkp/conveng.pdf>, accessed 17 June 2020.

5 Paris Agreement (2015), Article 12, https://unfccc.int/files/meetings/paris_nov_2015/application/pdf/paris_agreement_english_.pdf, accessed 17 June 2020.

6 <https://talanoadialogue.com>, accessed 13 May 2019.

Recent studies confirm a trend towards bottom-up governance that is characterised by governments collaborating with civil society internationally.

However, civil society voices are restricted in international forums and the real influence on important climate-related decisions is limited.

However, civil society actors criticise that civil society voices are very restricted in international forums such as the United Nations climate change negotiations. For instance, certain civil society actors were not able to easily participate in COP 24 in Katowice in 2018 due to visa refusals and limited opportunities for UN-accredited organisations to register representatives. In this regard and in reference to other examples, the global alliance of CSOs and activists “CIVICUS” stated that the real influence of civil society on crucial climate-related decisions is limited and that the currently available opportunities to participate are not very effective (Rowlands & Gomez Peña, 2019). Furthermore, recent research by Pauleweit shows that the Paris Agreement, despite Article 12, does not provide a fundamentally increased opportunity for organised civil society to participate. The participation of civil society representatives, especially from the Global South, is very limited due to factual and procedural reasons. The fundamental problem remains that civil society actors only have the right to participate, which doesn’t include the right to co-decision. Thereby also participation rights, such as the right of access to negotiation meetings or speaking rights, are very limited (Pauleweit, 2020).

From the perspective of environmental democracy, a major shortcoming of the Paris Agreement is the missed opportunity to establish a civic compliance mechanism, such as the public non-compliance procedure of the Aarhus Convention Compliance Committee. Members of the public cannot bring concerns regarding a party’s implementation or compliance with the agreement before the Paris Support Committee (Article 15 Committee). If this procedure had been put in place, it would have enabled the climate-engaged civil society to effectively monitor a party’s climate ambition to meet its climate goals. The result is that civil society actors will be forced to try influence national climate policy instead and use stronger enforcement mechanisms at the national level (Pauleweit, 2020).

CSOs can monitor the compliance of national climate targets at the national level and draw awareness to any failures of government or legislative initiatives that impede taking ambitious climate action. They also act as an intermediary between state and society as well as between different political sectors that need to cooperate to protect the climate. CSOs that are engaged in climate-related topics can promote the participation of citizens in climate policy. They can also include the existing practices of traditional populations to protect the climate in the process, and prepare vulnerable sections of society to the impact of climate change (Reid, Ampomah, Olazábel Prera, et al., 2012). Thus, CSOs often contribute to a better acceptance of climate policies among society and can even improve national climate strategies (Kovac et al., 2019).

Recent developments show that an increasing number of people around the world are demanding ambitious climate protection and participating in various forms of action and protest. CSOs, activists and citizens are for example calling for a transition towards 100% renewables and the end of fossil fuels by promoting the “divestment” of fossil fuel holdings and preventing further lignite mining. The Fridays For Future movement unites thousands of young people worldwide that are striking for faster climate action (oekom e.V., 2019).

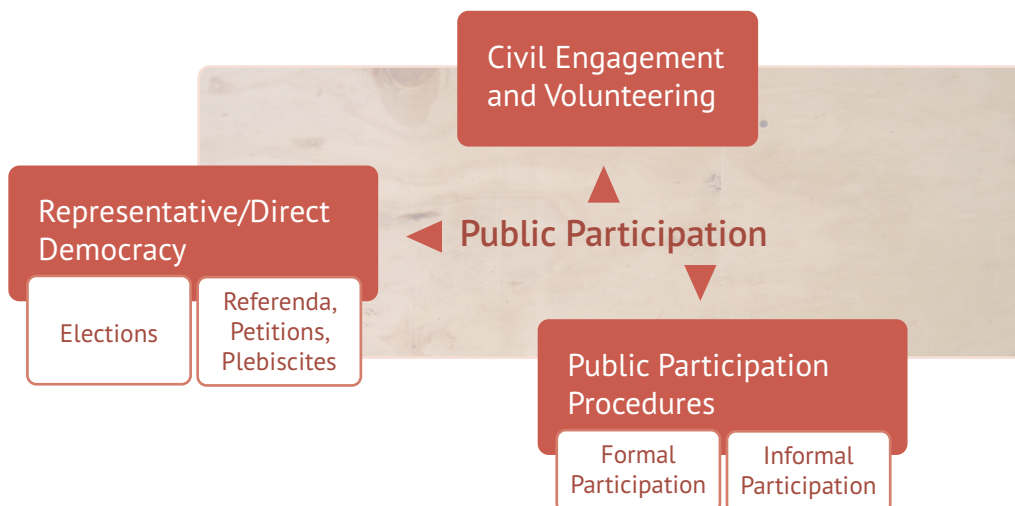
However, the CIVICUS Monitor⁷ shows that participatory democracy and citizens' freedom of association and expression cannot be taken for granted. In many countries, civic space is shrinking and fundamental rights have to be defended every day. A recent report by the European Environmental Bureau (EEB) shows that barriers to public participation are numerous and growing in the EU. Even though international treaties, such as the Aarhus Convention, formulate clear requirements in terms of access to information, public participation and access to justice on environmental matters, the space given to civil society in some member states is not aligned with such agreements (European Environmental Bureau (EEB), 2019). On a global scale, Butt, Lambrick, Menton, & Renwick (2019) revealed that environmental defenders raising their voices for nature are increasingly facing threats and violence. Every week, four people are murdered due to their dedication to defend the environment. During the last 15 years, the number of people murdered and the number of affected countries around the world have increased. The number of environmental defenders murdered per year is thus higher than the number of soldiers from the United Kingdom and Australia killed on overseas deployments in war zones combined.

In many countries, civic space is shrinking, environmental defenders are increasingly facing threats and fundamental rights have to be defended every day.

1.3 Levels and forms of participation

Public participation has become a buzz-word, frequently used for all kinds of engagement with "the public" or representatives of certain interest groups. Hence, it seems sensible to introduce some further distinctions to narrow down the scope of this study. Public participation usually describes all actions that citizens take to influence policies (Schultze, 2001). These actions range from exercising basic democratic rights, including elections or instruments of direct democracy such as plebiscites or referenda, to political volunteering and getting involved in formal and informal interactive participation processes (Figure 2). In this study, we concentrate on interactive forms and will refer to public participation as a procedural form of interaction between state institutions and citizens and/or representatives from organisations in the development of climate-related policies.

Figure 2: Schematic overview of public participation



⁷ <https://monitor.civicus.org>, accessed 14 May 2019.

Figure 3: *The Ladder of Citizen Participation* (Arnstein, 1969)



We observe two general forms of public participation procedures: Firstly, there are participation procedures that state agencies are obliged to organise because there is a legal requirement for them to do so. We call this formal public participation because the process is regulated and has to meet certain minimum standards defined by law. Secondly, more and more states are ready to engage with the public in informal participation procedures as the sense of the benefits of public participation spreads and the demand by CSOs for fora to be involved in policy making is increasing.

A common typology of public participation is the level of involvement. It goes back to Sherry Arnstein, who described a “ladder of participation” (Arnstein, 1969). This ladder (Figure 3) has eight “rungs”: the bottom rungs are classed as “Non-Participation” (Manipulation and Therapy), further up are the rungs of “Tokenism” (Informing, Consultation and Placation) and the top rungs are classed as “Citizen Power” (Partnership, Delegated Power and Citizen Control). The model is based on the critical review of participation of marginalised groups in the Urban Renewal, Anti-Poverty and Model Cities programmes in the US. It was intended to be provocative.

Many authors have since then built on Arnstein’s initial typology and distinguished between different levels of citizen involvement in processes, characterising the different roles and forms of interaction. The Spectrum of Public Participation, developed by the International Association for Public Participation, has five levels: Inform, Consult, Involve, Collaborate and Empower (Figure 4).⁸

Figure 4: *The Spectrum of Public Participation* (changed based on the International Association for Public Participation)



While some debate whether it is helpful to describe the different forms hierarchically (Collins & Ison, 2009), many agree that different participative arrangements will lead to very different outcomes, depending on their structure, organisation and quality (Rohr et al., 2019).

⁸ <https://sustainingcommunity.wordpress.com/2017/02/14/spectrum-of-public-participation>, accessed 4 April 2020.

1.4 International participation agreements and guidelines

Since 1992 we have seen progress in the development of declarations, agreements, treaties and national laws that promote the participation of civil society in environmental matters. The milestones of these international agreements and conventions that many national laws build upon are described in the following section.

1.4.1 Principle 10 of the Rio Declaration

The Rio Declaration documented the results of the United Nations Conference on Environment and Development (UNCED), informally known as the Earth Summit, in 1992. The 27 principles laid the foundation for sustainable development around the world and still serve as a set of guidelines for states and intergovernmental bodies. The declaration was signed by more than 175 countries. Principle 10 highlights the role of the participation of citizens in environmental issues. The declaration merely reflects the intention of the signatories, but is not legally binding.

Principle 10 states: *“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”*⁹

Principle 10 sets out three fundamental rights: access to information, access to public participation and access to justice. These are often called the three pillars of public participation. The principle aims to organise environmental governance in a transparent, inclusive and accountable way. Access to information is essential to enable citizens to find out about processes and acts concerning the environment and contribute to them in a meaningful and informed way. Public participation encourages governments and authorities to take the concerns of affected and altruistically-engaged citizens into account and find ways to involve them in environmental governance. Access to justice underpins the above-mentioned as it provides citizens with the ability to enforce their rights.

1.4.2 Bali Guidelines

The Bali Guidelines (Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters) were adopted on the 11th Special Session of UNEP’s Governing Council/Global Ministerial Environmental Forum in Bali, Indonesia, in 2010. They aim to guide governments to align their national environmental governance with Principle 10 of the Rio Declaration and enforce adequate laws and regulations. The non-binding recommendations are addressed to all nations. The Bali Guidelines consist of 26 guidelines that are divided into the three pillars of public participation as laid down in Principle 10.

Principle 10 of the Rio Declaration sets out the three fundamental pillars of public participation: access to information, access to public participation and access to justice.

The Bali Guidelines aim to guide governments to align their national environmental governance with Principle 10 of the Rio Declaration and enforce adequate laws and regulations for public participation.

⁹ United Nations 1992: Report of the United Nations Conference on Environment and Development, Annex 1; A/CONF.151/26 (Vol. I).

Seven of these guidelines outline citizens' rights to have access to environmental information and require "affordable, effective and timely access to environmental information held by public authorities upon request, without having to prove a legal or other interest". They furthermore set out a broad scope for what should be covered by environmental information and request to regulate the grounds for refusal to a request for information. They entail the obligation to collect and update environmental information and to disseminate it at appropriate intervals. In event of an imminent threat to human health, information should be released proactively and immediately.¹⁰

The guidelines concerning public participation ask for "early and effective public participation in decision-making related to the environment". States should "seek it proactively" and "transparently" in a "consultative" manner. Everybody should be "given the adequate opportunity to express their views" and should have the possibility to obtain all the relevant information to do so. The information should be provided in an "objective, understandable, timely and effective manner". Public participation should also be granted in review procedures and in the preparation of legislation with an effect on the environment.¹¹

The guidelines on access to justice set out provisions for review procedures before a court of law or another impartial body to challenge "a decision, act or omission by the public authority that affects the environment or allegedly violates the substantive or procedural legal norms of the state related to the environment" regarding requests for information or relating to public participation in decision-making in environmental matters or decisions. States should use a "broad interpretation of standing for people and organisations in proceedings concerned with environmental matters". The proceedings should take place in a timely fashion, and be "fair, open, transparent (...) [and] equitable", and "not prohibitively expensive". A mechanism for a prompt response such as an interim relief should be regulated and ensure the timely and effective enforcement of the decisions taken by courts or other bodies. Information on the procedures shall be provided and whenever appropriate decisions should be made available to the public. The development of alternative dispute resolution mechanisms is encouraged.¹²

Measures for capacity building are suggested for all three pillars to fill the legislation and its implementation with life.

1.4.3 Aarhus Convention

The Aarhus Convention (Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters) was named after the town in Denmark where it was adopted on 25th June 1998, on the occasion of the 4th Pan-European Conference of Environment Ministers. 35 states and the European Union signed the convention. It entered into force on 30th October 2001, on the ninetieth day after the date of deposit of the sixteenth instrument of ratification. The convention operates under the umbrella of the UN Economic Commission for Europe (UNECE) as one of the five regional commissions

The Aarhus Convention is the first legally binding treaty on the three pillars of public participation and codifies environmental protection rights for all.

10 UNEP 2010: Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters, UNEP, Nairobi (p. 5f.).

11 Ibid: p. 6f.

12 Ibid. p. 8ff.

of the UN. Membership of the UNECE also expands to the United States of America, Caucasus and Central Asia.

As of October 2017, the convention is applicable in 47 countries that have signed, ratified, accessed or approved it after entry into force.¹⁵

The Aarhus Convention is the first legally binding treaty on the three pillars set out by Principle 10 of the Rio Declaration and codifies environmental protection rights for all. Thus, it recognises the “right of every person of present and future generations to live in an environment adequate to his or her health and well-being”. It combines human and environmental rights.

The convention has 22 articles and two annexes. The text of the convention must be justiciable and detailed because it is legally binding. It satisfies the Bali Guidelines and will be described in the following only roughly and only where it exceeds the standards of the Bali Guidelines.

Articles 1-3 lay down the objective, definitions and general provisions. Articles 4-9 detail the provisions for access to environmental information, public participation in environmental decision-making and access to justice in environmental matters. Articles 10-22 govern the operation of the convention.

Most of the obligations in the convention are defined for public authorities and thus concern the relationship between the public and public authorities. Nevertheless, private entities which have public responsibilities in relation to the environment are also covered by the definition. The rights are non-discriminatory, meaning that neither citizenship nor residence preclude anyone from the rights guaranteed under the convention.

Article 4 provides rights for making environmental information available upon request, without having to state an interest, and sets a timeframe for the authority to respond within one month. Furthermore, it contains regulations about appropriate reasons for refusal, the requirement of forwarding requests to the competent authorities if known and provisions on reasonable fees to charge for access to information.

Article 5 regulates the collection and dissemination of environmental information. It stipulates that authorities are obliged to publish information in their possession, inter alia through publicly available lists, registries or contact information of departments and representatives.

It stipulates that environmental information has to be stored in publicly available databases and defines minimum requirements of information to be published (e.g. a report on the state of the environment, relevant legislation etc.) and the development of coherent pollution inventories.

Article 6 addresses public participation and refers to a list of specific activities in the permitting process (listed in Annex I) which should be subject to public participation. It states that the public concerned should be informed by public notice or individually and regulates the minimum requirements to be published about the procedure and opportunities to participate. Furthermore, it stipulates that there should be free access to all information related to the case and a list of minimum requirements that need to be provided, including a non-technical

¹⁵ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13&chapter=27&clang=_en, accessed 4 April 2020.

summary and information about alternatives. Public participation shall also be granted in permit procedures for the release of genetically modified organisms into the environment.

Article 7 and 8 demand public participation in the preparation of plans, programmes and, to an appropriate extent, in the preparation of policies, executive regulations and other generally applicable legally-binding normative instruments.

Article 9 regulates access to justice in environmental matters. It requires adequate review procedures that safeguard the rights afforded in the other pillars of the convention and under national environmental law. It provides judicial and administrative remedies in the event of failures fully to implement freedom of information and public participation provisions. Access to a review procedure before a court of law or other impartial body should be granted and the process should be inexpensive, or even free of charge. Justice should be accessible to a wide section of society, for example to NGOs that campaign for environmental protection. The most revolutionary provision in Article 9 is paragraph three which stipulates that acts and omissions by private persons and authorities which contravene environmental law shall be subject to administrative and judicial review procedures.

A cornerstone of the agreement is the unique compliance mechanism. The Meeting of the Parties established a compliance committee which reviews complaints brought forward by parties, individuals and organisations.

1.4.4 Escazú Agreement

The Escazú Agreement (Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean) was initiated at the United Nations Conference on Sustainable Development (Rio+20) in 2012 with the adoption of a regional declaration on the application of Principle 10 of the Rio Declaration. Preparatory meetings took place for two years, after which a negotiating committee was set up. The text of the convention was agreed upon in nine meetings. The agreement was adopted on 4th March 2018. It operates under the umbrella of the United Nations Economic Commission for Latin America and the Caribbean (UNECLAC). As of April 2020, 22 states have signed the convention and eight have ratified it. The agreement will enter into force 90 days after the 11th ratification.¹⁴

Similar to the European Aarhus Convention, the Escazú Agreement has the objective of guaranteeing the full and effective implementation of the right to environmental information, public participation in environmental decision-making, and access to justice in environmental matters. It includes clear definitions on what environmental information is and how it has to be made public. This includes the obligation to provide the information in the format required by the applicant (Escazú Agreement, Article 5.11), and the definition of standards on the generation and dissemination of environmental information that have to be fulfilled (Article 6).

The agreement also regulates how environmental participation has to be implemented, stating, among other points, that the participation has to be early and effective (Articles 7.4 – 7.7). Furthermore, the final decision and its reasoning

The Escazú Agreement has the objective of guaranteeing the full and effective implementation of the right to environmental information, public participation in environmental decision-making, and access to justice in environmental matters in Latin America and the Caribbean.

¹⁴ www.cepal.org/en/escazuagreement, accessed 6 April 2020.

have to be made public in a transparent fashion, including the results of the participation and a description on how the observations of the public have been taken into consideration (Article 7.8). In the context of international and national climate policies, it is important to mention that the agreement also requires “the participation of the public at the national level on matters of international environmental forums” (Article 7.12). With this novelty, the agreement acknowledges that many environmental and especially climate-related decisions are made on the international level, such as the international climate negotiations at the International Climate Conferences (Conferences of the Parties, COPs) within the framework of the UNFCCC. According to the Escazú Agreement, national civil society will have the right to participate in these decisions that are made on the international stage.

The Escazú Agreement also includes the right of access to justice in environmental matters. In Article 8, the agreement creates the legal regime and establishes standards for the access to environmental justice. It gives every person the right to have access to effective judicial mechanisms for protecting his or her right to live in a healthy environment. It also requires the elimination of barriers to retain this right (Peña Gómez, 2018).

The Escazú Agreement adds a fourth pillar to the three internationally established pillars of environmental democracy (access to environmental information, environmental participation, and access to environmental justice): Article 9 of the agreement is dedicated to the protection of defenders of environmental and human rights. Accordingly, the state will have to “guarantee a safe and enabling environment for persons, groups and organisations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity” (Article 9.1). Furthermore, “adequate and effective measures to recognise, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement” (Article 9.2) have to be taken. The state also must take “appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer” (Article 9.3). These provisions are unique in an international legal agreement and especially relevant for Latin America and the Caribbean, a region where many environmental defenders face severe threats.

The agreement creates an institutional framework for its implementation, including an implementation and supporting committee, a conference of the parties, an information exchange centre, and a technical secretary.

The Escazú Agreement adds a fourth pillar to the three internationally established pillars of environmental democracy: Article 9 is dedicated to the protection of defenders of environmental and human rights.

2 Framework of this study

2.1 Aim and contents of this study

This study analyses the civic space and participation opportunities of CSOs in Colombia, Georgia and Ukraine working on environmental and climate issues. The research was conducted within the project “Strengthening Civil Society for the Implementation of National Climate Policy”, supported by the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) as part of the International Climate Initiative (IKI).

The purpose of the study was to investigate the environment and conditions for climate-related participation, such as the legal framework for participation, as well as concrete practices of participatory policy making in the three countries. Considering that Colombia, Georgia and Ukraine, being parties of the Paris Agreement, have committed to undertake ambitious action to keep global temperature rise in this century well below 2 °C above pre-industrial levels, this analysis explores how national civil society is being involved in the related political processes. The focus thereby lies on organised groups, rather than individuals and the general public. Are CSOs and NGOs involved in the development of climate-relevant national plans, strategies and other documents, such as the NDCs? Are there good examples or good approaches of participation that enable civil society actors to effectively influence national political processes and raise ambition in climate matters? The study furthermore identifies concrete country-specific barriers that hamper or avoid meaningful, effective and long-term participation, and gives advice for overcoming these barriers.

In order to give a systematic overview of the findings, we additionally introduce a standardised evaluation scheme that assesses the general conditions for participation, as well as concrete opportunities and practices. It comprises 5 criteria with 25 indicators. This classification enables the evaluation of the situation in further countries as well.

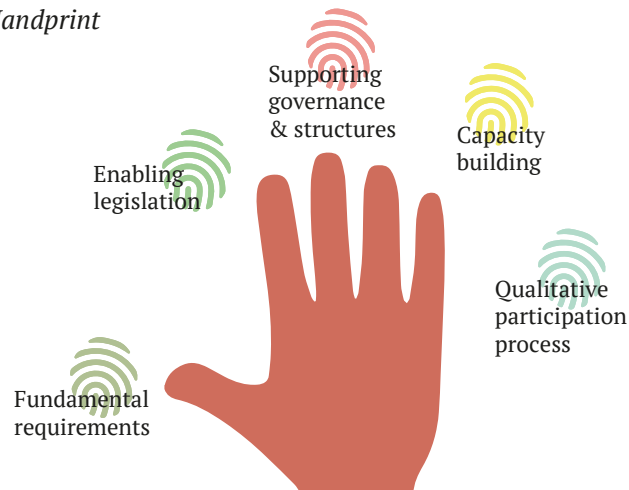
Based on the detailed analysis we finally derive recommendations on how to improve participatory policy making in Colombia, Georgia and Ukraine regarding climate policy. In this context, we use the concept of the “Participation Handprint” (Figure 5) that illustrates five dimensions, in which country-specific changes should take place to improve conditions and possibilities for civil society engagement.

The purpose of the study was to investigate the environment and conditions for climate-related participation and concrete practices of participatory policy making in Colombia, Georgia and Ukraine.

Considering that the three countries, being parties of the Paris Agreement, have committed to undertake ambitious action to keep global temperature rise in this century well below 2 °C above pre-industrial levels, this analysis explores how national civil society is being involved in the related political processes.



Figure 5: The Participation Handprint



This study is divided into three parts. PART 1 introduces the background, describes the conceptual framework of the analysis, and presents a summary of our findings. The second, larger PART 2 consists of the analyses of the situation in the three countries, describing the national climate policy, the situation of environmental CSOs in each country, the national legal framework for participation, existing structures and institutions enabling participation, practices and examples of climate-related participation, and barriers hindering the involvement of CSOs, as well as recommendations on how to overcome them. PART 3 of the study examines selected examples of good practice in international climate-related participation to draw final conclusions for Georgia, Ukraine and Colombia with regard to CSO engagement and future policy making.

2.2 Definitions

The following definitions are used in the study:

Civil society

Civil society is often understood as the “third sector” of society. It describes all individuals, networks, movements, groups and organisations that are distinct from the government and business, and are non-profit. Civil society is very heterogeneous and acts on numerous levels and topics based on shared interests, purposes and values.

Civil society organisation (CSO)

A civil society organisation is an informal or formal group of people which serves the general interest, and which is not connected with the government or the private sector. It plays the role of a mediator between public authorities and citizens, and can work on diverse topics. Within this study, the focus is on environmental CSOs or CSOs working on environmental and climate-related issues.

Non-governmental organisation (NGO)

A non-governmental organisation (NGO) is a type of civil society organisation. An NGO is a non-profit, non-state group which is organised on local, national

or international level around specific topics. In contrast to a CSO, which can be informally structured, an NGO is a formal entity. This means that there are organisations that can be both a CSO and an NGO at the same time.

Civic space

Civic space is a concept referring to the political, legislative, social and economic environment of citizens and CSOs. According to the network “CIVICUS”, it is “the bedrock of any open and democratic society. When civic space is open, citizens and civil society organisations are able to organise, participate and communicate without hindrance. In doing so, they are able to claim their rights and influence the political and social structures around them. This can only happen when a state upholds to its duty to protect its citizens and respects and facilitates their fundamental rights to associate, assemble peacefully and freely express views and opinions, which are the three key rights that civil society depends upon”.¹⁵

Advocacy

Using the definition of Shaw (2011), we understand advocacy as “influencing people and policies to bring about change. It is about influencing those in power to act more fairly”. Advocacy is “[...] seeking with, and on behalf of, poor people to address the underlying causes of poverty, bring justice and support good development through influencing the policies and practices of the powerful”.

2.3 Methodology

This study is based on desk research, analysing reports, scientific papers, reviews, and other secondary literature that deals with civil society participation in climate policy. It furthermore refers to the results of focus group workshops with different experts that were organised in each country in spring 2019. Each focus group consisted of eight to twelve participants from CSOs, ministries, scientific institutions, foundations, international programmes and organisations such as UNDP, the German Society for International Cooperation (GIZ), and the Heinrich Böll Foundation. The focus of the workshops was on assessing the framework and possibilities for CSOs to participate in national climate policy as well as on discussing existing barriers that hamper participation, and collecting solutions on how to overcome them. In addition to this, semi-structured interviews and consultations with representatives of CSOs and other key stakeholders were conducted between July 2017 and November 2019, either in person or via Skype/phone. Country research teams were additionally engaged in completing the analyses based on their local knowledge, contacts, experience and access to sources in national languages.

Focus groups, interviews, and consultations were conducted with representatives from the following organisations and institutions:

¹⁵ <https://monitor.civicus.org/whatis-civicspace>, accessed 21 January 2020.

Table 1: Sources in Colombia

Censat – Agua Viva	Klimaforum Latinoamérica Network (KLN)	AIDA - Asociación Interamericana por la Defensa Ambiental
Asociación Ambiente y Sociedad	ONIC - Organización Nacional Indígena de Colombia	Dejusticia
Heinrich Böll Foundation Colombia	Universidad del Rosario – Facultad de Jurisprudencia	Universidad Nacional de Colombia (UNAL) - Departamento de Geografía
Mesa Social Minero-Energética y Ambiental por la Paz (MSMEA)	Transforma Global	The Nature Conservancy in Colombia
Departamento Nacional de Planeación (DNP)	IDEAM - Instituto de Hidrología, Meteorología y Estudios Ambientales	Alianza Verde

Table 2: Sources in Georgia

Greens Movement of Georgia (GMG)	Women Engage for a Common Future (WEFC, office Georgia)	Caucasus Environmental NGO Network (CENN)
Remissia	World Experience for Georgia (WEG)	Green Alternative
REC Caucasus	Environment and Development (ED)	Black Sea Eco Academy
Heinrich Böll Foundation (regional office South Caucasus)	Friedrich Ebert Foundation (regional office South Caucasus)	NewClimate Institute
Energy Efficiency Centre (EEC)	Centre for Biodiversity Research & Conservation (NACRES)	Collective Leadership Institute (CLI)
Tbilisi State University	City Institute Georgia	Scientific Network for the Caucasus Mountain Region (SNC-mt)
Deutsche Gesellschaft für Internationale Zusammenarbeit, German Society for International Cooperation (GIZ)	United Nations Development Programme (UNDP)	Ministry of Environmental Protection and Agriculture of Georgia (MEPA)

Table 3: Sources in Ukraine

Ecoaction - Centre for Environmental Initiatives	Ecoclub Rivne	Environment-People-Law
Ukrainian Climate Network	Heinrich Böll Foundation (regional office Kyiv)	Friedrich Ebert Foundation (regional office Ukraine)
National Ecological Centre of Ukraine	National Academy of Science of Ukraine: Institute for Economics and Forecasting	Ministry of Ecology and Natural Resources of Ukraine
Consultant of the Climate East Project		

Evaluation scheme

The research team of the Independent Institute for Environmental Issues (UfU), supported with feedback from the project partners in the countries investigated, developed a standardised evaluation scheme to analyse and assess the general conditions for participation as well as concrete opportunities and practices in different countries (Table 5). Even though we are suggesting a universal scheme in this study, it should be noted that it is not necessarily suitable for every country in the world. There may be country-specific particularities that are not considered in the proposed assessment.

Based on international literature on civil society participation and civic space, and the findings and conclusions of our case studies, the following **five evaluation criteria** were defined:

This study is suggesting a standardised evaluation scheme to analyse and assess the general conditions for climate-related participation as well as concrete opportunities and practices referring to **five evaluation criteria**:

1
FUNDAMENTAL REQUIREMENTS

2
ENABLING LEGISLATION

3
SUPPORTING GOVERNANCE & STRUCTURES

4
QUALITATIVE PARTICIPATION PROCESSES

5
CAPACITY BUILDING

Afterwards, a set of four to eight indicators was determined for each criterion. In total, **25 indicators** were defined. Each indicator has an associated scoring system as presented below. The scoring options are not the same for every indicator. Depending on the question, a graduated answer or a clear yes or no may be required. With regard to complex topics, such as stability and conflicts, corruption, or the security of citizens, we suggest to use existing indices, such as for instance the Corruption Perception Index (CPI), to assess the respective indicators.

Regarding the legal framework for participation (second criterion), our assessment methodology mainly derives from the Environmental Democracy Index (EDI), that measures the degree to which national laws in 70 countries promote environmental democracy rights harmonised with the Bali Guidelines. Although the EDI also tracks national progress in promoting environmental democracy in practice, the focus clearly is on legal frameworks. Our scheme, however, also aims to evaluate further aspects and concrete practices. It therefore also comprises other criteria and indicators. The indicators are based on international standards for public participation that are defined in the Aarhus Convention and the Escazú Agreement. They have been adjusted based on the findings of this study and furthermore inspired by other participation guidelines, codes, recommendations and evaluations (including the Conference of INGOs of the Council of Europe, 2009; Council of Europe; Pompidou Group, 2015; LIFE PlanUp, 2019; Milano, 2019; United Nations Economic Commission for Europe, 2014; United Nations Environment Programme (UNEP), 2015).

In total, a maximum score of 59 points can be achieved. However, due to the varying numbers of indicators, certain criteria are given more weight than others. By scaling each criterion to a maximum score of 20, we balance out the criteria evenly (Table 4).

Table 4: Weighting of the scores

Criteria	Possible max. score	Scale factor	Scaled max. score
1 Fundamental requirements	10	2	20
2 Enabling legislation	17	1.18	20
3 Supporting governance & structures	7	2.86	20
4 Qualitative participation processes	17	1.18	20
5 Capacity building	8	2.5	20
Total	59		100

Table 5: Detailed evaluation scheme with indicators and scoring options

Criterion 1 Fundamental requirements

Indicators	Scores
a. Stability and peace (What is the intensity of ongoing conflicts?) ¹⁶	0 = high intensity of conflict (limited war or war going on) 1 = medium (violent crisis going on) 2 = low intensity of conflict (non-violent crisis or dispute going on) 3 = very low intensity of conflict (no dispute, crisis or war going on)
b. Anti-corruption and transparency (What is the perceived level of corruption?) ¹⁷	0 = highly corrupted, CPI of 0 1 = corrupt, CPI equal to or under 50 2 = clean, CPI higher than 50 3 = very clean, CPI of 100
c. Security of environmental defenders (Are environmental defenders secure from threats?) ¹⁸	0 = alarmingly weak security for environmental defenders (more than one murder documented) 1 = weak security for env. defenders (one murder documented) 2 = Environmental defenders are somewhat secure (no murders documented)
d. Political commitment (Is political participation of civil society related to the environment and climate backed by high-level political bodies and decision makers?)	0 = no 1 = yes, to some extent 2 = yes, full
	Max. score: 10

¹⁶ This indicator and related scoring is based on the Conflict Barometer 2018 by HIIK (www.hiik.de/conflict-barometer/?lang=en, accessed 23 April 2020). The Conflict Barometer uses a five-level model, defining disputes and non-violent crises as non-violent conflicts with a low conflict intensity, violent crises as violent conflicts with medium conflict intensity and limited wars and wars as violent conflicts with high conflict intensity.

¹⁷ This indicator and related scoring is based on the Corruption Perception Index 2019 by Transparency International (www.transparency.org/cpi2019, accessed 27 April 2020). According to Transparency International a scoring of zero means “highly corrupt” and 100 is “very clean”. The scoring “1=corrupt” and “2=clean” was set by UfU. Transparency International defines corruption as the “abuse of entrusted power for private gain”, whereas “transparency is about shedding light on rules, plans, processes and actions. (...) “It is the surest way of guarding against corruption, and helps increase trust in the people and institutions on which our futures depend.” (www.transparency.org/what-is-corruption, accessed 23 April 2020).

¹⁸ This indicator and related scoring is based on the Global Witness Report “At what cost? which documents the murder of land and environmental defenders in 2017 (www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost, accessed 23 April 2020). It is important to note that the absence of murder does not mean that there are no other threats, attacks or harassments of environmental defenders and activists.

Criterion 2 Enabling legislation

Indicators	Scores
<p>a. Commitment to international conventions and agreements</p> <p>(Did the country sign and ratify (accept, approve, accede to) the Aarhus Convention or the Escazú Agreement, requiring civil society participation related to the environment and climate?)</p>	<p>0 = no, neither signed, nor ratified (accepted, approved, acceded to)</p> <p>1 = signed, but not ratified (accepted, approved, acceded to)</p> <p>2 = ratified (accepted, approved, acceded to)</p>
<p>b. National laws requiring the proactive participation of civil society</p> <p>(To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>obligate the state or state agencies at national level to proactively seek the participation of civil society in decision-making related to the environment and climate, going beyond the official notification of participatory events?)¹⁹</p>	<p>0 = none of the laws assessed</p> <p>1 = a few of the laws assessed</p> <p>2 = most of the laws assessed</p> <p>3 = all laws assessed</p>
<p>c. National laws requiring timely participation</p> <p>(To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require timely participation (before a decision is made and so that there is enough time for a public authority to consider the public comments) of civil society in decision-making related to the environment and climate?)</p>	<p>0 = none of the laws assessed</p> <p>1 = a few of the laws assessed</p> <p>2 = most of the laws assessed</p> <p>3 = all laws assessed</p>

¹⁹ If there is a primary act requiring participation that affects several subordinate laws the latter are counted as well.

<p>d. National laws requiring information regarding the participation process (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require all information relevant to decision-making processes relating to the environment and climate to be made available to civil society, without civil society having to make an official information request?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>
<p>e. National laws requiring the consideration of civil society's comments (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to take due account of civil society's comments in decision-making relating to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>
<p>f. National laws requiring notification of civil society on the decision made along with the reasons and considerations on which the decision is based (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to promptly inform civil society about the decision and provide a written response explaining which comments were taken into account as well as giving reasons for dismissing others?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>
	Max. score: 17

Criterion 3 Supporting governance & structures

Indicators	Scores
<p>a. Governance structure (Is there an institutional body or mechanism, such as a committee, division or centre, supporting and coordinating participation processes relating to the environment and climate?)</p>	<p>0 = no 2 = yes</p>
<p>b. Institutional coordination & cooperation (Are national participation processes relating to the environment and climate coordinated across different vertical and horizontal political levels?)</p>	<p>0 = no 1 = there is weak coordination and cooperation 2 = there is good coordination and cooperation 3 = there is very good coordination and cooperation</p>
<p>c. Financial resources (Are civil society actors financially supported to participate in environmental/climate policy, e.g. through an allowance, reimbursement of travel costs or funding of staff members?)</p>	<p>0 = no 1 = yes, to some extent 2 = yes, fully</p>
	<p>Max. score: 7</p>

Criterion 4 Qualitative participation processes²⁰

Indicators	Scores
a. Early participation (At what stage was civil society involved in the process?)	0 = only after most of the decisions have been made 1 = after the first draft of the document/plan/strategy 2 = directly from the beginning
b. Broad, inclusive invitation (Was a wide variety of representatives of civil society (CSOs and wider public) invited to participate, including for instance those representing youth, gender, indigenous groups, and minority ethnic groups?)	0 = no civil society representatives invited 1 = not a wide variety invited, just a few selected CSOs 2 = either just CSOs or just the wider public invited 3 = yes, a wide variety invited
c. Timely invitation (Was civil society invited early enough to participate?)	0 = some days in advance 1 = less than one month in advance 2 = more than one month in advance
d. Adequate participation formats (How was civil society involved in the process?)	0 = through information 1 = through consultation 2 = through several interactive formats, fostering dialogue and collaboration
e. Transparency and information (Was information about the technical background and the participation process available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, a lot of information
f. Available documentation (Was documentation about the discussions and results available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, fully
g. Transparent review of recommendations (Were recommendations and views from civil society reviewed in a transparent manner?)	0 = no 1 = yes, to some extent 2 = yes, fully
h. Evaluation and feedback process (Was there an evaluation and feedback process regarding the participation procedure?)	0 = no 2 = yes
	Max. score: 17

²⁰ The scoring represents the averaged evaluation of some recent national participation processes relating to the environment and climate in each country, described in detail in the respective chapters of this study.

Criterion 5 Capacity building

Indicators	Scores
a. Environmental education (Is national formal and non-formal environmental and climate education offered to the public?)	0 = no 1 = yes, some education on offer 2 = yes, a lot of education on offer
b. Public awareness raising on participation rights and opportunities (Is information about public participation rights and opportunities available to the public?)	0 = no 1 = yes, to some extent 2 = yes, fully
c. CSO capacity building on climate change, climate policy, policy dialogue, organisational development, cooperation and networking (Is there capacity building on topics such as climate change, climate policy, policy dialogue, organisational development, cooperation or networking for CSOs?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available
d. Capacity building on participation and stakeholder engagement for governments (Is there capacity building on participation and stakeholder engagement for national governments and state officials?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available
	Max. score: 8
Max. total score	59

Part 2

Zooming in:

Country studies

Colombia

CO₂ emission estimates²⁴
(million tons/ tons per capita):

74.9/ 1.5324

Surface area²¹: **1,141,748 km²**



Population²²: **50,339,000**

Population density²⁵:

45.4 inhabitants per km²



CIVICUS Monitor rating²⁵: **Repressed**



Assessment of the environment and opportunities
to participate in climate policies in Colombia,
based on this study (see chapter 3.7):

34.8/100 points

²¹ United Nations data, <http://data.un.org/en/iso/co.html>, accessed 21 December 2019.

²² Ibid.

²³ Ibid.

²⁴ <https://edgar.jrc.ec.europa.eu/overview.php?v=booklet2018&dst=CO2emi>, accessed 3 April 2020.

²⁵ CIVICUS Monitor is a research tool built by civil society that aims to share data on the state of civil society freedoms (civic space) all over the world. It analyses to what extent states fulfill their duty to protect the freedom of association, the freedom of peaceful assembly and the freedom of expression. Each country is assigned a rating of the following categories: open, narrowed, obstructed, repressed or closed. For more information: <https://monitor.civicus.org/methodology>, accessed 23 April 2020.

3 Colombia

3.1 National climate policy²⁶

Colombia ratified the United Nations Framework Convention on Climate Change (UNFCCC) through Law 164 of 1994, and the Kyoto Protocol as its first instrument of implementation through Law 629 of 2000. Thus, Colombia progressed in the development of necessary regulations to implement the **Clean Development Mechanism (CDM)** as regulated under the UNFCCC during the first period of the **Kyoto Protocol** from 2008 to 2012. Furthermore, the country began to record and document the progress of actions undertaken to mitigate and adapt to climate change through the elaboration of the First and the Second **National Communications on climate change** in 2001 and 2010. These documents aim to inform relevant stakeholders in the country and to facilitate decision-making on climate-related issues by different actors in Colombia. The third and most recent national communication was published in 2017.

Between 2010 and 2011, Colombia was hit by an extremely intense appearance of the climate phenomenon "La Niña". The "La Niña" episode of 2010/2011 caused serious economic, social, and environmental impacts in many regions of Colombia. Following this natural disaster that was linked to climate change by scientists, specific climate change strategies were included in the **National Development Plan (PND)** for the first time for the period of 2010-2014. This created demand for the development of an institutional structure for decision-making processes regarding climate change to coordinate climate policy measures among different sectors. Thus, in 2011, the National Council for Economic and Social Policy (CONPES) approved the "**Institutional Strategy to Articulate Climate Change Policies and Actions in Colombia**". This document included recommendations for the generation of a new institutional structure including the creation of new political and administrative spaces that enable the integration of climate strategies within different sectors and regions.

Based on this, the formulation of the **National Climate Change Policy (PNCC)** began at the end of 2014, including the development of the **Climate Change Law**. The aim was to integrate the different advances of the country in terms of climate change and to define a path of low carbon and climate resilient development with a short, medium and long-term vision. In parallel, Colombia actively participated in the international negotiations that led to the adoption of the **Paris Agreement** in December 2015 at the Conference of the Parties in Paris (COP 21).

Colombia also implemented the institutional, political and legal framework for climate change actions and created the **National Climate Change Governance System (SISCLIMA)**, which was approved by Decree 298 of 2016. This contributed to further progress in the development of the following strategies and plans that are important for Colombian climate policy:

- the Colombian Low Carbon Development Strategy (ECDBC),
- the National Climate Change Adaptation Plan (PNACC),

²⁶ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

- the Sectoral Action Plans for Mitigation (PAS),
- the National Strategy for Reducing Emissions from Deforestation and Forest Degradation (ENREDD +) and the Comprehensive Strategy for Deforestation Control and Forest Management (EICDGB),
- and the Policy Strategy for Public Financial Management of Natural Disaster Risk.

The **Colombian Low Carbon Development Strategy (ECDBC)** aims to identify and prioritise GHG mitigation options. It is constituted as a short, medium and long-term development programme that seeks to separate the GHG emissions from national economic growth through the implementation of plans, projects and policies that maximise the carbon-efficiency of economic activities, and contribute to social and economic development. It includes technical studies for the elaboration of **Sectoral Action Plans for Mitigation (PAS)**, which were approved by each of the sector ministries (Ministries of Mines and Energy, Housing, City and Territory, Transport, Commerce, Industry and Tourism, and Agriculture).

Colombia also progressed in the elaboration of the **National Climate Change Adaptation Plan (PNACC)**, which was defined as a process that facilitates the adaptation to climate change of regions and sectors. Accordingly, the country started to construct different conceptual tools and methodological guidelines to face climate change. These guidelines aim to enable sectors and regions to move forward towards planned adaptation measures through the preparation of sectoral and territorial adaptation plans.

The development of the **National Strategy for Reducing Emissions from Deforestation and Forest Degradation (ENREDD+)** started with the participation of different stakeholders, relevant communities, and international cooperation. The results were incorporated into the **Comprehensive Strategy for Deforestation Control and Forest Management (EICDGB)** approved in 2018.

In 2015, Colombia developed its **Intended National Determined Contribution (INDC)**, which includes the goal of reducing GHG emissions by 20% with respect to the projected level by 2030. Furthermore, due to its relevance for the country, Colombia voluntarily included ten adaptation actions, including among others the formulation of climate change plans, the increase of strategic protected areas, sector actions and watershed management, focused on reducing the levels of risk and vulnerability of the municipalities of the country. Seven implementation actions were included: The strategy of university networks that support research around the **National Determined Contribution (NDC)**, the creation of an innovation cluster on climate change, the incorporation of national entities to mechanisms of technological transfer of the UNFCCC, the exchange of experiences and the strengthening of regional alliances in the field of climate change, and the continuous articulation and improvement of work with the financial sector.

In 2017, Colombia ratified the Paris Agreement through Law 1844 of 2017, in the same year as the PNCC was adopted. Finally, the **Colombian Climate Change Law** (Law 1931 of 2018) came into force in 2018. According to this Law, the **Intersectoral Commission on Climate Change (CICC)** was established that is responsible for the monitoring of the NDC, and the formulation of **Comprehensive Sectoral Climate Change Management Plans (PIGCCS)** and **Comprehensive Territorial Climate Change Management Plans (PIGCCT)**.

3.2 Climate-engaged civil society in Colombia

In Colombia, the basic conditions for engaging civil society are difficult. Colombia has a long history of civil war and internal violent conflicts between the state, paramilitary groups, criminal organisations, and communist guerrilla groups. Although a peace process started in 2011 with a signed peace agreement between the government and one of the largest guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC), armed conflicts continued with other guerrilla and paramilitary groups in some parts of the country in 2016. The peace process has therefore been on hold since 2016.

Historically, many problems and conflicts of Colombian civil society have their roots in an extremely unequal distribution of land ownership and national income. Colombia's civil society has faced periods of extreme violence, persecution, and strong stigmatisation. Furthermore, there is a lack of security as well as political and financial support (Sánchez-Garzoli, 2016). Colombia's civic space is marked by violence. Violent attacks and murders of journalists, lawyers, human rights and environmental defenders, and indigenous and Afro-descendent people have increased again after the peace negotiations were suspended. According to Global Witness, 43 land and environmental activists were murdered in Colombia in 2017. This makes Colombia the second most dangerous country in the world for environmental defenders and is obviously a heavy burden for the environmental and climate-engaged civil society (Global Witness, 2017, see Chapter 3.6.1). Despite the various difficulties, or maybe because of them, Colombian civil society has managed to stimulate and create diverse, strong, courageous, and multi-sectoral networks, organisations, movements and policy proposals that have been driving social and environmental change in the country for decades (Sánchez-Garzoli, 2016).

In 2016, Colombia had approximately around 300,000 registered CSOs and NGOs. This means, there is approximately one CSO for every 163 inhabitants, making Colombia the country with the highest number of CSOs per capita in Latin America (Evans, 2016). In Colombia, CSOs and NGOs are registered as non-profit entities (ESAL). Most of them address topics like human services, charity, education, arts, culture and humanities. Only approximately 3% of all ESALs are officially registered explicitly for environmental purposes (Evans, 2016). However, as many social problems in Colombia are closely linked to environmental degradation issues such as land use, mining, oil exploitation and infrastructure development, many social CSOs also address and support environmental issues in their daily work.

Colombian environmental CSOs have traditionally been active in tackling deforestation, protecting biodiversity and rivers, opposing environmental degradation through mining, oil exploitation, hydroelectric dams, and other infrastructure projects, and raising awareness of environmental issues including environmental education. Furthermore, they actively promote alternative solutions for sustainable development, including ecological agriculture, and sustainable energy and mobility concepts. They also have experience in building powerful networks. On the national level, for example, large and successful civil society networks have formed against large-scale mining projects and fracking as well as for the protection of waters and forests. These topics are certainly also relevant for climate protection, however, work on climate policy itself, especially with a national

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or even international scope, is a relatively new terrain for many environmental CSOs in Colombia.²⁷ Although individual climate protection and adaptation projects at the local and regional level have been carried out by CSOs for several years, targeted civil society involvement in the process of national climate policy is still limited. This is in particular due to the lack of information made available by the government and missing opportunities for many CSOs to establish direct contacts with the government and the responsible ministries.²⁸ Nevertheless, many environmental groups wish to be involved more in climate policy and criticise the lack of effective participation opportunities within the National Climate Change Governance System (SISCLIMA).²⁹

Recent activities demonstrate the growing importance of climate policy for Colombian civil society. In 2019, CSOs and representatives of the academic world have created a roundtable discussion on climate change issues that seeks to establish synergies and determine joint action plans to monitor the implementation of climate change policies and regulations and the country's NDC. Around 15 CSOs and scientific organisations are participating in this roundtable. To date, three joint actions have been arranged, of which the first two were carried out between September and October 2019: a public event with artistic content that made aware of the problem of climate change, and a working breakfast with the national government's COP 25 delegation. Furthermore, on 7th November 2019, a public discussion forum was organised on the implications of the COP and opportunities and limitations of climate action from diverse and critical perspectives.³⁰ Additionally, Colombian civil society is becoming more visible through new social movements, protests, and collective actions. In the context of climate change, this becomes evident through the increasing support for new movements such as Fridays for Future, Strike for the Climate or Youth X Climate Action that campaign for action against climate change.³¹

Furthermore, a nationwide protest movement against the national government started at the end of 2019. In November 2019, thousands of citizens regularly took to the streets to express their will for political change. The reasons for these national protests were manifold, ranging from education, inequality and human rights to environmental justice. One of the first successes of the protests was that they made the Colombian government change its position on the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), which is seen by many as a fundamental treaty for the enhancement of participation and human rights in environmental matters. After the government initially rejected the Escazú Agreement, it finally signed it in December 2019 as a result of the political pressure from the citizens. The implementation of the Escazú Agreement will probably shape Colombia's environmental and climate policies, and will enhance participatory democracy and security for civil society in the coming years (see Chapter 3.3.1).

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27 Focus Group Workshop, Bogotá, 13 February 2019.

28 Focus Group Workshop, Bogotá, 13 February 2019.

29 Focus Group Workshop, Bogotá, 13 February 2019.

30 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

31 Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

3.3 Legal framework for participation

3.3.1 International Level

On the international level, Colombia has signed and ratified some international conventions and agreements on environmental and human rights that contain references to civil society participation to different extents (Table 6). In this context, the **American Convention on Human Rights** of 1978 (Pact of San José), the **Indigenous and Tribal People Convention** of 1989 (**Convention 169** of the International Labour Organisation, ILO), and the **United Nations Framework Convention on Climate Change (UNFCCC)** are relevant to mention. Recently, Colombia also signed the **Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)** but has not ratified it yet.

Table 6: International treaties signed and/or ratified by Colombia that are related to public participation

Treaties	Date of Ratification/ Accession
American Convention on Human Rights (Pact of San José)	1973
Indigenous and Tribal People Convention (Convention 169 of the International Labour Organisation)	1991
United Nations Framework Convention on Climate Change (UNFCCC)	1995
Kyoto Protocol to the United Nations Framework Convention on Climate Change	2001
Paris Agreement on Climate Change	2017
Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)	Signed in December 2019, not yet ratified

While the American Convention on Human Rights contains more general obligations to ensure personal liberty and social justice based on the respect for citizens' basic rights, Convention 169 in particular plays a key role in establishing participation rights of indigenous and other tribal peoples following the principle of free, prior, and informed consent (FPIC). Article 6 of Convention 169 states that "governments shall consult the peoples concerned through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them

directly [and] establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them” (ILO Convention 169, Article 6.1). Furthermore, “the consultations carried out [...] shall be undertaken [...] with the objective of achieving agreement or consent to the proposed measures” (ILO Convention 169, Article 6.2).

Convention 169 of 1989 was signed by Colombia shortly before the National Constitution was renewed in 1991. The ratification occurred legally through the enactment of Law 21 of 1991 and it influenced the development of the new constitution. Special rights for indigenous and Afro-descendant people were included, however Colombia was slow in translating the right to prior consultation into specific legislation and in detailing its application. Prior consultation was first regulated in detail by Decree 1320 of 1998, 7 years after the ratification of the convention. However, this decree was criticised as falling short by CSOs, the technical committee of the ILO that oversees the implementation of the convention, and the constitutional court of Colombia. Consequently, the right to prior consultation was continuously upgraded by case law rulings that are directly binding for the government from the constitutional court in the following years (IKV PAX, 2012).

In Colombia, permanent consultation bodies for indigenous and Afro-descendant people were created. Prior consultations with these institutions are mandatory before legislative and political decisions are made that may affect the respective peoples. This obligation is respected and implemented by the authorities making prior consultations with the respective consultation bodies a common practice in the country. However, the actual implementation of the agreements reached within these consultations is often criticised as being incomplete and lagging behind (see Chapter 3.7). Furthermore, in the context of civil society participation, it is important to consider that the right for prior consultation based on Convention 169 applies only to citizens and organisations representing indigenous and Afro-descendant people, excluding other CSOs and citizens with different ethnic backgrounds that may also be affected by environmental decision-making, for example the rural population and farmers.

Regarding participation rights directly affecting decisions on climate change, the **United Nations Framework Convention on Climate Change (UNFCCC)**, including the Paris Agreement, plays an important role in Colombia. As the country is a state party of the UNFCCC, and has signed and ratified the Paris Agreement, the participation rights that originate from these international treaties have to be ensured in the country. In particular, the regulations on **Reducing Emissions from Deforestation and Forest Degradation mechanisms (REDD+)** contain requirements on the participation and representation of civil society that are relevant for Colombia. REDD+ especially requires several social and environmental safeguards that have to be respected when a REDD+ initiative is implemented to address the socio-economic problem that REDD+ can lead to loss of livelihood for many forest-dependent people. Like Convention 169, these also include the principle of free, prior, and informed consent of affected local people and the adoption of participatory processes (Nuesiri, 2018).

UNFCCC REDD+ rules have a flexible approach regarding their integration into national legal and political systems. Considering differences in political culture and legislative systems, it has led to the host countries of REDD+ programmes to determine how to best transpose the rules into their domestic legal and policy frameworks (Wilder, 2014). Accordingly, from 2011, Colombia developed its National REDD+ Strategy (ENRED+). Its objectives were integrated into the National Development Plan (NDP) for the period 2014-2018 that was made legally binding by Law 1753 of 2015. Further legal acts and political frameworks detail REDD+ implementation, such as the Law on the Resolution Regulating the Procedure for Enrolment in the National REDD+ Initiatives Registry, the Law for the Creation of the National Forestry Information System (SNIF), the National Forestry Inventory (NFI) and the Forest Carbon Monitoring System (Forest Carbon Partnership Facility, 2017). Participation processes within the REDD+ process were implemented on different levels and at different stages, including the REDD+ roundtables on the national level for the formulation of ENRED+, and local REDD+ roundtables in REDD+ project areas involving civil society stakeholders, amongst others. As most of the participation measures ran parallel to the development of national legislation and political frameworks on REDD+, the obligation to implement them derived directly from the international REDD+ regime and was not yet transposed into national legal regulations at this stage.

Recently, Colombia has signed the **Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)** that has been developed and negotiated since 2012 by several countries in the region. The Escazú Agreement codifies and implements Rio Principle 10, which provides access to environmental information, public participation in environmental decision-making, and access to judicial and administrative proceedings in environmental matters. It also includes provisions on the protection of human rights defenders in environmental matters in Article 9 (see Chapter 1.4.4). For Colombia, which is one of the countries with the most murders of environmental defenders in the world (see Chapter 3.6.1), Article 9 has the potential to become an effective tool to protect them and to prevent more violent attacks and homicides against them (Peña Gómez, 2018).

In 2018, the final version of the agreement was finished and opened for signature and ratification by the 33 countries in the region (Habitat-climate-environment Working Group, 2018). Although Colombia was involved in the preparation process and agreed on the final version of the text, it opposed the notion of transferring the agreement into a legally binding treaty under international law (Peña Gómez, 2018). Therefore, the current Colombian government did not originally intend to sign and ratify the agreement. However, due to nationwide protests of the Colombian civil society at the end of 2019, the government changed its position and signed the agreement in December 2019.

The agreement is currently open for 33 countries of the region to sign. Colombia was the 22nd country to sign the agreement on 11th December 2019. When this study was being written (January 2020), the agreement has been ratified by only five countries (United Nations Treaty Collection, 2020). According to Article 22, the agreement will legally enter into force, when 11 countries have signed and ratified it and after 90 days of the ratification by the 11th country (Peña Gómez, 2018).

This means, to date, the Escazú Agreement is not yet legally binding in Colombia, however, the implementation process of this historic agreement will obviously be of great importance for the country and its legal system within the following years. The Colombian government will be obliged to comply with the agreement. The chancellery must present a draft law for ratifying the agreement on the national level to the congress in early 2020. If it is approved by the legislators, the constitutional court will review the bill to guarantee its conformity with the constitution. Finally, the new law must be approved by the president. Subsequently, the chancellery has to prepare appropriate instruments of implementation in accordance with the UN General Secretariat in New York (El Tiempo, 2019).

3.3.2 National Level

At the national level, the **Constitution** of 1991 is key for the definition of fundamental rights and mechanisms of democratic participation in Colombia. Although Colombia only signed the Escazú Agreement recently (in December 2019) and it hasn't ratified it yet, the country's constitution already included fundamental rights on access to information, environmental participation, and access to justice in environmental matters before the Escazú Agreement existed.

According to Article 74 of the Colombian constitution, all citizens have the right to access public documents except in cases that are regulated by law. The constitution also gives citizens the right to environmental participation. This derives from Article 79 which states that "everyone has the right to enjoy a healthy environment. The law will guarantee the participation of the community in decisions that may affect this. It is the duty of the state to protect the diversity and integrity of the environment, conserve areas of special ecological importance and promote education to achieve these goals" (Constitución Política de Colombia 1991, 2016, Article 79).

Furthermore, the constitution provides several opportunities to take legal action if citizen rights like those mentioned above are violated. This gives Colombian citizens a right to access justice in general that can be also used for environmental matters. Additionally, Article 80 of the constitution obliges the state to impose legal sanctions for environmental damages, stating "the state has to plan the management and use of natural resources, to guarantee their sustainable development, their conservation, their restoration, or their replacement. In addition, it must prevent and control the factors of environmental deterioration, impose legal sanctions and demand the repair of damages caused" (Constitución Política de Colombia 1991, 2016, Article 80).

In addition to the fundamental constitutional rights regarding environmental participation, Colombia's legislation regulates (environmental) participation mechanisms. They can be classified into three broader categories: legal/ judicial, political, and administrative mechanisms. Legal mechanisms of participation are constitutional actions such as writs of protection (an instrument to ensure respect for fundamental rights and freedoms), action popularis (a right for each member of a community to bring an action in defense of a public interest), group actions, enforcement actions (an instrument to ensure compliance with the constitution or the law when public officials fail to comply with it), annulment actions, and complaints of unconstitutionality.

Political participation mechanisms that are enshrined in the constitution and further laws are popular legislative initiatives, referendums, popular consultations and open councils. Although they were not originally created for environmental matters, they often have been used for environmental purposes and there are multiple examples that demonstrate their effectivity in environmental issues (Barragán Terán & Muñoz Ávila, 2018).

Administrative participation mechanisms such as the intervention of third parties, public hearings, and the rights to petition and prior consultation are also available. In Colombia, there are no exclusive participation mechanisms regarding climate-related issues, however the ones that are used for environmental matters can also be used for this purpose.

Table 7 gives an overview of the most important legal/judicial, political, and administrative mechanisms for environmental participation in Colombia and the legitimacy for their execution.

Due to its various participatory mechanisms, from a legal perspective, Colombia's participation rights are very comprehensive in comparison to many other Latin-American countries. However, real experience shows many shortcomings in their implementation (see Chapter 3.6.2) (Peña Gómez, 2018).

In addition to the constitution, further laws and directives regulate public participation rights in detail. The most important participation laws are **Law 134 of 1994** and **Law 1757 of 2015**, which set the basic requirements on public participation in general. Several further laws specify public participation in specific sector policies and define participatory spaces for different groups of the society. This includes special participatory spaces for members of indigenous, black/ Afro-Colombian and Roma communities. In this context, the Permanent Coordination Board with Indigenous Peoples and Organisations (MPC), the Consultative Commission of Indigenous Rural Women, and the High Level Consultative Commission for the Black Communities, Afro-Colombians, and the Raizal and Palenquera Population are important participatory entities that are also often involved in environmental decision-making (Ministerio del Interior de Colombia, 2016).

Sectoral laws that have special significance for public participation in environmental decision-making processes are **Law 99 of 1993**, which is the legal base for the National Environmental Council (CNA), and **Law 152 of 1994**, which creates the National and Regional Councils of Land Use Planning. Both include requirements for the participation of representatives of civil society to a certain extent. In the context of climate protection and adaptation in particular, the relatively new legislative act, **Law 1931 of 2018**, is key. According to this law, an Intersectoral Climate Change Commission (CICC), Regional Climate Change Hubs (NRCC), and a National Council on Climate Change (CNCC) have to be established, which all include civil society participation to a certain extent.

Table 7: Main mechanisms of environmental participation in Colombia and legitimacy for their execution³²

Administrative		Legal/ judicial
Mechanism	Legitimacy for its execution	Mechanism
Environmental public hearings (<i>Audiencias públicas ambientales</i>)	Signatures that represent more than 300 citizens or 3 organisations	Writ of protection (<i>Acción de Tutela</i>) <i>An instrument to ensure respect for fundamental rights and freedoms</i>
Citizen surveys (<i>Veedurías ciudadanas</i>)	Established according to Law 850 of 2003	Enforcement action (<i>Acción de Cumplimiento</i>) <i>An instrument to ensure compliance with the Constitution or the law when public officials fail to comply with it</i>
Intervention in administrative procedures (<i>Intervención en procedimientos administrativos</i>)	Any natural or legal person	Actio popularis (<i>Acción Popular</i>) <i>A right for each member of a community to bring an action in defense of a public interest</i>
In process of environmental planning	Citizens (persons over 18 years of age with Colombian nationality) who are members of the Environmental Council of Regional Environmental Entities (CAR).	Annulment action (<i>Acción de Nulidad</i>)
Petition rights	Any natural or legal person	Action of unconstitutionality (<i>Acción de Inconstitucionalidad</i>)

³² Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

Legal/ judicial		Political
Legitimacy for its execution	Mechanism	Legitimacy for its execution
Any natural or legal person	Popular legislative initiative (<i>Iniciativa popular</i>) <i>A mechanism of direct democracy: people can present legislative initiatives, without being members of the parliament</i>	Signatures representing 5% of citizens entitled to vote
Any natural or legal person, especially social and non-governmental organisations	Referendum (<i>Referendo</i>)	Signatures representing 5% of citizens entitled to vote
Any natural or legal person, especially social and non-governmental organisations	Recall election (<i>Revocatoria de mandato</i>) <i>voters can remove an elected official from office through a direct vote before that official's term has ended</i>	Signatures representing 5% of citizens entitled to vote in the territorial district of the ruler whose election is to be revoked
In the case of a simple annulment, any natural or legal person can act, in the case of annulment by unconstitutionality, citizens can act (people over 18 years with Colombian nationality)	Popular consultation (<i>Consulta Popular</i>) <i>Public deliberation by the people</i>	Signatures representing 5% of citizens entitled to vote in the territorial district in which the consultation is planned (municipal, departmental or national)
Citizens (people over 18 years with Colombian nationality)	Open council meeting (<i>Cabildo Abierto</i>)	Signatures representing 0.5% of citizens entitled to vote in the territorial district in which they want to make the council
	Election	Citizens (people over 18 years with Colombian nationality)

In addition to the existing legislation, the case law of the constitutional court plays an important role in Colombia's participatory democracy and is directly binding. This can have both positive and negative effects for environmental participation rights. According to **Judgement C-336 of 1994**, the constitutional principle of participatory democracy applies not only to strictly political issues such as elections, but also to economic, administrative, cultural, social and educational aspects in the country. Its primary objective is to enable and stimulate the intervention of citizens in activities related to public management and in decision-making processes that have an impact on their lives and civil society as a whole (Corte Constitucional, sentencia C-336, 21.07.1994). In that sense, public entities, especially environmental authorities, are obliged to open spaces for public participation if these are requested. These spaces must have the real and material possibility of influencing the administrative decisions that are finally applied. This case law provision is actually applicable in any procedure related to the development and implementation of environmental public policies and is therefore relevant for climate change issues, too. However, with the exception of prior consultation for the groups covered by the ILO Convention 169, participatory mechanisms in Colombia are not automatically mandatory. They must be proactively requested by authorities or citizens. If there is no official request to participate in a certain procedure, the entire climate decision-making process may be carried out without a single participation mechanism being implemented.³³

The constitutional court confirmed that environmental participation has special importance due to the fact that the environment is a legal asset that is protected by the constitution (Sentencia T-348 de 2012, Peña Gómez, 2018). The constitutional court also confirmed that environmental participation has to consist of the three pillars: access to environmental information, deliberative and public participation of the community, and administrative and legal mechanisms for their defence (Sentencia T-361 de 2017).³⁴

In contrast, case law of the constitutional court also has limited rights on environmental participation. A recent example for this is public consultations, which have always been a commonly used constitutional mechanism for citizen participation on the local level. They have given citizens a relatively high level of power regarding decision-making on activities within their territories. Citizens have often used them successfully for the prevention of mining permissions being granted and local governments mostly respected these decisions made by the people. However, the recent decision of the constitutional court that downgraded the results of popular consultations on mining projects to not legally binding, leads to an uncertain future of this frequently-used constitutional participatory instrument (see Chapter 3.6.2).

³³ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

³⁴ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

Although the Colombian legal system includes multiple provisions for political participation in environmental matters (Rodríguez & Muñoz, 2009), procedural details for the participation processes are not adequately regulated and the enforcement of laws and satisfactory implementation of the legislation is not always ensured or is delayed.³⁵ Within the framework of this investigation, civil society experts identified (partly severe) qualitative deficits in nearly all prescribed participation mechanisms. Furthermore, the perception of civil society organisations regarding their involvement in the elaboration of public policy instruments on climate change is rather low.³⁶

³⁵ Interview with a representative of the Universidad del Rosario, November 2019.

³⁶ Focus Group Workshop, Bogotá, 13 February 2019.



3.4 Structures and institutions enabling participation in climate policy

Despite several shortcomings in the implementation of Colombian legal, administrative, and political environmental participation mechanisms, there are various spaces that aim to strengthen environmental participation. Some relevant examples of structures and institutions that aim to enable civil society participation in environmental and climate-related issues in Colombia are presented in this section. Thereby, it is not only official legally required structures and institutions that are described, but also those that are based on initiatives from civil society actors themselves. It is not a comprehensive overview, but rather aims to highlight some selected examples that reflect the spectrum of the different existing structures and institutions for environmental and climate participation.

3.4.1 National Climate Change Council (CNCC)

According to Article 5 of Law 1931 of 2018, the National Climate Change Council (CNCC) is created within the framework of the Colombian National Climate Change Governance System (SISCLIMA). This relatively new entity, that was established after the associated law came into force in 2019, aims to be the main consultation platform for the Colombian Intersectoral Commission on Climate Change (CICC). Thereby, its tasks are:

- Providing advice on decision-making to the CICC, in order to develop policies with participation of the unions, CSOs, the congress, and academia,
- Giving recommendations to the CICC regarding climate change management within the national territory,
- Issuing concepts for the implementation of the National Climate Change Policy (PNCC) and the planning and implementation of its instruments,
- Recommending necessary actions to the CICC to be taken in the coordination of climate change management activities between the private sector, academia, CSOs, and the public entities responsible,
- Suggesting guidelines and criteria for climate change management to the CICC, especially for enhancing the coordination of actions between national and regional levels (Law 1931 of 2018).

The CNCC has two representatives from trade unions, two representatives from academia, one representative from an international organisation for development support and cooperation, one representative from the Senate of the Republic, one representative from the House of Representatives, and two representatives from CSOs working on climate change issues.³⁷ Accordingly, the CNCC is a high-level consultative body that allows civil society to have a voice in the creation of climate policies. As the CNCC was only established recently, it is not possible to evaluate how much weight the positions of the two representatives from CSOs will have within the whole entity. Whether these two representatives will coordinate the different perspectives of CSOs in the country to bring in one consolidated position

³⁷ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

at the CNCC, or rather only represent the positions of their own organisations without representing the real diversity of Colombian civil society will depend on the chosen representatives of the CSOs. Accordingly, it remains to be seen how much reflection and representation of Colombian civil society this new institution will in fact have. The CNCC has already been criticised for not including ethnic and rural communities, or other traditionally segregated groups.

3.4.2 Regional Climate Change Hubs (NRCC)

Regional Climate Change Hubs (NRCC) are regional inter-institutional and interdisciplinary working groups, made up of personnel from public and private institutions at the local, departmental, regional and/or national level, which promote and plan actions of adaptation to climate change and mitigation of GHG emissions within their territories.

The first NRCCs were established already in 2008. Here, it should be highlighted that the initiative for the creation of the first NRCC was not exclusively driven by the state. The initiative for establishing a regional entity for climate issues was promoted by a group of CSOs, academics and regional authorities in the area known as “Colombia’s Coffee Triangle”. They claimed to be recognised as an official regional spokesman for the definition of policy actions in the field of climate change management. Finally, in 2016, after some NRCCs had already been operating for several years, Decree 298/2016 recognised the NRCCs as official entities within SISCLIMA. In this context, seven more NRCCs were created, each of which still has a slightly different composition and scope to date:

- NRCC of the Amazon which consists of the following departments: Amazonas, Caquetá, Guainía, Guaviare, Vaupés, Putumayo.
- NRCC of Orinoquía which consists of the following departments: Meta, Casanare, Vichada, Arauca.
- Central Andean NRCC which consists of the following departments: Boyacá, Cundinamarca, Tolima, Bogotá, Huila.
- Norandino NRCC which consists of the following departments: Norte de Santander, Santander.
- Coffee Triangle NRCC which consists of the following departments: Caldas, Risaralda, Quindío, Valle del Cauca.
- Antioquia NRCC which consists of the department of Antioquia.
- Caribbean and Insular NRCC which consists of the following departments: Guajira, Bolívar, San Andrés and Providencia, Sucre, Córdoba, Magdalena, Atlántico, Cesar.
- North Pacific NRCC which consists of the department of Chocó.
- South Pacific NRCC which consists of the following departments: Cauca, Nariño, Valle del Cauca.³⁸

³⁸ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

Members of the NRCCs are made up of at least one representative of the departments, municipalities, districts, environmental authorities, unions and/or associations of the private sector, academia, CSOs, the National Natural Parks Unit of Colombia, research centres and institutes, and a representative of the Territorial Council for Disaster Risk Management. Even though the NRCCs are not open for every citizen individually to join, they do include representatives of civil society in the form of social and environmental NGOs or CSOs. The participating NGOs and CSOs form an integral part of the NRCC (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2019).

3.4.3 REDD+ roundtables

In the context of REDD+ implementation, the major participatory space where citizens and CSOs are involved at the national level is the National Roundtable on REDD+. This is a national platform for the participation of key actors in the process of the development of the National REDD+ Strategy (ENREDD+). The roundtable aims to allow the inclusion of different sectors and stakeholders (academics, CSOs, ministries, unions, indigenous communities, black/ Afro-Colombian communities, farmers) in the dialogue and follow-up of the formulation of actions and measures for the implementation of REDD+ in Colombia. Besides the National REDD+ Roundtable, four additional thematic REDD+ roundtables were established, including one roundtable for Afro-Colombian communities, one for indigenous people, one for rural communities, and one for CSOs and environmental foundations. Furthermore, regional roundtables on the specific cultivation and reforestation plans in the area have to be implemented in every territory where a REDD+ initiative is implemented, especially where it is intended for the affected people from the territories to be involved (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2013). Some Colombian CSOs boycotted the REDD+ roundtables by refusing to participate in them due to fundamental criticism of the REDD+ mechanisms in general and especially its negative impacts on parts of Colombian civil society.

3.4.4 Permanent Coordination Board with Indigenous Peoples and Organisations (MPC)

The Permanent Coordination Board with Indigenous Peoples and Organizations (MPC) is composed of members of the national government and delegates of indigenous organisations. In addition, the MPC is supervised by the International Labour Organization (ILO), the Inter-American Commission on Human Rights (IACHR) and the Episcopal Conference of Colombia (MPC, 2019). The MPC is required by law. Its purpose is to discuss and coordinate all administrative and legislative decisions made by the state that may affect indigenous peoples and organisations, and to come to a common agreement between all members of the MPC. Furthermore, the MPC evaluates the government's indigenous policies and monitors compliance with the agreements reached therein (Decreto 1397 de 1996). The MPC often deals with territorial issues that have an impact on the environment, biodiversity, and the livelihoods of indigenous people. These issues can be relevant for Colombia's climate policy as well, especially when it comes to questions of deforestation or mining of fossil fuels.³⁹

³⁹ Interview with representatives from the National Indigenous Organization of Colombia (ONIC), 15 February 2019.

3.4.5 Intergenerational Pact for the Life of the Colombian Amazon (PIVAC)

Excluding institutions and spaces that were created by initiatives of the state, the Colombian legislation allows citizens and organisations to enforce their participation and interference in environmental decision-making by using strategic litigation. To date there is no record of the use of litigation against any of the climate change policies analysed in this study, however, spaces have been created to monitor the implementation of climate change policies based on other strategic environmental litigation. For example, the Colombian NGO Dejusticia together with 25 children and young people filed a guardianship action against deforestation in the Colombian parts of the Amazon. The supreme court ruled that the authorities (the Presidency of the Republic, the MADS and the authorities of Agriculture and Rural Development) have to implement appropriate measures to eliminate deforestation and the generation of GHG. In particular, Judgement 4360-2018 forced the authorities to develop a short, medium and long-term action plan to counteract the rate of deforestation in the Amazon, considering effects from and to climate change. Additionally, the state was forced to formulate the “Intergenerational Pact for the Life of the Colombian Amazon” (PIVAC). In this pact, preventive and mandatory measures must be taken to reduce deforestation, GHG emissions, and the impacts of climate change. Furthermore, the judgement stipulated that the development of both the action plan and the PIVAC must be carried out with the participation of stakeholders, including affected communities, the general population, and scientific organisations and environmental research groups (Ministerio de Agricultura y Desarrollo Rural, 2018). In this context, follow-up hearings with civil society actors were carried out to comply with the orders issued by the Supreme Court of Justice. During these hearings, civil society had the opportunity to ask the environmental authorities questions about the implementation of the orders of the judgment and other environmental instruments such as climate change policies.⁴⁰

3.4.6 Roundtable of Social Affairs, Mining and Energy, and Environment for Peace (MSMEA)

Besides the formal institutions and structures of participation that derive from international treaties, national laws and litigation, there are further possibilities that enable and strengthen civil society participation in environmental and climate-related decision-making in Colombia. In particular, civil society-driven initiatives and networks create spaces for the articulation of civil society’s views and demands and build capacity for its active involvement in political decision-making on climate change, including the energy transition.

In Colombia, mining and energy-related decisions have traditionally caused conflict between governments, corporations and civil society. The Roundtable of Social Affairs, Mining and Energy, and Environment for Peace (MSMEA) is a network of numerous CSOs, trade unions, and syndicates (in particular from the mining and energy sector) that creates a space for local, regional and national coordination in the mining and energy sector. Through regional and national proposals, the MSMEA promotes a new energy and environmental mining model.

⁴⁰ Based on an interview with a representative of Dejusticia, 15 February 2019 and research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

One of its fundamental objectives is the transition of public policies on mining and energy towards a more deliberative and democratic character, respecting the rights of workers, the environment, and people affected by mining and energy projects, thus contributing to establish peace. This also includes the demand for an energy transition towards the use of more renewable energy by considering a just structural transition that also respects the concerns of workers from the mining and energy sector. The MSMEA mainly operates through regular regional and national meetings with representatives of all participating organisations, where current affairs are discussed and common proposals are jointly formulated. These are presented directly to political decision-makers or made public using the media.⁴¹

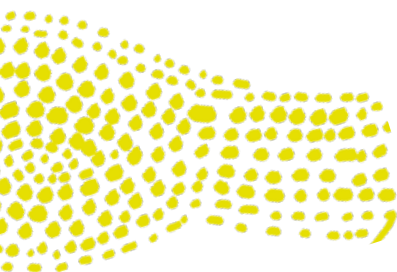
3.4.7 Klimaforum Latinoamérica Network (KLN)

The Klimaforum Latinoamérica Network (KLN) is a thematic network of individual persons, CSOs, universities and think tanks. It promotes more ambition in climate policy through education and information. It also organises participatory events such as workshops and conferences and publishes statements with proposals on how to be more ambitious in Colombian climate policies. In accordance with its major objective of creating a carbon-free society, KLN supports its members to participate and have influence in political decision making. KLN was closely involved in the process of the Talanoa Dialogue in Colombia.⁴² In October 2018, the network organised the First Climate Action Week in Bogotá. This was a space for dialogue on climate action between civil society actors, the private sector, academics, and regional and local governments. Besides academic presentations, dialogue forums and panels, a workshop for the creation of new alliances between civil society stakeholders was organised in the context of the Climate Action Week. This aimed to strengthen individual members of civil society and CSOs in their actions regarding climate protection and adaptation, as well as in their influence on national climate policy.⁴³

41 Interview with representatives from MSMEA, 13 February 2019.

42 Interview with Prof. Manuel Guzman (KLN), 14 February, 2019.

43 Klimaforum Latinoamérica Network. Diálogo Talanoa. <http://laredkln.org/acciones-climaticas/dialogo-talanoa>, accessed 12 August 2020.



3.5 Practices and examples of climate-related participation⁴⁴

3.5.1 Formulation and implementation of the National Climate Change Policy Framework (PNCC)

In 2014, the process of the formulation of the National Climate Change Policy Framework (PNCC) started. The PNCC included, among other policies, the Colombian Low Carbon Development Strategy (ECDBC), the National Climate Change Adaptation Plan (PNACC), and the National REDD+ Strategy (ENREDD+) (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2017).

The MADS organised workshops involving the five Regional Climate Change Hubs (NRCCs) (there were five at that time, and the others haven't been established yet (see Chapter 3.4.2) , research institutes of the environmental sector, CSOs with national scope, trade associations and unions, and representatives of different national governmental institutions during the process for the formulation of the PNCC in 2014. In 2015, the attendance was extended to involve indigenous communities, and Afro and Raizal communities. The cooperation between state institutions, the private sector and CSOs was important for the government for the implementation of mitigation and adaptation measures that should be, in the best case, developed and financed jointly between the state and the private sector. Several workshops aimed to receive inputs from the participants regarding content, structure, and the focus of the policies to be developed. After the policies were formulated, they were presented to the members of the National Environmental Council (CNA) and published online with the possibility to comment on them during the last week of August 2016.

The PNCC was finally adopted through the "Climate Change Management Law" (Law 1931 of 2018) that legally defines most of the main climate policy instruments in Colombia. These include, among others, the National Climate Change Governance System (SISCLIMA), the Intersectoral Commission on Climate Change (CICC), the NRCCs, the Comprehensive Sectoral Climate Change Management Plans (PIGCCS), and the Comprehensive Territorial Climate Change Management Plans (PIGCT, see Chapter 3.1). Furthermore, Law 1931 of 2018 introduced a new participatory entity, the National Climate Change Council (CNCC). This is a permanent consultation body of the CICC, which shall provide advice, recommendations, and suggestions for decision-making through the participation of the private sector, CSOs, academia, international organisations and the congress.

3.5.2 Colombia's Intended National Determined Contribution (INDC) and National Determined Contribution (NDC) process

On 22nd April 2016, Colombia signed the Paris Agreement and the bill for its national ratification was unanimously accepted in the Congress of the Republic, through Law 1844 of 2017. This law was revised by the constitutional court which, through Judgment C-048 of 2018, concluded that both the Paris Agreement and its implementing law are fully in accordance with Colombian constitutional provisions.

⁴⁴ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

Subsequently, the country ratified the agreement on 13th July 2018. Thirty days later, Colombia formally became part of the Paris Agreement. On 7th September 2015, Colombia presented its Intended National Determined Contribution (INDC) to the UNFCCC Secretariat.

The preparation phase of Colombia's INDC ran parallel to the formulation of the PNCC, which began one year earlier in 2014. Both processes had many interconnections. At the beginning of the process, participation was limited to the purpose of gaining the needed technical information for the formulation of the INDC. Therefore, the Ministry of the Environment and Sustainable Development (MADS) mainly involved other sector's ministries, the National Planning Department (DNP), the Institute of Hydrology, Meteorology and Environmental Studies (IDEAM), and trade unions. The draft INDC was then published online for a month and a half and open for public comments. These comments were answered one by one and all information on the process was made available online.⁴⁵ Furthermore, several meetings and workshops were carried out in Bogotá and other cities of the country, where further inputs were received (Ministerio de Ambiente y Desarrollo Sostenible - MADS, 2017).

Regarding GHG mitigation, the collecting of input information for the INDC was made in parallel with the collection of information for the Colombian Low Carbon Development Strategy (ECDBC) and eight Sectoral Action Plans for mitigation (PAS). For this, macroeconomic assumptions, GHG emission baselines, and technical studies were prepared based on inputs from more than 200 participants from stakeholders such as unions (including ANDI, ANDESCO, ACOLGEN, CCCS, CAMACOL), governmental decision makers (ministries and DNP), scientists (Universidad Nacional de Colombia and Universidad de los Andes), research institutes, and multilateral agencies (including the World Bank, UNDP, USAID). Furthermore, MADS published an online survey on its website for approximately a month and a half between May and July 2015. MADS also organised two discussion workshops with representatives of civil society organisations supported by WWF and the Fundación Natura (16th June and 5th August 2015).

Regarding adaptation to climate change, Colombia had been developing the Colombian National Climate Change Adaptation Plan (PNACC) and adaptation plans for different sectors and territories since 2011. On this basis, the adaptation chapter of the INDC was developed. Therefore, it was necessary to identify measures out of these plans that would be integrated into the INDC. For this purpose, workshops were organised with adaptation experts, CSOs, research institutes, representatives of unions and ministries, and the DNP. MADS formulated ten specific measures based on the outputs generated in these workshops that were included in the INDC. These were published on the MADS website and were open for comments.

Finally, multiple workshops, roundtables and work sessions were held with actors from different sectors starting from March 2015, with the purpose of consulting sector experts, both from the government and from the unions. Likewise, regional workshops (Barranquilla, Medellín, Pereira, Neiva and Cali) were convened in regions with the support of the Regional Climate Change Hubs (NRCC).

⁴⁵ See: www.minambiente.gov.co/index.php/component/content/article?id=1784:plantilla-cambio-climatico-46#documentos-relacionados, accessed 27 April 2020.

In the final stage, the GHG mitigation measures and adaptation measures were merged with measures of implementation to form Colombia's INDC. No additional participation process was carried out for Colombia's first National Determined Contribution (NDC), which is not very different from the INDC.

Thus, in summary, it has to be acknowledged that during the formulation of the Colombian INDC, around 50 consultation spaces were created between March and September 2015 for discussion with different stakeholders on both policy and technical inputs and defining the goals. The Colombian INDC explicitly integrated a section on the "Nationally Determined Contribution Planning Process", which recognises the importance of informing citizens about climate change management to ensure that their concerns are reflected in the policies.

However, it is important to mention that all of these discussion forums were strongly dominated by experts and sectoral interest groups. Environmental NGOs and CSOs were underrepresented, excluding some technical inputs from experts from WWF or the Fundación Natura. Normal citizens and grassroots groups from the regions were hardly involved at all, excluding the opportunity to submit comments online. However, many CSOs were not aware of the opportunity to submit online comments as it was not promoted actively by the government. Furthermore, according to a representative of the NGO The Nature Conservancy, the real involvement of NGOs and CSOs began quite late in the process when inputs from other sectors were already integrated into the draft document. Instead of including the inputs of NGOs and CSOs as equal to those from other sectors from the very beginning, MADS organised a workshop where only prominent national NGOs and CSOs were invited. There, the draft INDC was presented and the NGOs and CSOs only had the opportunity to ask questions and to give some comments. According to The Nature Conservancy, at the time of this workshop, the INDC was very "advanced. In fact, the document they were presented with was almost, or very similar, to the one that was finally published"⁴⁶.

⁴⁶ Interview with a representative of The Nature Conservancy, 30th September 2019.

3.6 Barriers to participation

3.6.1 Fundamental barriers

Faltering peace negotiations

Colombia has a long history of civil war and internal violent conflicts between the state, paramilitary groups, criminal organisations, and communist guerrilla groups. Due to this violent history, many Colombians have faced physical and psychological threats, and there is mistrust between different parts of the society, conflicting parties and the regional and national governments which has increased over the years. However, the former Colombian government of President Juan Manuel Santos started a long-awaited peace process by negotiating with one of the biggest Colombian guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC). After the first peace agreement between the national government and the FARC was rejected by the Colombian population through a referendum in October 2016, the two conflicting parties agreed on a revised agreement in November 2016 with the backing of the congress and without holding a second referendum.

Since then, the peace process has become the most important issue with highest priority in Colombian domestic policy, on the one hand, giving Colombians hope for a more peaceful and non-violent future, and on the other, leaving the country in a stage of transition and fragility. Understandably, this historic upheaval has led to the fact that other political issues like for example climate change have been considered as less important by the government and various parts of the society.⁴⁷

Despite the progress made by the peace process, violent conflicts between several breakaway groups of the FARC and other left-wing guerrilla groups on the one hand, and paramilitary groups and the government on the other, continued. Furthermore, the peace negotiations with the last remaining active guerrilla group, the National Liberation Army (ELN), was stopped by the government in early 2018 due to ongoing violent attacks and because the ELN rejected the condition of a permanent ceasefire (Heidelberg Institute for International Conflict Research, 2019).

The violent conflicts in some regions are still at the stage of a limited war for regional predominance and resources between several non-state armed groups such as neo-paramilitary groups, drug cartels, and left-wing militants. These violent confrontations also affect civilian populations through forced displacements and recruitment, restricted mobility, minefields, and a general reduction of security (Heidelberg Institute for International Conflict Research, 2019).

After the elections in 2018, Iván Duque Marquez became the new Colombian president. He is a critic of the peace agreement that was negotiated by the previous government and shows less interest in reopening the peace process. The ongoing insecurity and conflicts are a fundamental threat to the participation of civil society.

⁴⁷ Interview with a representative of the National Planning Department of Colombia (Departamento Nacional de Planificación, DNP), 13 July 2017.

Security of local communities and environmental defenders

Due to its long history of conflict and violence, the security of Colombian citizens has always been a serious problem. After the first signs of improvements of the security situation after the peace process progressed in 2016, security threats to local communities and especially to social and environmental defenders have been increasing again recently. Community leaders, human rights and environmental activists, and even representatives from local authorities have been frequently targeted by armed groups.

Colombia is the second most dangerous country in the world for environmental defenders (Global Witness, 2017). Besides putting individuals' lives in severe danger, this situation of course also represents a major barrier for political participation in civil society. People who participate in environmental decision-making processes may be threatened or harassed for promoting their demands and causes. Especially those at the local level who speak up for environmental justice and protest against environmental degradation caused by agribusiness, mining, dams, oil extraction, and infrastructure projects are facing severe threats, ranging from verbal and violent attacks to murder. Hence, many people who actively participate and are critical in environmental decision-making processes and even citizens that are not activists and only participate in consultations put themselves and their families at risk of being targeted by violent attacks.

The Colombian state does not have an effective judicial system of investigation and sanction to prevent and prosecute such crimes adequately. The government cannot guarantee the security of its citizens. It is not enabling the rule of law in all parts of the country and is putting only limited effort into changing this situation. In some cases, the Colombian state itself is even involved in the violent conflicts. For example, there has been an ongoing conflict, including violent confrontation, over resources between several indigenous groups and the government since 2005 (Heidelberg Institute for International Conflict Research, 2019).

Colombia's recent signing of the Escazú Agreement, which includes the requirement to better protect the rights and the security of environmental defenders, is however a good sign and gives some hope for improvements in the security of Colombian environmental defenders in the future. However, as experiences have shown that implementation and enforcement of rules and laws is problematic in Colombia, the signing of the agreement alone will not be enough. Much more effort will be needed to reduce this lack of security which has historic roots.

3.6.2 Legal barriers

Shortcomings in the execution of laws and implementation of agreements

From a legal perspective, the Colombian constitution from 1991 contains many participatory mechanisms that aim to enable citizens to be involved in political decision-making in the country, including elections, plebiscites, referendums, public consultations, and the rights to call for legislative initiatives and to recall political mandates. At first glance, the constitution describes a highly participatory, inclusive country with mechanisms that can be described as good practices of participation. However, the constitution often uses ambiguous terms and expressions that impede uniform interpretation and jurisprudence (Mina Paz, 2005).

As mentioned in Chapter 3.3.2, besides the constitution, many other Colombian legislative texts generally offer opportunities for civil society participation in different contexts. Therefore, in the context of legal barriers to participation, it is mainly not the legislation itself, but its lack of enforcement and implementation that represents a major threat for civil society participation. On paper, these legally prescribed participatory instruments seem to be ambitious and in accordance with major criteria of good practices of participation. However, a closer look at the implementation of these instruments reveals the paradoxical situation in Colombia, where a highly developed legislative and judicial foundation stands in stark contrast to the reality of disregard of participation rights.⁴⁸ Furthermore, many legal texts that prescribe civil society participation miss detailed procedural rules for the implementation of the participation, leading to the use of many different and inconsistent formats for civil society to participate.

The practice of non-compliance is not only the case when it comes to legal texts, but also official agreements with public authorities are often not implemented in practice. An example of this is the common agreements between the state and the Permanent Coordination Board with Indigenous Peoples and Organisations (MPC). Although the government has to monitor compliance with these agreements according to the law (Decree 1397 of 1996), 1,290 agreements are still waiting to be implemented since its establishment in 1991.⁴⁹

Restriction of participation rights through jurisdiction

In some cases, the legislator or jurisdiction also strongly restricts participatory rights. A prominent example for this is the popular consultations, which are mechanisms of citizen participation prescribed by the Colombian constitution that have been often used in the context of environmental matters. In popular consultations, citizens are summoned to decide on some aspects of special importance in administrative and legislative decision-making. Popular consultations can be national, departmental, municipal, on the district level or local. In the case of a national popular consultation, the Colombian president, with the previous endorsement of the congress and supported by the signatures of all the ministers, is in charge of consulting the people when a decision to be taken is of national significance. In the case of popular consultations at the district, departmental, municipal or local levels, the decision to convene them is made by the governors and mayors.⁵⁰ They can also be initiated by citizen initiatives backed by signatures.⁵¹

In the context of environmental and climate matters, especially municipal popular consultations on mining projects have gained importance in recent years. Between 2009 and 2018 more than seven popular consultations on mining projects were conducted, which all resulted in more than 90% of the attendees voting against a specific mining project or against mining within their territory in general. However, the national government and multinational companies have not always

48 Focus group workshop Colombia, 13 February 2019.

49 Ibid.

50 Subgerencia Cultural del Banco de la República. Consulta popular., www.banrepcultural.org/blaavirtual/ayudadetareas/politica/consulta_popular, accessed 24 August 2020.

51 Consulta popular explicada fácilmente en Colombia en solo tres pasos. Revista Semana Sostenible, <https://sostenibilidad.semana.com/impacto/articulo/consulta-popular-explicada-facilmente-en-colombia-en-solo-tres-pasos/38327>, accessed 24 August 2020.

recognised these results, arguing that mining is of national public interest and decisions on it have to be taken at national level (Dietz, 2018). Following these arguments, the constitutional court has recently denied the legality and conformity of these consultations and their results with the constitution (El Espectador, 2018). This can be seen as a severe setback regarding the participation of civil society in environmental decision making in Colombia.

3.6.3 Structural and institutional barriers

Competencies and capacities of responsible authorities

After the new Colombian president Iván Duque Marquez was elected in 2018 and the following change of government, it took a long time to fill the relevant positions with adequate staff in certain ministries. Consequently, competent executives and leaders were missing in some key departments of the environmental ministry. This was also the case in the department that is responsible for climate change during the time of converting the INDC to the first NDC. Therefore, it was very hard for civil society to follow the process of NDC development for a long period because no information was released by the ministry. Therefore, many experts from Colombian CSOs expect that the opportunity for civil society to participate in the process of revising the NDC will also be restricted to the minimum required.⁵²

Especially on the regional level, responsible authorities do not always have the capacity to make reasonable decisions on complex topics such as climate change. An example for this is some Regional Climate Change Hubs (NRCCs). They are usually made up of personnel from public and private institutions at the local, departmental, regional and/or national level from different backgrounds. Even though they are responsible for the development of actions of adaptation to climate change and mitigation of GHGs emissions within their territories, they are often missing expert knowledge on these topics. This lack of capacity also impedes the meaningful participation of civil society because reasonable statements from citizens and CSOs cannot be professionally evaluated and integrated into the final decisions.⁵³

Technical debate on climate change, lack of awareness for participation rights and lack of trust

Professional CSOs in Colombia generally have a high capacity to deal with environmental issues and to initiate change and transformation within society. However, raising interest among the general population and stimulating social mobilisation is easier with topics that affect people directly, for example mining, contamination of rivers and deforestation. For many Colombians, the topic of climate change is still not a trigger for mobilisation.

The debate on climate change is very technical. Predominantly academics, consultants, and professional environmental NGOs (including international NGOs with limited links to Colombian civil society) address the topic. They usually present the topic using vague and ambiguous language that does not give the general population and smaller CSOs the feeling of being involved.⁵⁴ In addition,

⁵² Focus group workshop Colombia, 13 February 2019.

⁵³ Focus group workshop Colombia, 13 February 2019.

⁵⁴ Focus group workshop Colombia, 13 February 2019.

many of the supporting documents for participatory processes are too extensive and do not have executive summaries for citizens and local decision makers, which makes it even harder for many to participate.

Furthermore, smaller CSOs still have a lack of knowledge about participation rights and mechanisms, coupled with a lack of capacity to use them. Additionally, many CSOs do not have trust in the participation processes and they do not believe that their inputs will be considered in the final decisions. Therefore, although to a certain extent civil society participation processes in environmental and climate matters are implemented in Colombia and there are legal and administrative mechanisms for every Colombian citizen to intervene in political decision-making, the rates of involvement by the different social actors are still very low.⁵⁵

3.6.4 Process-related barriers

Missing standards for civil society participation

Even though Colombian legislation requires that there has to be public participation in many cases, there are no universal mandatory regulations on how the participation has to be implemented (see Chapter 3.3.2). Because of this, the authorities that are responsible for the design and adoption of public policies on climate change have often used formats that are not in line with best practice in public participation. Within the framework of this investigation, interviews on the participation processes of several climate change plans and policies were conducted with representatives from different ministries. From this, it can be concluded that open citizen participation processes have not always been implemented within the processes of development and implementation of public climate change plans and policies. Although there were certain opportunities to participate in most cases, the participation processes were not based on a structured, transparent process that gives CSOs the opportunity to have real influence on the decisions. In most of the cases, the authorities used unspecific formats, such as “workshops”, “meetings” or “forums” with different stakeholders or published information on the process online without spreading this information actively. Furthermore, public participation happened at very different stages of the processes, often when they were already quite advanced and basic decisions had already been taken. This gives civil society limited opportunity to have real influence on the decisions.⁵⁶

Limited representation of civil society within participation processes

It is obvious that generally the same CSOs participated within the participation processes in all processes regarding the development of climate-related policies and plans that were developed in Colombia in recent years. These are mostly large, prestigious, and consolidated NGOs that operate nationwide and have their headquarters in Bogotá, such as WWF, The Nature Conservancy and the Fundación Natura. These NGOs have historically been involved in the design and creation of policy instruments on environmental and climate issues. In most of the processes, there were hardly any smaller, grassroots organisations that tend to be weaker in the field of advocacy and with less technical expertise, but more presence in remote

⁵⁵ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

⁵⁶ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

regions of the country. This means that most of the processes were conducted without a real representation and reflection of Colombia's civil society.⁵⁷

Different understanding of the purpose of participation between the state and civil society

In the rare cases where authorities that are responsible for the design of climate change policies do directly invite CSOs to participate in an early stage of the development, this is usually to develop instruments with a high technical and scientific content. Environmental authorities therefore often only invite CSOs that have a sufficient technical and professional capacity to deliver technical knowledge that is necessary for the development of the specific instrument. For example, The Nature Conservancy was involved from the very beginning in the development of the Guide to Ecosystem-based Climate Change Adaptation and participated at different workshops organised by the authorities. However, according to The Nature Conservancy, their role in this process was not to represent the positions and claims of civil society, but rather to verify and evaluate the developed measures from a scientific perspective. Other CSOs were not involved in the process.⁵⁸

This shows that the state and CSOs often have a very different understanding of the purpose of participation. While the state sees CSOs mostly as a supplier of needed information, knowledge and data, CSOs mainly aim to participate to express their views and demands, and to have real influence on the decisions that are to be made.

3.7 Assessment of the environment and opportunities to participate

This chapter illustrates the results of an assessment of the situation and conditions for civil society participation in environmental and especially climate decision making in Colombia (Table 8 and Figure 6). The assessment is based on the analysis made in the previous chapters and evaluations from Colombian civil society experts derived from interviews.

⁵⁷ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

⁵⁸ Based on research of the Facultad de Jurisprudencia Universidad del Rosario Bogotá, Colombia, November 2019.

Table 8: Assessment of the environment and opportunities to participate in climate policies in Colombia

Criterion 1 Fundamental requirements

Indicators	Scores	Score
a. Stability and peace (What is the intensity of ongoing conflicts?) ⁵⁹	0 = high intensity of conflict (limited war or war going on) 1 = medium (violent crisis going on) 2 = low intensity of conflict (non-violent crisis or dispute going on) 3 = very low intensity of conflict (no dispute, crisis or war going on)	0
b. Anti-corruption and transparency (What is the perceived level of corruption?) ⁶⁰	0 = highly corrupted, CPI of 0 1 = corrupt, CPI equal to or under 50 2 = clean, CPI higher than 50 3 = very clean, CPI of 100	1 (37/100)
c. Security of environmental defenders (Are environmental defenders secure from threats?) ⁶¹	0 = alarmingly weak security for environmental defenders (more than one murder documented) 1 = weak security for env. defenders (one murder documented) 2 = Environmental defenders are somewhat secure (no murders documented)	0
d. Political commitment (Is political participation of civil society related to the environment and climate backed by high-level political bodies and decision makers?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
	Max. score: 10	1

⁵⁹ This indicator and related scoring is based on the Conflict Barometer 2018 by HIIK (www.hiik.de/conflict-barometer/?lang=en, accessed 23 April 2020). The Conflict Barometer uses a five-level model, defining disputes and non-violent crises as non-violent conflicts with a low conflict intensity, violent crises as violent conflicts with medium conflict intensity and limited wars and wars as violent conflicts with high conflict intensity.

⁶⁰ This indicator and related scoring is based on the Corruption Perception Index 2019 by Transparency International (www.transparency.org/cpi2019, accessed 27 April 2020). According to Transparency International a scoring of zero means “highly corrupt” and 100 is “very clean”. The scoring “1=corrupt” and “2=clean” was set by UfU. Transparency International defines corruption as the “abuse of entrusted power for private gain”, whereas “transparency is about shedding light on rules, plans, processes and actions. (...) “It is the surest way of guarding against corruption, and helps increase trust in the people and institutions on which our futures depend.” (www.transparency.org/what-is-corruption, accessed 23 April 2020).

⁶¹ This indicator and related scoring is based on the Global Witness Report “At what cost? which documents the murder of land and environmental defenders in 2017 (www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost, accessed 23 April 2020). It is important to note that the absence of murder does not mean that there are no other threats, attacks or harassments of environmental defenders and activists.

Criterion 2 Enabling legislation

Indicators	Scores	Score
<p>a. Commitment to international conventions and agreements (Did the country sign and ratify (accept, approve, accede to) the Aarhus Convention or the Escazú Agreement, requiring civil society participation related to the environment and climate?)</p>	<p>0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)</p>	1
<p>b. National laws requiring the proactive participation of civil society (To what extent does/do</p> <ul style="list-style-type: none"> the constitution, national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>obligate the state or state agencies at national level to proactively seek the participation of civil society in decision-making related to the environment and climate, going beyond the official notification of participatory events?)⁶²</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	1
<p>c. National laws requiring timely participation (To what extent does/do</p> <ul style="list-style-type: none"> the constitution, national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require timely participation (before a decision is made and so that there is enough time for a public authority to consider the public comments) of civil society in decision-making related to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	2

⁶² If there is a primary act requiring participation that affects several subordinates laws the latter are counted as well.

<p>d. National laws requiring information regarding the participation process (To what extent does/do</p> <ul style="list-style-type: none"> the constitution, national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require all information relevant to decision-making processes relating to the environment and climate to be made available to civil society, without civil society having to make an official information request?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	1
<p>e. National laws requiring the consideration of civil society's comments (To what extent does/do</p> <ul style="list-style-type: none"> the constitution, national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to take due account of civil society's comments in decision-making relating to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	1
<p>f. National laws requiring notification of civil society on the decision made along with the reasons and considerations on which the decision is based (To what extent does/do</p> <ul style="list-style-type: none"> the constitution, national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to promptly inform civil society about the decision and provide a written response explaining which comments were taken into account as well as giving reasons for dismissing others?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	0
	Max. score: 17	6

Criterion 3 Supporting governance & structures

Indicators	Scores	Score
a. Governance structure (Is there an institutional body or mechanism, such as a committee, division or centre, supporting and coordinating participation processes relating to the environment and climate?)	0 = no 2 = yes	2
b. Institutional coordination & cooperation (Are national participation processes relating to the environment and climate coordinated across different vertical and horizontal political levels?)	0 = no 1 = there is weak coordination and cooperation 2 = there is good coordination and cooperation 3 = there is very good coordination and cooperation	1
c. Financial resources (Are civil society actors financially supported to participate in environmental/climate policy, e.g. through an allowance, reimbursement of travel costs or funding of staff members?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
	Max. score: 7	3

Criterion 4 Qualitative participation processes⁶³

Indicators	Scores	Score
a. Early participation (At what stage was civil society involved in the process?)	0 = only after most of the decisions have been made 1 = after the first draft of the document/plan/strategy 2 = directly from the beginning	1
b. Broad, inclusive invitation (Was a wide variety of representatives of civil society (CSOs and wider public) invited to participate, including for instance those representing youth, gender, indigenous groups, and minority ethnic groups?)	0 = no civil society representatives invited 1 = not a wide variety invited, just a few selected CSOs 2 = either just CSOs or just the wider public invited 3 = yes, a wide variety invited	1

⁶³ The scoring represents the averaged evaluation of some recent national participation processes relating to the environment and climate in each country, described in detail in the respective chapters of this study.

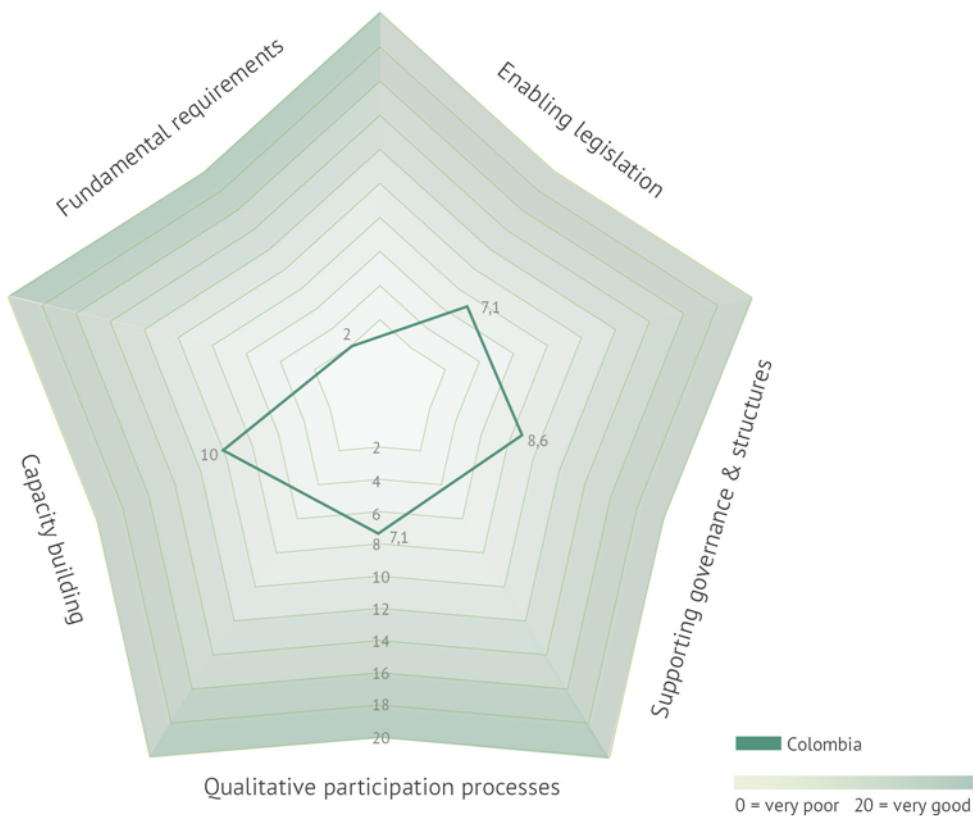
c. Timely invitation (Was civil society invited early enough to participate?)	0 = some days in advance 1 = less than one month in advance 2 = more than one month in advance	1
d. Adequate participation formats (How was civil society involved in the process?)	0 = through information 1 = through consultation 2 = through several interactive formats, fostering dialogue and collaboration	0
e. Transparency and information (Was information about the technical background and the participation process available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, a lot of information	1
f. Available documentation (Was documentation about the discussions and results available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
g. Transparent review of recommendations (Were recommendations and views from civil society reviewed in a transparent manner?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
h. Evaluation and feedback process (Was there an evaluation and feedback process regarding the participation procedure?)	0 = no 2 = yes	0
	Max. score: 17	6

Criterion 5 Capacity building

Indicators	Scores	Score
a. Environmental education (Is national formal and non-formal environmental and climate education offered to the public?)	0 = no 1 = yes, some education on offer 2 = yes, a lot of education on offer	1
b. Public awareness raising on participation rights and opportunities (Is information about public participation rights and opportunities available to the public?)	0 = no 1 = yes, to some extent 2 = yes, fully	1

<p>c. CSO capacity building on climate change, climate policy, policy dialogue, organisational development, cooperation and networking</p> <p>(Is there capacity building on topics such as climate change, climate policy, policy dialogue, organisational development, cooperation or networking for CSOs?)</p>	<p>0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available</p>	<p>1</p>
<p>d. Capacity building on participation and stakeholder engagement for governments</p> <p>(Is there capacity building on participation and stakeholder engagement for national governments and state officials?)</p>	<p>0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available</p>	<p>1</p>
<p style="text-align: right;">Max. score: 8</p>		<p>4</p>
<p style="text-align: center;">Max. total score</p>		<p style="text-align: center;">59</p>
<p style="text-align: center;">20</p>		<p style="text-align: center;">20</p>

Figure 6: Assessment of the environment and opportunities to participate in climate policies in Colombia (scaled to a maximum of 20 points)





3.8 Strengthening civil society involvement

One main objective of the project “Strengthening Civil Society for the Implementation of National Climate Policy” is to foster and improve the conditions and possibilities for civil society to participate in national climate policy. This chapter therefore presents recommendations derived from the analysed status quo, including identified barriers and challenges that impede effective participation in Colombia. The following takeaways are country-specific and aim to provide guidance for national policy makers, other stakeholders relevant for climate-related policy making and participation such as international institutions and donors, and civil society itself.

The identified entry points on how to improve the participation of civil society (organisations) were grouped into five areas of action, illustrated by the “Participation Handprint” in Chapter 2.1: fundamental requirements, enabling legislation, supporting governance and structures, qualitative participation processes, and capacity building.



3.8.1 Fundamental requirements

Ensure security for citizens and environmental defenders

The long history of violent conflicts and repressions in Colombia is so complex and fundamental that it is hardly possible to give suitable recommendations here that offer satisfying solutions for the problems related to them. Nevertheless, in the context of the participation of civil society in political decision-making, it cannot be stressed enough how important it is to ensure personal security from repression and physical threats for all citizens in the country as a top priority. This most definitely includes those who want to participate in decision-making processes and to express their opinions and demands such as environmental and human rights defenders. Therefore, the peace negotiations, the fight against the violation of human rights, and the strengthening of the rule of law have to be pushed forward steadily by both national and international actors.

Colombia already has passed some laws that in theory have the potential to contribute to the protection of environmental defenders such as the constitutional right to a healthy environment. Nevertheless, Colombia is still one of the most dangerous countries in the world for environmental defenders. Therefore, Colombian legislation and jurisdiction must be further strengthened in terms of building strong and effective rules to protect environmental defenders in accordance with international human rights law. Furthermore, it is important to reinforce the execution of existing laws, and to ensure the fast and independent investigation of all violations of the rights of environmental defenders, the prosecution of alleged perpetrators, and the creation of effective remedies and penalties (Knox, 2017). Several international standards and guidelines can be used as a blueprint. An important step would be the fast ratification of the Escazú Agreement, including the obligation to better protect environmental defenders’ rights and its comprehensive incorporation into national law. The institutions to be set up as part of the implementation of the Escazú Agreement such as the planned Compliance Committee can exert outside pressure on Colombia to fulfil its obligations. Furthermore, national and international CSOs and networks need

support in helping environmental defenders to ensure their own security by empowering them through trainings and employing effective advocacy (Earthrights International, 2018). Real improvements in political participation can only be achieved if the personal security of all citizens of Colombia is increased.



3.8.2 Enabling legislation

Ratify and implement the Escazú Agreement

Colombia's recent signature of the Escazú Agreement is already an important first step in strengthening environmental participation rights in the country. However, the Escazú Agreement is still not legally in force from signature alone. The agreement only acquires its status as a legally binding international treaty whose non-compliance can be sanctioned when 11 countries of the region have signed and ratified it. Therefore, Colombia should ratify the agreement quickly and ensure its full and comprehensive incorporation into national law. All existing legislation and procedures on environmental participation have to be revised and mainstreamed with the obligations of the agreement. This includes all regulations and practices related to the access to environmental information, participation in environmental decision-making, access to justice in environmental matters, and the protection of environmental defenders. A full implementation of the agreement's requirements contributes sustainably and comprehensively to a major improvement in Colombia's civil society.

Define clear legal procedures for public participation and make them mandatory

Although there are several participatory mechanisms in Colombia and the implementation of participation is required by many laws and decision-making processes, the procedural details of these processes are not regulated or standardised. Therefore, a national regulation on the implementation of mechanisms and opportunities for environmental participation is required that legally defines the public participation procedures in environmental and climate policies, plans and programmes. This should include clear legal guidelines on which stages of the decision-making process have to include participation to be implemented by the state, including the indication of a clear timeline for its realisation. The guidelines should be in line with the requirements of the Escazú Agreement and orientated on good international practice in public participation. The conformance with these guidelines should be mandatory for every state institution. This allows citizens, CSOs and other stakeholders to track and understand the decision-making processes and to participate in all relevant stages of the process. This enhances the impact of the participation, strengthens trust, acceptance, and mutual understanding, and gives public instruments and decisions a greater legitimacy.



3.8.3 Supporting governance and structures

Define competencies and responsibilities clearly

Even though the Colombian National Climate Change Policy (PNCC) is quite complex and comprehensive, it fails to define clear competencies and responsibilities. In particular, a clear determination between different governmental levels (such as

national or regional) is missing. Therefore, the revision of the Colombian Climate Change Governance System (SISCLIMA) should be used to incorporate such a clear definition of responsibilities and tasks. Especially the forthcoming formulation of territorial development plans and action plans of the Regional Autonomous Authorities depends on a clearly determined distribution of competencies. In the context of civil society participation, it is important to make this distribution of competencies transparent and information on it openly accessible to the public. This guarantees that those who aim to participate in decision-making processes know which institution they can turn to.

Budget strengthening for environmental participation

In Colombia, the design and implementation of participation activities with CSOs and the public and private sectors in the context of climate policies is funded by national and international sources. The leading entity in financing the development of climate policies including the implementation of participation procedures is the Ministry of the Environment (MADS). However, especially at the level of the departments, the budgets for the implementation of participation procedures are low and the budget from MADS has been also reduced year by year. It is therefore necessary to increase the budgets from regional environmental authorities and MADS to guarantee the implementation of civil society participation, in particular to enable them to finance the development of qualitative participatory bodies and mechanisms in the regions.



3.8.4 Qualitative participation process

Facilitate access to target-group specific information

It is essential for the public to get access to all relevant information that is needed to fully understand the decision-making process to achieve effective participation. In this sense, it has to be recognised as positive that information on most of the instruments and policies on climate change in Colombia is available and processed for consultation on the websites of MADS and other competent entities. Additionally, it is possible to access all information related to environmental issues in Colombia through the right to petition, defined in Article 23 of the constitution, and regulated in detail in Article 74 of Law 99 of 1993. Accordingly, any citizen can request information related to climate change and get a response within a period of 10 business days. However, the information available is often highly technical and hard for non-experts to understand. To enable citizens and CSOs to participate effectively, it is essential to provide free information in easy, citizen-friendly language, processed in formats that are easy to access. Therefore, the state should provide non-technical summaries of all relevant information and manuals for citizens with background knowledge on instruments of climate change policies. Furthermore, it is important to move forward in the creation of new dissemination channels for information and to provide information adapted to the needs of different target groups to allow broader participation.

Inclusion of a broader range of civil society stakeholders

Only a very small number of CSOs participated in the participation processes on national climate policies in Colombia over the last few years. These were mainly

large NGOs with a high level of technical knowledge, a national scope and their headquarters in the capital Bogotá. They do not sufficiently reflect the diversity of Colombian civil society. Smaller CSOs and CSOs from other parts of the country or organisations with lower capacities and budgets were hardly involved in any of the participation processes. Therefore, it is important to open the participation to enable a real representation of Colombia's civil society. This can be done by actively inviting a broad range of CSOs to participate, and by spreading information about the processes via many different channels. To enable real participation, it is also necessary to review the standards for comments of the different actors in a way that climate participation is not simply a formal requirement that legitimises the process, but an opportunity for civil society actors to express their concerns, fears and ideas. The state should not merely see the participation of CSOs as a source of additional technical knowledge and data, but instead the interests and concerns of civil society actors should be taken into account in every step of the decision-making process. The state should especially promote the participation of vulnerable communities and representatives of ethnic groups and should actively support them to do so, such as is the case with the Permanent Coordination Board with Indigenous Peoples and Organisations (MPC), representatives of black communities, and women's organisations.

Increase transparency and traceability of decision-making processes

To increase the transparency and traceability of decision-making processes on climate policies, all relevant steps of the participation processes should be documented and stored in institutional archives. This contributes to continuity in their implementation also when the government changes. Furthermore, it enables a long-term record of all practices, allowing the evaluation of the processes and the assessment of the real influence of participation in the final texts of the policies. Moreover, it facilitates the replication of good practice by other authorities and other governments, the identification of opportunities for process improvement to allow the design of instruments with greater legitimacy and understanding for their application, and the identification and prevention of corruption.

Use upcoming political processes as an opportunity for strengthening participation in climate policies

The NDCs are currently being updated to be presented to the UNFCCC in 2020 in accordance with Article 4 of the Paris Agreement. This is an opportunity to review, strengthen and enhance the participation process carried out by the government during the development of the INDC, taking policy, regulatory and institutional advances that can facilitate greater participation opportunities. In this context, it is important to create more and broader spaces for dialogue between the Ministry of Foreign Affairs (Cancillería de Colombia), MADS and civil society actors, which allow for the real participation of civil society and the private sector in the adoption of negotiating positions for international instruments.

Likewise, new opportunities for the participation of civil society, allowing CSOs to reach out to decision makers on national, territorial and municipal levels should be created, not only in the formulation of climate policies, but also in the implementation of their associated measures and instruments,. This will allow CSOs

to turn to the authorities at the appropriate time to intervene and really influence the development and implementation of instruments, measures and action plans.



3.8.5 Capacity building

Capacity building on formal and informal participation mechanisms

In Colombia, the existing formal participation mechanisms are little known and rarely used by both civil society actors and public officials. Additionally, the informal formats that have often been used by authorities such as “workshops” or “meetings”, do not always have legal validity to guarantee the fundamental right to participate in the terms in which it is outlined by the constitution. Therefore, a national dialogue is required on the concept of environmental participation, its mechanisms and defining clear rules for its implementation. In this sense, it is essential to promote spaces for capacity building and strengthening of knowledge on formal participation mechanisms with both public officials and with civil society actors.

Enhance media coverage and education on climate policies and civic rights

The media have huge potential to provide a large number of actors with information on climate change, climate policies, and civic rights. Awareness raising can be enhanced through social media campaigns on national instruments and policies and thus be able to directly reach citizens in the whole country, especially young people. Likewise, school-based and professional education should integrate climate change and climate policies as well as civic rights into their curriculums. Furthermore, educational training for journalists and social leaders should be promoted as they are responsible for disseminating information to citizens and have to face the challenge of communicating this topic properly and accessibly.

National climate policy planning in Colombia

5 key measures to ensure civil society's participation is meaningful, effective and long-term

1 Ensure security and observance of human rights for all citizens:

Citizens who want to participate in environmental decision-making need to be protected from physical and psychological threats and a disregard of their human rights. Reinforce the implementation of existing laws for the protection of citizens, ensure fast and independent investigation of all human rights violations, prosecute alleged perpetrators, and create effective remedies and penalties for human rights violations.

2 Ratify and fully incorporate the Escazú Agreement into national law:

Colombia should ratify the Escazú Agreement quickly to ensure that it becomes legally binding for all state parties. Ensure the agreement's full and comprehensive incorporation into national law, including the revision of all existing legislation and procedures on environmental participation and ensure their mainstreaming with the obligations of the agreement.

3 Define clear legal procedures for public participation and make them mandatory:

Create clear legal guidelines on the implementation of participation mechanisms that define at which stages of the decision-making process state institutions are obliged to implement participation processes, including a clear definition of all procedural steps and the indication of a clear timeline for their realisation.

4 Include a broader range of civil society actors and increase transparency and traceability of decision-making processes:

Open participation processes to a broader range of civil society actors to enable real representation of Colombia's civil society. Actively invite a broad range of CSOs and spread information about the processes via many different channels adapted to specific target groups. In particular promote the participation of vulnerable communities and representatives of ethnic groups, and actively support their participation. Document all relevant steps of the participation processes and make the documentation publicly accessible to allow higher transparency in decision-making.

5 Increase capacity building for formal and informal participation mechanisms: Promote opportunities for capacity building and increasing knowledge on formal participation mechanisms with public officials and civil society actors.

3.9 Conclusions for Colombia

Since 2011, Colombia has developed various climate policies and strategies, integrated into a comprehensive National Climate Change Policy framework (PNCC) and has established an extensive governance system regarding climate change management (SISCLIMA). In this context, many new national climate strategies and plans were formulated (ECDBC, PNACC, ENREDD +, PAS, PIGCCS, PIGCCT and EICDGB) and new institutions and entities for climate change management were created on different levels (CICC, CNCC and the NRCCs). Based on these major efforts to adapt institutional arrangements to the needs of the international climate policy regime and to face the national and regional challenges of climate change, it can be concluded that climate change has been a topic of increasing priority for recent Colombian governments. The newly established institutions and entities regarding climate change, especially the CNCC and the NRCCs involve civil society actors and thus support civil society participation to a certain extent. However, while SISCLIMA strengthens institutional coordination and cooperation between different vertical and horizontal political levels regarding climate policy, this coordination and cooperation is rather weak when it comes to civil society participation. Furthermore, Colombian institutions' budgets to enable the participation of civil society are quite low. Therefore, despite the newly established climate policy institutions, Colombia performs only modestly in regards to governance structures in this study's assessment of the environment and opportunities to participate, with a score of 3/7.

However, the most obvious and most severe drawback for the participation of civil society in Colombia is the alarmingly weak security situation for Colombia's citizens due to decades of civil war and internal violent conflicts, as well as persecution, stigmatisation, violent attacks and murders of community leaders and defenders of environmental and human rights. Against this background, it is hardly surprising that Colombia scores very poorly regarding the fundamental requirements for participation in the assessment (1/10). Despite the fundamental threats that Colombian citizens are constantly facing, it is remarkable and admirable how strongly and courageously Colombian civil society leaders, organisations and networks are still continuously fighting for their rights and driving social and environmental change in their country.

In addition to these very adverse conditions, further circumstances impede full and effective participation of civil society in climate policies. When it comes to legislation, the shortcomings are not that obvious at first glance. Colombian legislation generally includes many participatory mechanisms and opportunities and it has to be recognised as positive that it is possible to access all information related to environmental issues through the constitutional right to petition. Additionally, most of the climate policy strategies and plans developed include processes for the participation of stakeholders and civil society to a certain extent. However, missing procedural details and standards for the implementation of mechanisms and procedures impede the effective participation of civil society in most of the political and administrative decision-making processes. The participation formats that are implemented by the government and administration in the context of the development of climate policies are not usually based on the principles of best participation practice because the obligations to do so are missing within Colombian

legislation. Therefore, despite many existing legislative regulations that include participation rights, Colombia also performs rather modestly in the assessment of its legal requirements (6/17). Only a few of the laws fulfil the assessed criteria for effective civil society participation including proactive participation, distribution of information about the participation process, consideration of the comments of civil society in the decision-making, and information of civil society about the decisions that were made.

Although information on most of the instruments and policies on climate change is available in Colombia and processed for consultation on the websites of the responsible authorities, in most cases, the information is highly technical and not adapted to the needs of different target groups. Furthermore, the authorities don't spread this information actively. Limited knowledge and weak capacity for exercising legally required participatory mechanisms are further barriers for citizens and CSOs to effectively participate. There are few efforts for capacity building in the use of participation mechanisms for both civil society and representatives of authorities, leading to a rather moderate performance of Colombia within the qualitative assessment regarding capacity building (4/8). This, and the fact that only a limited number of civil society actors are actively invited to participate in the procedures, leads to the situation that civil society participation in Colombia is not very inclusive. In most cases, only the same mostly large, prestigious, and consolidated NGOs that operate nationwide and have their headquarters in Bogotá were invited to participate. The focus of these NGOs is mostly on nature conservation and their links to Colombian civil society are rather weak. Smaller CSOs and especially CSOs from other parts of the country are hardly involved in any of the processes. Moreover, the involvement of these NGOs occurred relatively late in most of the processes, after other stakeholders such as representatives of the economy had already participated and contributed to the draft decisions. This gives the impression that the Colombian government favours economic interests over those of civil society. Lastly, most of the participation formats used for civil society participation focus more on information than on giving CSOs and NGOs the possibility to have real influence on the final decisions. Therefore, Colombia scores rather poorly also in the evaluation of participatory procedures (6/17).

For the improvement of the situation of civil society participation in Colombia in general, including participation in climate policy, the most urgent step would be to sustainably improve the security situation in the country. At the same time, this will be the most complex and difficult challenge bearing in mind Colombia's historic and present situation of instability. The peace process, the resolution of violent conflicts, and the strengthening of Colombian legislation and jurisdiction, including the reinforcement of the execution of existing laws, ensuring fast and independent investigation of all legal violations, effective prosecution of alleged perpetrators, and the creation of effective remedies and penalties, are challenges for generations and of historic proportions. However, civil society participation in Colombia will always be threatened severely without far-reaching improvements in these areas.

In contrast, relatively small adjustments have the potential to lead to sustainable improvements regarding Colombia's legislation on (environmental) participation, and regarding the implementation of participatory procedures. Colombia's legal system already includes many notable positive starting points

for the promotion of the participation of civil society and many participatory mechanisms. The consequent promotion and implementation of these and the development of mandatory legal guidelines for participation procedures, based on the principles of international good practice, would be measures with major positive impacts for civil society participation in the country. The ratification and implementation process of the Escazú Agreement has the potential to be a driving force for supporting this.

As of 2019, most of the instruments and policies regarding climate change in Colombia, including the NDC, have already been designed. The main role of the participation of civil society will be in monitoring their implementation in the coming years. Furthermore, according to Article 4 of the Paris Agreement, the NDCs will have to be revised during 2020. These processes can be used as opportunities to critically revise and monitor past participation processes, while adjusting and improving future processes to be more in line with international best practice, thereby giving Colombia's civil society the opportunity to really influence their domestic and international climate policies.

Georgia

CO₂ emission estimates ⁶⁵
(million tons/ tons per capita):

11.6/ 2.9565

Surface area: **69,700 km²**

(including Apkhazeti (Abkhazia) and
Tskhinvali Region ("South Ossetia"))



CIVICUS Monitor rating⁶⁶:
Narrowed



Population⁶⁴: **3,729,633**

Population density²³:

53.51 inhabitants per km²



Assessment of the environment and opportunities to
participate in climate policies in Georgia, based on this
study (see chapter 4.7): **43.6/100 points**

⁶⁴ United Nations data, based on the results of the 2014 Population Census, <https://unstats.un.org>, accessed 21 November 2019.
⁶⁵ <https://edgar.jrc.ec.europa.eu/overview.php?v=booklet2018&dst=CO2emi>, accessed 26 March 2020.

⁶⁶ CIVICUS Monitor is a research tool built by civil society that aims to share data on the state of civil society freedoms (civic space) all over the world. It analyses to what extent states fulfill their duty to protect the freedom of association, the freedom of peaceful assembly and the freedom of expression. Each country is assigned a rating of the following categories: open, narrowed, obstructed, repressed or closed. For more information: <https://monitor.civicus.org/methodology>, accessed 27 April. 2020.

4 Georgia

4.1 National climate policy⁶⁷

Georgia ratified the **United Nations Framework Convention on Climate Change (UNFCCC)** in 1994. After the ratification of the **Kyoto Protocol** in 1999, the country acceded to the **Copenhagen Accord** in 2010. It declared it would participate in international actions against climate change and submitted its Intended **Nationally Determined Contribution (INDC)** to the UNFCCC in 2015. According to the INDC, Georgia plans to reduce its greenhouse gas (GHG) emissions by 15% below the business as usual scenario by the year 2030 (unconditional target). A reduction of up to 25% is intended if the country gets access to low-cost financial resources and if technical cooperation and technology transfer happen.⁶⁸

In May 2017, Georgia ratified the **Paris Agreement** and thus took responsibility to develop a more ambitious NDC by 2020. So far, increasing commitments towards climate change mitigation can be noted, but there is still much room for improvement (Lui, 2018). The Ministry of Environmental Protection and Agriculture (MEPA) is responsible for the coordination of the relevant processes and the implementation of measures laid out in the UNFCCC and the Paris Agreement. In order to coordinate and implement the major climate-related documents of Georgia, including the enhancement of the NDC, the preparation of a **Climate Action Plan (CAP)** as well as **National Communications (NC)** and **Biennial Update Reports (BUR)** to the UNFCCC, the **Environment and Climate Change Department and Climate Change Division (CCD)** were formed under the MEPA.

The Third NC of Georgia was submitted to the UNFCCC Secretariat in 2016, and the Fourth NC is currently in preparation. Another important document regarding national mitigation actions is the **Low Emission Development Strategy (LEDS)**. The draft document, which covers emissions from energy, transport, industry, buildings, waste, land use, land-use change, forestry and agriculture was prepared by Winrock International and the NGO Remissia. The draft was accepted by Georgia's inter-ministerial LEDS Coordination Committee⁶⁹, however it was not officially adopted by the government (Lui, 2018). The LEDS Coordination Committee was chaired by MEPA and consisted of high-level representatives of all climate change-related ministries, mostly the deputy ministers. The coordination committee enabled the LEDS design processes and it had the authority to adopt working plans, establish implementation units and communicate with the Government of Georgia. It considered reports, advice, plans and proposed actions in a working group, which has been the counselling body of the management system. The Expert Working Group (EWG) included civil servants from central government, as well as independent experts. The key functions of the group were to prepare detailed working plans that specify how LEDS targets are to be attained, to identify priority sectors, and to report to the coordination committee on the progress made.

67 Mainly based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

68 www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Georgia%20First/INDC_of_Georgia.pdf, accessed 20 January 2020.

69 <https://policy.asiapacificenergy.org/sites/default/files/Draft%20Georgia%27s%20Low%20Emission%20Development%20Strategy%20%28LEDS%29%20%28EN%29.pdf>, accessed 20 January 2020.

At the end of 2018, the government announced the transformation of the LEDS Coordination Committee to the Climate Change Committee in order to enhance coordination among key ministries and stakeholders. Within this structure, it is envisaged that a Covenant of Mayors Coordinating Group (CMCG) will be established to support the priority matters of the municipalities and to strengthen the vertical dialogue concerning climate change. This is important as the local level plays a crucial role with regard to mitigation and adaptation actions. Under the Covenant of Mayors for Climate & Energy, local authorities commit to reduce their CO₂ (and possibly other GHG emissions) by at least 40% to increase their resilience to the impacts of climate change, and to provide secure access to sustainable and affordable energy by 2030.

In January 2020, the Government of Georgia created the **Climate Change Council (CCC)** that aims to coordinate the effective implementation of Georgia's climate change policy and climate-related international commitments.⁷⁰ The council is composed of the Minister of Environmental Protection and Agriculture (chair), the Minister of Education, Science, Culture and Sport, the Minister of Regional Development and Infrastructure, the Minister of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs, the Minister of Economy and Sustainable Development, the Minister of Finance, the Executive Director of the National Statistics Office of Georgia, the Chairman of the Government of the Autonomous Republic of Abkhazia, the Chairman of the Government of the Autonomous Republic of Adjara, and the Coordination Team of the Covenant of Mayors of signatory municipalities. This coordination team also acts as advisory body to the council. Additionally, a working group advises the council on the development of specific issues in climate change policy in the economic and social spheres. The working group consists of public officials, experts and representatives of the scientific community, and is formed and approved by the council. Representatives of civil society are not part of the council or the working group and can only attend a meeting in agreement with the head of the working group.

In order to reach the country's climate targets defined in the NDC, Georgia is currently developing a Climate Action Plan for 2021-2030. It is a short to medium-term roadmap that will define the legal instruments, activities and methods to implement the NDC of Georgia (Day et al., 2019).

In addition to the LEDS, the NDC, and the CAP, the Ministry of Economy and Sustainable Development of Georgia is responsible for the development and implementation of the **National Renewable Energy Action Plan (NREAP)** and the **National Energy Efficiency Action Plan (NEEAP)**, which are required by the Ministerial Council of the Energy Community. Both documents were adopted in December 2019 and should inform the update of the NDC and feed into the upcoming **National Energy and Climate Plan (NECP)**. Similar to the NREAP and NEEAP, this plan is required by the Ministerial Council of the Energy Community and aims to streamline multiple monitoring and reporting obligations on climate and energy. It should cover the period 2021 to 2030, demonstrating the pathway to achieve the agreed 2030 targets and including a perspective until 2050. The process to develop a **Long-Term Strategy (LTS)**, including climate change mitigation targets until 2050, started in 2019 with the support of the project EU4Climate (Day et al., 2019).

⁷⁰ <https://matsne.gov.ge/ka/document/view/4780380?publication=0>, accessed 12 June 2020.

Moreover, the following policy documents, plans and programmes refer partially to climate issues: the **Regional Development Program of Georgia** (2018-2021)⁷¹ reflected a number of priority environmental goals, such as ambient air protection, climate change, developing water supply and sanitation, sustainable use of forest resources, waste management and implementing new mechanisms to reduce natural and anthropogenic hazards. The **Strategy for Agricultural Development in Georgia** for 2015-2020 has identified environmental protection and the sustainable management of natural resources as priority areas. The document has a strategic direction (3.7) devoted to climate change, environment and biodiversity. The **Rural Development Strategy** for 2017-2020⁷² has three priority directions, one of which is environmental protection and the sustainable use of natural resources. This specifically includes the following targets: 1. Water, forest and other resources/ the improvement of water, forest and other resources in targeted rural areas; 2. Waste management/ the promotion of sustainable systems of waste management in rural areas; 3. Climate change/ activities used to mitigate the negative impact of climate change. The relevant measures are outlined in the action plan of the strategy.

4.2 Climate-engaged civil society in Georgia

In Georgia, civil society, including registered non-governmental organisations (NGOs), enjoys quite a strong degree of political freedom and has established itself as an influential actor in the process of democratisation (Freedom House, 2018). Freedom of expression and assembly rights are guaranteed by the constitution and have been improved over the last few years. Civil society organisations (CSOs) play an important role as watchdogs and cooperate closely with the international community for that reason (Bertelsmann Stiftung, 2018a). In December 2013, the Georgian parliament passed a memorandum at national level aiming to promote better cooperation between the state and civil society. Furthermore, Georgia joined the Open Government Partnership⁷³ in 2011. The partnership's aim is to bring together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive and accountable (Bertelsmann Stiftung, 2018a). However, the current political crisis is having an impact on civic space and there have been attempts to discredit civil society and other critical voices. Protests against the government started in summer 2019 and have become stronger since November 2019 because the parliament failed to pass the amendments necessary to enact the promised proportional electoral system. Since then, a backlash and threats against independent civil society groups, particularly those that are engaged in human rights and governance-related work, has been observed.⁷⁴

CIVICUS Monitor that tracks the state of civil society freedoms worldwide, rates the civic space in Georgia with the category “narrowed”. This means that the state allows individuals and CSOs to exercise their rights to freedom of association, peaceful assembly and expression but at the same time, these rights are violated and the environment for CSOs is still not fully conducive to inclusive participation in policy dialogue.

71 Government of Georgia (2018). Regional Development Programme of Georgia 2018-2021 // Approved by the Decree #1292 of 11 June, 2018 of the Government of Georgia / Legislative Herald of Georgia, 11.06.2018 / Official Web-page: matsne.gov.ge. www.mrdi.gov.ge/sites/default/files/2018-2021_regional_development_programme_of_georgia_unofficial_translation.pdf; accessed 27 April 2020.

72 Government of Georgia (2016). Georgia's Rural Development Strategy 2017-2020 and 2018-2020 Action Plan // Approved by the Decree #631 of 30 December, 2016 of the Government of Georgia / Legislative Herald of Georgia, 30.12.2016 / Official Web-page: matsne.gov.ge. <https://mes.gov.ge/uploads/files/MES%20final%20eng.pdf>, accessed 27 April 2020.

73 www.opengovpartnership.org/countries/georgia, accessed 10 April 2019.

74 www.transparency.org/news/pressrelease/georgia_political_crisis_dialogue_with_civil_society, accessed 20 March 2020.

The CIVICUS Monitor that tracks the state of civil society freedoms worldwide, rates the civic space in Georgia with the category “narrowed”.⁷⁵ This means that the state allows individuals and CSOs to exercise their rights to freedom of association, peaceful assembly and expression but at the same time, these rights are violated, for example with reports of occasional assaults and the use of tear gas against peaceful activists. The environment for CSOs is still not fully conducive to inclusive participation in policy dialogue and decision-making at national and local level.⁷⁶

In recent years, there has been a slight increase in the number of young volunteers and grassroots organisations that set new standards for mobilisation and participation. They mainly focus on social, environmental and political topics such as environmental protection, women’s rights, anti-corruption and drug liberalisation. This movement of young people and youth groups is new as it is not donor-driven, but based on independent volunteerism and social mobilisation (Freedom House, 2018).

Despite these recent developments, a deeply rooted participatory civic culture is missing in Georgia (Freedom House, 2018). CSOs suffer from limited public trust and recognition for their work. Data from Caucasus Resource Research Centre (CRRC)’s Caucasus Barometer⁷⁷ shows that between 2008 and 2017, Georgians’ trust in CSOs decreased from 35% to 23%.⁷⁸ This leads to a lack of donations from individuals and money from membership-based funding, making the NGO’s and CSO’s dependent on international grants and donors (Puig, 2016).

Another process that strongly influences the possibilities and activities of NGOs is the accession to the European Union (EU). In 2014, the EU and Georgia signed an Association Agreement, which fully came into force in 2016. The agreement clearly underlines the importance of civil society cooperation in Chapter 20 and demands a joint civil society dialogue forum with CSOs facilitated by the parties. Moreover, the agreement describes the Eastern Partnership Civil Society Forum (EaP CSF) and the Civil Society Platform as appropriate structures to promote meetings and exchanges among civil society.⁷⁹ Within the EaP CSF, civil society can participate through working groups, among others for the environment and energy.

When looking at the roles and topics of CSOs in Georgia, it can be observed that four main groups of CSOs actively participate in policy making. The first group focuses on human rights and democratic governance. These CSOs are urban-based and mainly play the role of a watchdog. The second large group is formed by CSOs that work on specific topics such as education, health and environment. They often work on the regional or local level and provide services and advocacy. The third group consists of faith-based organisations that are directly linked to different churches in the country. The fourth group is composed of institutionally strong CSOs with international roots and good resources (Puig, 2016). Findings of the National Agency for Public Registry (NAPR) reveal that there were a total of 23,561 registered “non-profit, non-entrepreneurial (non-commercial)” organisations in Georgia in 2016. But as these numbers also include government-owned entities

When looking at the roles and topics of CSOs in Georgia, it can be observed that four main groups of CSOs actively participate in policy making:

1. Organisations focused on human rights and democratic governance
2. Organisations working on specific topics such as education, health and environment
3. Faith-based organisations
4. Institutionally strong organisations with international roots and good resources

75 <https://monitor.civicus.org/country/georgia>, accessed 20 March 2020.

76 <https://monitor.civicus.org/Ratings>, accessed 10 April 2019.

77 <https://caucasusbarometer.org/en>, accessed 10 April 2019.

78 <https://caucasusbarometer.org/en/cb-ge/TRUNGOS>, accessed 15 April 2019.

79 https://eeas.europa.eu/sites/eeas/files/association_agreement.pdf, accessed 10 April 2019.

CSOs and NGOs working on climate issues represent a small minority in Georgia and are not organised in bigger networks.

such as kindergartens, they don't reflect the real number of CSOs (United States Agency for International Development, 2017).

According to the portal www.csogeorgia.org, 147 out of 1066 Georgian CSOs deal with ecological topics.⁸⁰ CSOs and NGOs that work on climate issues represent a small minority and are not organised in bigger networks. Only a few organisations such as Greens Movement of Georgia (GMG), Energy Efficiency Centre (EEC), the Caucasus Environmental NGO Network (CENN), REC Caucasus, Remissia, World Experience for Georgia (WEG), Green Alternative, the City Institute, and EcoVision deal directly with topics such as climate change, emissions reduction and renewable energy. The climate-engaged civil society in Georgia is still a relatively new movement with limited financial and personal resources. NGOs such as GMG and CENN are mainly engaged in projects and activities that practically contribute to climate protection (mitigation) or climate change adaptation. Together with local partners they conduct activities such as installing solar panels, promoting climate change resilience building in communities, improving adaptive capacities in the rural agricultural sector and undertaking a lot of environmental education. They show a high willingness to cooperate with different ministries and to advise the government. They contributed to national mitigation instruments such as the Nationally Appropriate Mitigation Actions (NAMAs), comment on climate-relevant draft laws and participate in the NDC revision process. In 2019, GMG initiated a process to elaborate the civil society's understanding of ambitious NDCs. Together with other NGOs they analysed the INDC of Georgia and worked out new sector-specific recommendations on how to decrease GHG emissions. The document also includes recommendations for strengthening stakeholder participation within the NDC revision process. The common understanding is supported by 38 civil society actors and was presented to governmental representatives by GMG at an international climate conference in Tbilisi in November 2019.⁸¹

4.3 Legal framework for participation in Georgia⁸²

4.3.1 International level

Georgia is party to the following international treaties (Table 9) that are related to public participation in climate-related decision-making, and that play a significant role, not only with regard to participation, but also in the overall national policy-formulating process, influencing environmental governance at the national level.

⁸⁰ <https://csogeorgia.org/ge/organizations?searchQuery=&showCategory=7>, accessed 11 February 2020.

⁸¹ <https://greens.ge/en/articles/12>, accessed 20 January 2020.

⁸² Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

Table 9: International treaties ratified by Georgia that are related to public participation

Treaties	Date of Ratification/ Accession
United Nations Framework Convention on Climate Change (UNFCCC)	1994
Montreal Protocol on Substances that Deplete the Ozone Layer	1996
Vienna Convention for the Protection of the Ozone Layer	1996
Kyoto Protocol to the United Nations Framework Convention on Climate Change	1999
Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters	2000
London, Copenhagen and Beijing Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	2000-2011
Paris Agreement on Climate Change	2017

The **Aarhus Convention** is an important treaty as it is to date (together with its Protocol on Pollutant Release and Transfer Registers) the only global legally binding instrument on environmental democracy that puts Principle 10 of the Rio Declaration on Environment and Development into practice. Georgia signed the convention in 1998 and ratified it on 11th April 2000. The Aarhus Convention came into force on 30th October 2001. Since then, the requirements of the convention have a legal force prevailing over national law (except the constitution of Georgia). According to Georgian legislation, international treaties do not need to be incorporated (transposed) into national law and might be applied as directly applicable sources of law. However, with the ratification of the convention, Georgia committed itself to transpose the convention into national legislation through concrete laws. It is bound to report to the United Nations Economic Commission for Europe (UNECE) on the implementation of the convention, which regularly publishes the national implementation reports of the member states.⁸³ So far, legal requirements of the Aarhus Convention are not fully incorporated into national legislation (see next chapter).

Another document that deeply influenced the formal framework for participation in environmental decision-making is the **EU-Georgia Association Agreement** of 2014⁸⁴ that fully entered into force in 2016.

⁸³ www.unece.org/env/pp/reports.html, accessed 17 April 2019.

⁸⁴ EU-Georgia Association Agreement (2014). Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part / Official Journal of the European Union (OJ), L 261, Vol. 57, EN, 30.8.2014. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:261:FULL&from=EN>, accessed 28 November 2019.

According to the association agreement (Chapter 3 Environment), access to environmental information and public participation in decision-making is crucial for good environmental governance. Respective national legislation and international agreements, including conventions and protocols that Georgia is a party to, have to ensure a legal basis for the government to develop proper mechanisms for effective access to environmental information and public participation. The association agreement also states that the process of setting-up an environmental information management system is ongoing and once developed, it is expected to ensure more effective access to environmental information as required by the current national legislation, the EU-Georgia Association Agreement and the Aarhus Convention.

The association agreement states that the general public in Georgia can be involved in the decision-making process via legally defined public hearing procedures on activities subject to Environmental Impact Assessment (EIA). The public can also use a hotline to inform the MEPA about any environmental problems. Other IT-based tools have been developed by the Environmental Information and Education Centre (EIEC) such as E-Notice, a notification service that distributes news regarding environmental legislation and public hearings and notifications pertaining to individuals in violation of Georgian legislation on environmental protection.

Furthermore, Georgia is obliged to transpose **Directive 2003/35/EC of the European Parliament and the Council** providing for public participation in respect to the drawing up of certain plans and programmes related to the environment into national legislation (Margvelashvili et al., 2017).

4.3.2 National level

The **Constitution of Georgia** creates the basis for public participation in environmental decision-making, including climate-related matters. Along with general rights related to freedom of information and access to public information, the constitution specifically deals with environmental matters including access to environmental information and participation in decision-making. Article 29 (Right to Environmental Protection) of the constitution states that: “everyone has the right to receive full information about the state of the environment in a timely manner. Everyone has the right to care for the protection of the environment” and that the “right to participate in the adoption of decisions related to the environment shall be ensured by law. According to the constitution of Georgia⁸⁵ (Article 4), any international treaty shall take precedence over national legislation unless it comes into conflict with the constitution of Georgia.

Furthermore, civil society can make use of direct-democratic mechanisms such as referenda, public initiatives and petitions. Non-binding referenda are possible at local and national level, while binding referenda can be held only at the national level. According to the Organic Law of Georgia⁸⁶, binding referenda can be initiated with the signature of 200,000 eligible voting citizens of Georgia

85 Constitution of Georgia (1995) // Consolidated version – Last amended on 23.03.2018 // Official Bulletin of the Parliament of Georgia, 1995 / Legislative Herald of Georgia (LHG) 2018, Official Web-page: matsne.gov.ge - English Version [Unofficial Translation], accessed 28 November 2019.

86 Organic Law of Georgia – Election Code of Georgia (2015): <https://matsne.gov.ge/en/document/download/1557168/22/en/pdf>, accessed 18 June 2020.

(Council of Europe, 2016). Within the framework of Georgia's Open Government Partnership (OGP) Action Plan⁸⁷, the Georgian government launched an e-petition platform (ichange.gov.ge) in 2017.⁸⁸ Each Georgian citizen can use it to submit and collect online signatures on electronic petitions on issues within the competence of the government. Petitions with a minimum number of 10,000 signatures will be sent to the government for consideration. The government is obliged to provide a response to a successful e-petition within three months and to make it publicly available online.⁸⁹

The legal framework for public participation in climate-related decision-making in Georgia as of January 2020 has been summarised in table 10.

Table 10: National legal framework for public participation in climate-related decision-making in Georgia

Decision-making topic	Forms of public participation	Procedure that envisages public participation	Relevant legislation
Development of climate change-related policy, plans and programmes	<ul style="list-style-type: none"> • Written comments • Public hearings, conferences, • Working groups • Other forms 	Within the general framework for public participation in the development of strategies, plans and programmes related to national policy documents (incl. environment and climate-related documents)	Rules of Procedure for Development, Monitoring and Evaluation of Policy Documents (2019)
Development of policies, plans and programmes that may impact the climate (including spatial plans for cities and districts)	<ul style="list-style-type: none"> • Written comments • Public hearings 	Strategic Environmental Assessment	Environmental Assessment Code (2017) Law of Georgia on Environmental Protection (1996) Ambient Air Protection (1999) Spatial Planning, Architectural and Construction Activities Code (2018) Rules for Development of Spatial and Urban Plans (2019)

⁸⁷ www.opengovpartnership.org/documents/georgia-action-plan-2018-2019, accessed 18 June 2020.

⁸⁸ https://idfi.ge/en/electronic_portal_of_petitions_was_launched, accessed 17 June 2020.

⁸⁹ Government of Georgia, Decree No. 245: <https://matsne.gov.ge/ka/document/view/3672138?publication=0>, accessed 18 June 2020.

Decision-making for specific projects that may have a significant impact on the environment/ climate	<ul style="list-style-type: none"> • Written comments • Public hearings 	Environmental Impact Assessment	<p>Environmental Assessment Code (2017)</p> <p>Procedures (Rules) for Public Hearing (2018)</p> <p>Rules for Proactive Disclosure of Public Information (Public Records), Standard for Claiming Public Information Electronically and Rules for Access to Environmental Information (2017)</p>
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Primary legislation

The national legislation of Georgia consists of primary (laws) and secondary (sub-laws) legislation. From the primary legislation, the laws of Georgia on Environmental Protection⁹⁰ and on Ambient Air Protection⁹¹, General Administrative Code⁹², Environmental Assessment Code⁹³ and Spatial Planning, Architectural and Construction Activities Code⁹⁴ formulate requirements for public participation in environmental and climate-related decision-making.

The newly adopted **Environmental Assessment Code** (2017) introduces the principles harmonised with the EU environmental acquis on the Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) Directives, as well as the approaches of the Aarhus Convention and the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) including its protocol on SEA. Activities which are likely to have significant impacts on the environment and human health will be subject to an EIA, including public participation during screening and scoping, as well as during the procedure for issuing environmental decisions. According to the Law of Georgia on Environmental Impact Permits from 2007, a permit seeker is obliged to organise a public hearing on the EIA report before submitting it to the permitting public authority. That means that NGOs as well as any other interested party can participate in the decision-making process by commenting on the report.

⁹⁰ Law of Georgia “On Environmental Protection” of 10 December, 1996 / Official Bulletin of the Parliament of Georgia - Parliamentary Gazette, 1-2(33-34/7), 22/01/1997/ LHG Official Web-page: matsne.gov.ge - English Version [Unofficial Translation], <https://matsne.gov.ge/document/view/33340?publication=2>, accessed 28 November 2019.

⁹¹ Law of Georgia “On Ambient Air Protection” of 22 June, 1999 / Legislative Herald of Georgia, LHG, 30(37), 13/07/1999 / Official Web-page: matsne.gov.ge - English Version [Unofficial Translation], <https://matsne.gov.ge/en/document/view/16210?publication=14>, accessed 28 November 2019.

⁹² Law of Georgia “General Administrative Code” of 25 June, 1999 / Legislative Herald of Georgia, LHG, LHG, 32(39), 15/07/1999 / Official Web-page: matsne.gov.ge - English Version [Unofficial Translation], <https://matsne.gov.ge/en/document/view/16270?publication=30>, accessed 28 November 2019.

⁹³ Law of Georgia “Environmental Assessment Code” of 1 June, 2017 / Legislative Herald of Georgia, 01.07.2017 / Official Web-page: matsne.gov.ge - English Version [Unofficial Translation], <https://matsne.gov.ge/en/document/view/3691981?publication=1>, accessed 28 November 2019.

⁹⁴ Law of Georgia of 18 July, 2018 “Spatial Planning, Architectural and Construction Activities Code” (Legislative Herald of Georgia - LHG Official Website, 13/08/2018 / Consolidated text as of 30.05.2019 as modified by the Law of Georgia No. 4748-III of 30/05/2019 – LHG Official Website, 30/05/2019) [Georgian Version], <https://matsne.gov.ge/document/view/3076667?publication=0>, accessed 28 November 2019.

The permit seeker is also obliged to prepare a protocol of the public hearing and to submit it to the administrative body, attached to the application for the permit (Ministry of Environment and Natural Resources Protection of Georgia (MENRP), 2016). One of the important novelties of the Environmental Assessment Code is that it envisages the unification of screening and scoping procedures in one step, giving interested people the chance to apply for the joint scoping and screening application during the screening procedure.

Public participation on plans, programmes and policies in environmental issues (Article 7 of Aarhus Convention) is not required by national legislation. Georgia did not sign the protocol on SEA under the Espoo Convention that ensures that individual parties integrate environmental assessment into their plans and programmes at the earliest stages and promote public participation (Ministry of Environment and Natural Resources Protection of Georgia (MENRP), 2016). Nevertheless, the Environmental Assessment Code can be considered a key step towards the implementation of a functional system for SEA and EIA applications.⁹⁵

The Law of Georgia on Environment Protection (1996) is a framework law that had been adopted before Georgia ratified the Aarhus Convention. However, the law contains principles that demand participation in environmental decision-making processes and the access to environmental information.

The right to access public information is enshrined in the **General Administrative Code** (1999) in Chapter III. Access to information is one of the most important transparency tools that currently exists in Georgia. According to the code, public information has to be disclosed immediately or no later than 10 calendar days in cases where it requires additional effort. If the freedom of information request is denied, individuals have a right to appeal the decision internally and afterwards to the court within 30 days of receiving the decision. Access to information is the legal right for citizens to request and receive information from the public authority.

There are no unified official guidelines on access to public information in Georgia. Although websites of individual public agencies provide brief instructions on how to request public information, they mainly duplicate the requirements of the law. Nevertheless, such guidelines have been produced by civil society (Hughes & Buadze, 2017) and they provide citizens with information on the nature of public information, request procedures, legal means of protecting the right and practical recommendations on access to information. Some of the recommendations from the guidelines include: adopting internal regulations for the management of public information, installing electronic management systems, establishing electronic systems enabling the electronic request of public information, analysing information request trends, and increasing the role of freedom of information officers in public institutions.

The **Spatial Planning, Architectural and Construction Activities Code** (2018) establishes a detailed mandatory procedure for public participation in decision-making on city and district spatial plans. According to the code, spatial plans cannot be approved without preliminary disclosure and public hearings.

⁹⁵ www.unep.org/environmental-policy/conventions/environmental-assessment/about-us/protocol-on-sea/enveiaaboutep-green/georgia.html, accessed 17 April 2019.

Secondary legislation

When it comes to secondary legislation, the following acts have a direct linkage to public participation in environmental and climate-related decision-making:

- Rules for Proactive Disclosure of Public Information (Public Records), Standard for Claiming Public Information Electronically and Rules for Access to Environmental Information (2017)⁹⁶
- Procedures (Rules) for Public Hearing (2018)⁹⁷
- Statute of the Environmental Information and Education Centre (EIEC) of the Ministry of Environmental Protection and Agriculture of Georgia (2018)⁹⁸
- Rules for the Development of Spatial and Urban Plans (2019)⁹⁹
- Rules of Procedure for the Development, Monitoring and Evaluation of Policy Documents (2020)

The latest specifications and requirements for public participation can be found in the **Policy Planning, Monitoring and Evaluation Handbook** (2019)¹⁰⁰ that includes the **Rules of Procedure for the Development, Monitoring and Evaluation of Policy Documents**. They were approved by Decree 629 of December 2019 that entered into force in 2020 and replaced the Policy Planning Manual of 2016. According to Article 9 of these rules, it is mandatory to hold public consultations before the adoption of a draft policy document in the form of meetings and/or in electronic format. A coordinating body is only obliged to notify stakeholders within a reasonable time prior to the date of each public consultation and shall prepare a summary report on the results of each consultation. The report must include information about the conduct of the consultation, on participants (total number) and on agreements on recommendations/proposals that were taken or not taken into account.

96 MEPA (2017). Rules for Proactive Disclosure of Public Information (*Public Records*), Standard for Claiming Public Information (*Public Records*) Electronically and Rules for Access to Environmental Information // Approved by the Order #12 of 27 March, 2017 of the Minister of Environmental Protection and Agriculture of Georgia / Legislative Herald of Georgia, 28.03.2018 / Official Web-page: [matsne.gov.ge - Georgian Version \[Official Text\]](https://matsne.gov.ge/ka/document/view/3616403?publication=0), <https://matsne.gov.ge/ka/document/view/3616403?publication=0>, accessed 28 November 2019.

97 MEPA (2018). Procedures (Rules) for Public Hearing // Approved by the Order #2-14 of 22 February, 2018 of the Minister of Environmental Protection and Agriculture of Georgia / Legislative Herald of Georgia, 22.02.2018 / Official Web-page: [matsne.gov.ge - Georgian Version \[Official Text\]](https://matsne.gov.ge/ka/document/view/4054941?publication=0), <https://matsne.gov.ge/ka/document/view/4054941?publication=0>, accessed 28 November 2019.

98 MEPA (2018). Statute of the Environmental Information and Education Centre - EIEC // Approved by the Order #2-742 of 6 September, 2018 of the Minister of Environmental Protection and Agriculture of Georgia / Legislative Herald of Georgia, 10.09.2018 / Official Web-page: [matsne.gov.ge - Georgian Version \[Official Text\]](https://matsne.gov.ge/ka/document/view/4286574?publication=0), <https://matsne.gov.ge/ka/document/view/4286574?publication=0>, accessed 28 November 2019.

99 Government of Georgia (2019). Rules for Development of Spatial and Urban Plans // Approved by the Decree of the Government of Georgia No.260 of June 3, 2019 "On Rules for Development of Spatial and Urban Plans (Legislative Herald of Georgia - LHG Official Website, 04/06/2019) [*Georgian Version*], <https://matsne.gov.ge/ka/document/view/4579368?publication=0>, accessed 28 November 2019.

100 www.ge.undp.org/content/georgia/en/home/library/democratic_governance/PolicyDevelopmentHandbook.html, accessed 12 June 2020.

4.4 Structures and institutions enabling participation in climate policy

The following structures, institutions and initiatives were identified within this study, which support the involvement of Georgia's civil society in climate-related policy.

4.4.1 EU accession and Eastern Partnership

As mentioned above, the EU accession deeply influences the relations between the state and civil society as the EU places considerable emphasis on supporting CSOs. Existing agreements, the European Commission's guidelines for civil society support (European Commission, 2013) and other recommendations aim at more participatory modes of governance, pluralism and democratic transitions in the enlargement countries.¹⁰¹ One of the experts participating in the focus group described it as follows: "We all live under the association agreement."¹⁰²

In 2008, the **Eastern Partnership Civil Society Forum** (EaP CSF)¹⁰³ was founded within the framework of the **Eastern Partnership**¹⁰⁴. The forum that brings together approximately 800 organisations from the six Eastern Partnership countries and the European Union aims to promote constructive dialogues between civil societies from Eastern Europe and the EU in order to strengthen the diversity of public discourse and political decision-making. 62 Georgian NGOs are members of the forum, among them environmental CSOs such as the Caucasus Environmental NGO Network (CENN), Greens Movement of Georgia (GMG), Green Alternative, the Foundation Caucasus Environment, and the Regional Environmental Center for the Caucasus (REC Caucasus).¹⁰⁵ To ensure the active involvement of the partner country's civil society, six national platforms were created. Georgian CSOs can thus participate through the Georgian National Platform (GNP) that unites 185 NGOs and has contributed to improve structural dialogue between civil society and the government (Georgian National Platform, 2018). Moreover, five working groups were founded which meet once a year in Brussels to work on common goals and activities regarding different topics. Working Group 3 (WG3) deals with environment, climate change and energy security, and is also involved in Panel 3 on Environment and Climate Change under Platform 3 of the Eastern Partnership.¹⁰⁶ According to the Annual Activities Report of 2018 from the working group (Working Group 3 of the Eastern Partnership Civil Society, 2018), climate change initiatives were undertaken by the WG3 members World Experience Georgia (WEG), Foundation Caucasus Environment, and GMG. WEG prepared the Second Biennial Report (BUR) of Georgia to UNFCCC and the Foundation Caucasus Environment and GMG presented the report "EU-Georgia cooperation in combating the climate change" (Devidze & Kkhkobadze, 2018). Additionally, civil society submitted a declaration to the European Economic and Social Committee (EESC) highlighting the role of sustainable forest management as a climate protection measure in Georgia, and

101 For more research results about the role of CSOs within the process of the EU enlargement in Central and Eastern Europe and its influence on state-civil society relations see also (Bobić & Božić, 2012); (Börzel, 2010); (Fagan & Wunsch, 2018) and (Sudbery, 2010).

102 Focus group workshop, Georgia, 27 February 2019.

103 <https://eap-csf.eu/civil-society-forum>, accessed 18 April 2019.

104 <http://eap-csf.eu/front-page-full-width/eastern-partnership>, accessed 18 April 2019.

105 <https://eap-csf.eu/eap-csf-members-georgia>, accessed 18 April 2019.

106 <https://eap-csf.eu/eap-platforms-and-panels>, accessed 18 April 2019.

criticising the government's focus on hydropower instead of prioritising renewable energy such as solar and wind energy. The members of Working Group 3 summarised their key messages on environment and climate change in two position papers (Working Group 3 of the Eastern Partnership Civil Society, 2018).

In addition to the EaP CSF, the EU-funded project **Eastern Partnership Civil Society Facility**¹⁰⁷ aims to enhance the impact of CSOs in the EaP countries. Under this facility an "EU Roadmap for engagement with civil society in Georgia 2018 – 2020" was elaborated by the EU Delegation, EU Member States and CSOs in Tbilisi, Kutaisi and Telavi and through online consultations in order to improve policy dialogue between civil society and public institutions as well as civic participation in all regions of Georgia. The roadmap sets out, among others, the priority area "connectivity, energy efficiency, environment and climate change" containing priority 4 on supporting "CSOs in promoting energy efficiency, as well as the road safety and air quality, measures, and monitoring their implementation".¹⁰⁸

Another EU-funded structure that supports the involvement of CSOs in decision-making on the local level is the **Covenant of Mayors (CoM)**.¹⁰⁹ In Georgia, many municipalities already joined this initiative that brings together local governments and citizens who are willing to implement EU climate and energy objectives.¹¹⁰ The movement aims to accelerate decarbonisation, and strength the capacity of municipalities to adapt to climate change and to offer secure, sustainable and affordable energy. Several NGOs are actively engaged in mitigation and adaptation processes under the CoM. After launching the CoM in 2008, the European Commission started the regional Covenant of Mayors East (CoM East) programme in 2010 to extend CoM activities to the Eastern Partnership countries. Under this programme, several Georgian cities, including Tbilisi, Rustavi and Gori started to develop Sustainable Energy Actions Plans (SEAPs) that contribute to the national Low Emission Development Strategy (LEDS). The NDC Support Cluster¹¹¹, established by the German Federal Ministry for the Environment, Nature Conservation, and Nuclear Safety (BMU), describes these activities as a good practice that demonstrates how NDCs, LEDS, NAMAs, and transparency systems are being effectively designed and implemented. At the same time, a variety of barriers are identified, such as the absence of statistical information and data or the lack of donor coordination creating conflicts in approaches and overlaps.¹¹²

107 eapcivilsociety.eu, accessed 18 April 2019.

108 https://eeas.europa.eu/sites/eeas/files/cs_roadmap_2018-2020_-_part_i_and_ii_consolidated_final_clean.pdf, accessed 18 April 2019.

109 www.covenantofmayors.eu, accessed 18 April 2019.

110 Focus group workshop, Georgia, 27 February 2019.

111 www.ndc-cluster.net, accessed 29 April 2019.

112 www.ndc-cluster.net/gpd/developing-municipal-level-mitigation-action-plans, accessed 29 April 2019.

4.4.2 Open Government Partnership (OGP)

The Open Government Partnership (OGP)¹¹³, launched in 2011, is another example of cooperation between the state and CSOs. It brings together government reformers and civil society leaders to promote inclusiveness and accountability of governments through concrete action plans. Georgia currently lists 52 commitments in its action plan. For example, the adoption of the Environmental Assessment Code, the introduction of a platform for citizen engagement that enables participation in decision-making processes, and the activation of an environmental portal, meeting the requirements of the Environmental Assessment Code.¹¹⁴

4.4.3 Environmental Information and Education Centre (EIEC)

In 2013, the Environmental Information and Education Centre (EIEC) was created within the structure of the Ministry of Environment and Natural Resources Protection of Georgia (MENRP)¹¹⁵. It is a legal entity under public law with the aim of raising public awareness on environmental protection, supporting public participation in decision-making processes, and increasing access to justice according to the Aarhus Convention.¹¹⁶ The EIEC replaced the Aarhus Centre that was established in 2005 in Tbilisi.¹¹⁷ The website of the EIEC offers a lot of environmental information, gives an overview of new legislative acts and provides the opportunity for citizens to report cases where Georgian environmental protection legislation has been violated. Thus, according to Margvelashvili et al. (2017), the EIEC has an important role in raising awareness. It should promote national climate targets aligned with the Paris Agreement and support the elaboration of an ambitious and participatory Climate Action Plan (CAP).

113 www.opengovpartnership.org, accessed 29 April 2019.

114 www.opengovpartnership.org/countries/georgia, accessed 29 April 2019.

115 In December 2017 MENRP was merged with the Ministry of Agriculture and is now called Ministry of Environmental Protection and Agriculture (MEPA).

116 www.eiec.gov.ge, accessed 29 April 2019.

117 Focus group workshop, Georgia, 27 February 2019.

4.5 Practices and examples of climate-related participation

The following chapter presents examples in which civil society was engaged in the development of internationally required climate-related policies, plans and programmes, as well as in the development of national strategic documents which provide the policy framework for the overall national environmental policy.

4.5.1 Update of the Nationally Determined Contributions (NDCs) and development of the Climate Action Plan (CAP)

The Paris Agreement dating from 2015 aims to limit global warming to 1.5-2 °C above pre-industrial levels and requires each party to develop Nationally Determined Contributions (NDCs) that it intends to achieve. Georgia submitted its first quantified Intended Nationally Determined Contributions (INDCs) in 2015 and ratified the Paris Agreement in 2017. The recent NDC update started in 2018. In this context, the German Society for International Cooperation (GIZ) is carrying out the project “Capacity Development for climate policy in the countries of South East, Eastern Europe, the South Caucasus and Central Asia, Phase III” that aims to support Georgia and other project countries to integrate their national climate mitigation goals into national development strategies. Furthermore, it aims to raise awareness among decision-makers for effective climate protection policy as well as to improve national framework conditions. The NewClimate Institute (NCI) acts as an implementing partner for technical support on NDC processes and development of the Climate Action Plan (CAP).¹¹⁸ The Collective Leadership Institute (CLI) was involved with regard to stakeholder engagement.¹¹⁹ However, the focus was rather on inter-ministerial cooperation than on CSO involvement.¹²⁰ The CAP which is currently being developed aims to inform the NDCs.

To initiate the NDC update, a climate change conference was organised by the Ministry of Environmental Protection and Agriculture of Georgia (MEPA) and GIZ in September 2018. Due to an open dialogue format, about ninety stakeholders from different sectors were involved in this process.¹²¹

Between 2nd and 15th December 2018, the 24th COP was held in Katowice (Poland). Afterwards, on 26th December, the REC Caucasus organised a validation workshop as part of the project “Georgia’s Integrated Transparency Framework for Implementation of the Paris Agreement”. At this meeting, representatives of MEPA that attended COP 24 shared the main results of the conference with the non-governmental sector and local municipalities. Participants were divided into four thematic groups. Two groups consisted of representatives from municipalities, the third group was formed by NGOs and international organisations, the fourth group consisted of representatives of the governmental sector. The groups discussed measures which could be applied to improve climate-related issues in Georgia. Each group shared its results and insights with other participants of the meeting. The workshop served as a communication platform for representatives of the government and NGOs, as well as for representatives of the central government and local authorities. Representatives of NGOs made their remarks and highlighted

118 www.giz.de/en/worldwide/79216.html, accessed 19 November 2019.

119 www.collectiveleadership.de/blog/article/projects-in-asia, accessed 19 November 2019.

120 Interview with CLI, via phone, 18 June 2019.

121 Focus group workshop, Georgia, 27 February 2019.

problems of coordination between the government and the non-governmental sector. They also expressed their willingness to cooperate on climate change mitigation and the preparation of local Sustainable Energy and Climate Action Plans (SECAPs).¹²²

At the end of 2018, MEPA initiated seven sectoral working groups that are encouraged to elaborate the CAP of Georgia. Representatives of some CSOs are involved in six of the seven groups that work on construction/buildings, forests, waste, energy generation and transmission, agriculture, transport, and industry.¹²³ Most of the working groups met in 2019 to elaborate concrete measures to reduce national emissions and fulfil the NDCs¹²⁴. The transport sector chapter was mainly written by the NCI. At the beginning of 2020, MEPA asked stakeholders such as the NGO GMG to comment on this chapter. The chapter about agriculture will also be supported by the NCI. At the end of 2020 the CAP should be adopted by the government (NDC Partnership, 2019).

In addition to the working group meetings, MEPA organised a workshop with NGOs to discuss the integration of gender issues into climate change policies in July 2019. This workshop helped the ministry to identify gender-related problems and to define which gender issues should be considered in climate policy in the future.¹²⁵ According to the NGO Women in Europe for a Common Future (WECF), MEPA is very open concerning gender issues and demonstrates the will to organise consultations with NGOs working on that topic.¹²⁶

Development of the Second NDC and CAP

- **18th September 2018:** Climate change conference
(open dialogue) with stakeholders
- ▼
- **26th December 2018:** Stakeholder meeting
- ▼
- **End of 2018:** Creation of 7 sectoral working groups
- ▼
- **2019:** Stakeholder consultations and working group meetings
- ▼
- **18th September 2019:** Announcement of the Second NDC
- ▼
- **27th November 2019:** Presentation of
civil society's understanding of an ambitious NDC
- ▼
- **By July 2020:** CAP draft

¹²² Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

¹²³ Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

¹²⁴ Communication via E-Mail with MEPA, 12 April 2019.

¹²⁵ Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

¹²⁶ Interviews with WECF, via phone, 23 June and 06 August 2019.

4.5.2 Biennial Update Report (BUR) and National Communication (NC)

Regarding UNFCCC reporting, Georgia submitted its Second Biennial Update Report (BUR) and is currently preparing its Fourth National Communication (NC) through the Global Environment Fund (GEF) project “Development of Georgia’s Fourth NC and Second BUR to the UNFCCC”¹²⁷, which incorporates the GHG inventory component and is being implemented by the United Nations Development Programme (UNDP).

BURs are reports to be submitted by non-Annex I Parties, containing updates of national GHG inventories, including a national inventory report and information on mitigation actions, needs and support received. The First and Second BURs were drafted with joint effort from governmental and non-governmental bodies, substantial parts of reports were written by experts from NGOs. During the drafting process of the BURs, consultations with stakeholders were conducted regularly, interim reports and results were shared with representatives of the government and NGOs. Accordingly, their opinion and remarks were considered for the final report. It is required for a National Communication (NC) report to be submitted by the countries that have ratified the Paris Agreement under the UNFCCC. Georgia has submitted three NCs, currently the Fourth NC is being drafted. NGOs and CSOs were more engaged in the drafting process during the Third and Fourth NCs, as a substantial part of the reports were prepared by experts from the non-governmental sector. The process of preparation of the Fourth NC is more inclusive due to the fact that the experts that are engaged are representatives of NGOs working on energy efficiency, as well as NGOs working on biodiversity.¹²⁸

4.5.3 Low Emission Development Strategy (LEDS)

Regarding the national mitigation strategy, the Government of Georgia has launched the preparation of the Low Emission Development Strategy (LEDS) with support of the United States Agency for International Development (USAID). This bilateral cooperation has been completed, as the process has been entirely handed to the national government. The mitigation measures considered in the strategy have been chosen based on national priorities, resource efficiency and mitigation potential. The LEDS document mostly represents the general capacity towards the NDC fulfilment. Since the Government of Georgia updates its NDC to reflect an increased level of ambition, the assumptions delivered by the LEDS’ experts will be a building block for the future advancement of Georgia’s mitigation policies. Thematic working groups were created (e.g. transport, buildings, energy efficiency, industry etc.) during the drafting of the Low-Emission Development Strategies, in which representatives of several NGOs participated. During consultations and meetings, representatives of these working groups were able to express their opinion and to make remarks.¹²⁹

127 Development of Georgia’s Fourth National Communication and Second Biennial Update Report to the UNFCCC – Project Summary 2017 / GEF funded Project ID: 9655/ GEF Project Database, www.thegef.org/project/development-georgia%E2%80%99s-fourth-national-communication-and-second-biennial-update-report-unfccc, accessed 28 November 2019.

128 Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

129 Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

4.5.4 Nationally Appropriate Mitigation Actions (NAMAs)

Based on the Bali Action Plan from 2007, Nationally Appropriate Mitigation Actions (NAMAs) represent policy instruments that translate short and medium-term goals into action plans. NAMAs can comprise of strategies, pledges, policies, programmes and projects aiming at the reduction of GHG emissions. Within the project “Civil society organizations cooperate with government and other stakeholders on a gender-sensitive NAMA for sustainable energy in rural areas”, CSOs were strengthened to foster climate mitigation activities. Coordinated by Greens Movement of Georgia (GMG) in partnership with Women in Europe for a Common Future (WECF), the Rural Communities Development Agency (RCDA), the Georgian Ecological Agricultural Association (SEMA), and the Social Development Center Akhaltsikhe (SDCA) a gender-sensitive NAMA was developed and written in close cooperation with the Georgian Ministry of Environment and other stakeholders in 2014/2015.¹³⁰ The NAMA was submitted to the NAMA Facility, but did not get financial funding in the end.¹³¹ Nevertheless, the process was a good example and experience of how civil society can effectively work together with the government in climate matters.¹³²

4.5.5 Forest Sector Reform Strategy and Action Plan 2016-2021

Another climate-related process that civil society is involved in is the development of the Forest Sector Reform Strategy and Action Plan 2016-2021. It started in 2015 and will lead to the National Forest Program (NFP) 2022-2027. From 2014 to 2016, around 150 working meetings with representatives of the Ministry of Environment and Natural Resources Protection of Georgia (MENRP), the private sector and NGOs were held to work on a sustainable forest management (Ministry of Environment and Natural Resources Protection of Georgia (MENRP), 2016). Up to 270 stakeholders, among them 20 national NGOs, participated in nine working groups and eight sub groups.¹³³ The NGO CENN described it as a fruitful and good process coordinated by the ministry. MENRP brought together different relevant stakeholders, and remarks and recommendations by NGOs were taken into account, thus had influence on the political process.¹³⁴ In April 2019, NGOs were invited to participate in the meetings of the working groups “Alternative Energy Resources and Sustainable Use of Firewood” and “Forests and Climate Change”.

4.5.6 National Waste Management Strategy 2016-2020

In 2015, Georgia established a Waste Management Code, followed by a National Waste Management Action Plan 2016-2020 (adopted in 2016) and a National Waste Management Strategy 2016-2030. The waste sector has a significant potential for GHG mitigation as better waste management avoids methane emissions resulting from anaerobic decomposition of waste (Lui, 2018). Furthermore, in the framework of an EU-financed project on waste management, six public hearings on the draft law on waste management were conducted in 2014 (Ministry of Environment and

¹³⁰ www.wecf.eu/english/about-wecf/issues-projects/projects/NAMA-sustainableenergy.php, accessed 29 April 2019.

¹³¹ Interview with WECF, via phone, 06 August 2019.

¹³² Ibid.

¹³³ <https://kurzlink.de/ForestSectorGeorgia>, accessed 30 April 2019.

¹³⁴ Interview with CENN, Tbilisi, 28 February 2019.

Natural Resources Protection of Georgia (MENRP), 2016). During the development of the strategy and the plan, public hearings with NGOs were organised in 2015 (Ministry of Environment and Natural Resources Protection of Georgia (MENRP), 2016). This process can be considered as a good approach for participatory governance as NGOs could contribute their opinion and expertise.¹³⁵

4.6 Barriers to participation

Although participation in environmental matters is a fundamental right and plays a crucial role in the promotion of democratic governance, the improvement of political decisions and the empowerment of civil society, many obstacles exist that impede equal and effective political participation. This chapter gives an overview of the barriers and factors regarding civil society involvement in environmental and climate-related decision-making that were identified in Georgia. The barriers were identified as being fundamental, legal, structural, institutional and process-related challenges.

4.6.1 Fundamental barriers

The first of the five most relevant fundamental barriers in Georgia mentioned by CSOs¹³⁶ is the missing political will to consider climate change as an urgent topic and to involve civil society meaningfully in the corresponding decision-making. The second barrier to democratic and participatory policy making is corruption. Although Georgia performs best in fighting corruption compared to other countries of Eastern Europe and Central Asia, the Corruption Perception Index points out that Georgia has not addressed the problems highlighted in 2019 and that a stagnation of anti-corruption reforms in the country can be observed.¹³⁷ Thirdly, the lobby for climate issues is not strong enough, so that many people are not fully aware of the challenges arising from global warming and the opportunities to participate in policy making and climate protection. A lack of trust in decision makers is the fourth barrier that hinders participation: even if citizens know their rights, they often do not speak out because they have already experienced their opinion being ignored and not having any impact. The fifth barrier is that the media is mostly focused on scandals rather than supporting civil engagement and showing how to shape the future in a positive way.

4.6.2 Legal barriers

The analysis of the legal framework revealed that Georgia's primary and secondary legislation contains several provisions and regulations regarding participation. However, the provisions of the Aarhus Convention are not fully incorporated into national legislation. According to Georgian legislation, the convention does not need to be translated into national law and can be applied as a directly applicable source of law. Nevertheless, incorporation into national law creates more legal certainty for affected citizens and the public institutions

¹³⁵ Ibid.

¹³⁶ Focus group workshop, Georgia, 27 February 2019.

¹³⁷ <https://transparency.ge/en/post/results-2019-corruption-perceptions-index-point-stagnation-anti-corruption-reforms-georgia>, accessed 15 October, 2020

which have to implement the provisions. In case of a dispute they can refer to legal sources that are available for them in their national language. Additionally, the question of whether and under which circumstances the convention is directly applicable would be clarified.

The framework law “Law of Georgia on Environmental Protection” for example includes a public participation principle, but as it was adopted before the ratification of the Aarhus Convention, it is not in line with this international treaty and lacks details. Even though the Environmental Assessment Code was adopted in 2017, the implementation of Articles 7 and 8 of the Aarhus Convention (that refer to public participation with respect to plans, programmes and policies, and regarding the preparation of executive regulations and generally applicable legally binding rules) within national legislation is still missing.

4.6.3 Structural and institutional barriers

Most of the identified barriers can be found on the institutional or structural level. These obstacles refer to political and governmental structures and are also related to society and CSOs:

Political level

Power structures and hierarchies

At the political level, the main obstacles are the existing power structures and strong hierarchies.¹³⁸ Even people working in the ministries often do not have access to the real decision-makers in the government. Although civil servants, for example from the Ministry of Environmental Protection and Agriculture (MEPA), might listen to representatives of civil society and try to consider their concerns, they hardly have the power to successfully raise them in relevant meetings and include them into relevant documents.¹³⁹

Responsibilities and institutional collaboration

Previously, the Ministry of Environment and Natural Resources Protection of Georgia (MENRP), including the Climate Change Unit, was responsible for the development of climate change policies. At the end of 2017, the Government of Georgia was reshuffled by condensing it from 14 to 11 ministries. MENRP was merged with the Ministry of Agriculture and is now called Ministry of Environmental Protection and Agriculture (MEPA). MEPA took over responsibilities regarding climate policy, retained the Environmental Information and Education Centre and created the Environment and Climate Change Department (ECCD). The ECCD coordinates climate mitigation and adaptation measures at the national level, and the implementation of directives from multilateral agreements. This includes the development of the climate change chapter in the National Environmental Action Plans (NEAP), the preparation of climate-related outputs to the UNFCCC, such as NDCs and BURs, the development of Georgia’s Climate Action Plan (CAP), and, together with the Ministry of Economy and Sustainable Development (MESD), the preparation of the National Energy and Climate Plan (NECP). Additionally, in 2020 the inter-ministerial Climate Change Council was created.

¹³⁸ Ibid., Interviews with WECF, via phone, 23 June and 06 August 2019.

¹³⁹ Focus group workshop, Georgia, 27 February 2019.

CSOs that were interviewed in this study criticised that MEPA, which in this context mainly promotes climate-related topics and the involvement of the society, has not enough decision-making power and political influence compared to other ministries. Due to this lack of power and because other influential ministries are not in charge of climate topics, important processes are not sufficiently pursued.¹⁴⁰

Additionally, weak vertical and horizontal coordination and collaboration between the political levels and ministries has an adverse impact on participation processes.¹⁴¹ Even though climate change is a crosscutting topic, it is not sufficiently mainstreamed in all relevant policies. For instance, topics such as biodiversity and ecosystem approaches are often neglected although they are strongly connected to climate change mitigation and adaptation.¹⁴²

Civil society level

With regard to Georgia's wider society, one obstacle is the low awareness and interest for climate issues and political engagement.¹⁴³ This may relate to the problem that the voices of civil society and CSOs are often ignored, not taken seriously by decision-makers, or have only little influence on political decisions.¹⁴⁴

A major barrier for CSOs to participate in meetings, consultations, workshops etc. are often limited by and time resources.¹⁴⁵

Furthermore, cooperation and networking between environmental NGOs is weak in Georgia. Therefore, potential synergies in promoting more ambitious climate targets are not used.¹⁴⁶ Although several CSOs are active in climate issues, they do not collect and share knowledge, experience and current activities effectively.¹⁴⁷

Another barrier to participation is the missing will of some organisations to cooperate with the government. They strongly fulfil their role as a “watchdog” revealing and denouncing the failures of the government, but they hesitate to cooperate with governmental institutions to reach their targets.¹⁴⁸

4.6.4 Process-related barriers

With regard to existing participation processes, some civil society representatives in Georgia criticise that it is always the same small circle of established organisations that is invited to events and meetings of the government. This means that there is a lack of inclusiveness and transparency that hampers the participation of certain CSOs.¹⁴⁹ Furthermore, an appropriate variety of participation instruments and methods adapted to different conditions and topics

140 Interview with CENN, Tbilisi, 28 February 2019.

141 Focus group workshop, Georgia, 27 February 2019, Interviews with WECF, via phone, 23 June and 06 August 2019.

142 Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

143 Focus group workshop, Georgia, 27 February 2019.

144 Interview with CENN, Tbilisi, 28 February 2019.

145 Interview with CENN, Tbilisi, 28 February 2019, Interview with CLI, via phone, 18 June 2019, Interviews with WECF, via phone, 23 June and 06 August 2019, and based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

146 Interviews with WECF, via phone, 23 June and 06 August 2019.

147 Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

148 Interviews with WECF, via phone, 23 June and 06 August 2019.

149 Focus group workshop, Georgia, 27 February 2019, Interview with CENN, Tbilisi, 28 February 2019.

is missing.¹⁵⁰ Missing or insufficient information before and during participatory events is a further major barrier for effective civil society participation: Invitations and thematic information are not spread widely among the public and not publicly accessible. Information is often very technical and thus hard to understand. In many cases, specific information and international documents on climate issues are only available in English, which represents a language barrier for certain stakeholders.¹⁵¹ Another problem is that deadlines for the submission of comments and recommendations are often too short for CSOs to participate meaningfully.¹⁵² Finally, ideas and comments of the public and CSOs are rarely taken into account and transparency about the decision process is missing.¹⁵³

4.7 Assessment of the environment and opportunities to participate

This chapter illustrates the results of the assessment of the situation and conditions for civil society participation in environmental and especially climate decision-making in Georgia (Table 11 and Figure 7). The assessment is based on the analysis made in the previous chapters and evaluations from Georgian civil society experts derived from interviews.

Table 11: Assessment of the environment and opportunities to participate in climate policies in Georgia

Criterion 1 Fundamental requirements

Indicators	Scores	Score
a. Stability and peace (What is the intensity of ongoing conflicts?) ¹⁵⁴	0 = high intensity of conflict (limited war or war going on) 1 = medium (violent crisis going on) 2 = low intensity of conflict (non-violent crisis or dispute going on) 3 = very low intensity of conflict (no dispute, crisis or war going on)	1
b. Anti-corruption and transparency (What is the perceived level of corruption?) ¹⁵⁵	0 = highly corrupted, CPI of 0 1 = corrupt, CPI equal to or under 50 2 = clean, CPI higher than 50 3 = very clean, CPI of 100	2 (56/100)

150 Interview with CENN, Tbilisi, 28 February 2019.

151 Focus group workshop, Georgia, 27 February 2019, Interviews with WECF, via phone, 23 June and 06 August 2019.

152 Based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

153 Focus group workshop, Georgia, 27 February 2019, and based on research of RECC Caucasus, commissioned in the framework of this study, Georgia, November 2019.

154 This indicator and related scoring is based on the Conflict Barometer 2018 by HIIK (www.hiik.de/conflict-barometer/?lang=en, accessed 23 April 2020). The Conflict Barometer uses a five-level model, defining disputes and non-violent crises as non-violent conflicts with a low conflict intensity, violent crises as violent conflicts with medium conflict intensity and limited wars and wars as violent conflicts with high conflict intensity.

155 This indicator and related scoring is based on the Corruption Perception Index 2019 by Transparency International (www.transparency.org/cpi2019, accessed 27 April 2020). According to Transparency International a scoring of zero means “highly corrupt” and 100 is “very clean”. The scoring “1=corrupt” and 2=clean” was set by UfU. Transparency International defines corruption as the “abuse of entrusted power for private gain”, whereas “transparency is about shedding light on rules, plans, processes and actions. (...) “It is the surest way of guarding against corruption, and helps increase trust in the people and institutions on which our futures depend.” (www.transparency.org/what-is-corruption, accessed 23 April 2020).

c. Security of environmental defenders (Are environmental defenders secure from threats?) ¹⁵⁶	0 = alarmingly weak security for environmental defenders (more than one murder documented) 1 = weak security for env. defenders (one murder documented) 2 = Environmental defenders are somewhat secure (no murders documented)	2
d. Political commitment (Is political participation of civil society related to the environment and climate backed by high-level political bodies and decision makers?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
Max. score: 10		6

Criterion 2 Enabling legislation

Indicators	Scores	Score
a. Commitment to international conventions and agreements (Did the country sign and ratify (accept, approve, accede to) the Aarhus Convention or the Escazú Agreement, requiring civil society participation related to the environment and climate?)	0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)	2

¹⁵⁶ This indicator and related scoring is based on the Global Witness Report “At what cost? which documents the murder of land and environmental defenders in 2017 (www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost, accessed 23 April 2020). It is important to note that the absence of murder does not mean that there are no other threats, attacks or harassments of environmental defenders and activists.

<p>b. National laws requiring the proactive participation of civil society (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>obligate the state or state agencies at national level to proactively seek the participation of civil society in decision-making related to the environment and climate, going beyond the official notification of participatory events?)¹⁵⁷</p>	<p>0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)</p>	2
<p>c. National laws requiring timely participation (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require timely participation (before a decision is made and so that there is enough time for a public authority to consider the public comments) of civil society in decision-making related to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	2
<p>d. National laws requiring information regarding the participation process (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require all information relevant to decision-making processes relating to the environment and climate to be made available to civil society, without civil society having to make an official information request?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	2

¹⁵⁷ If there is a primary act requiring participation that affects several subordinates laws the latter are counted as well.

<p>e. National laws requiring the consideration of civil society's comments (To what extent does/do</p> <ul style="list-style-type: none"> the constitution, national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to take due account of civil society's comments in decision-making relating to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	2
<p>f. National laws requiring notification of civil society on the decision made along with the reasons and considerations on which the decision is based (To what extent does/do</p> <ul style="list-style-type: none"> the constitution, national framework laws regarding environment and climate, strategic environmental assessment laws, or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to promptly inform civil society about the decision and provide a written response explaining which comments were taken into account as well as giving reasons for dismissing others?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	2
Max. score: 17		12

Criterion 3 Supporting governance & structures

Indicators	Scores	Score
<p>a. Governance structure (Is there an institutional body or mechanism, such as a committee, division or centre, supporting and coordinating participation processes relating to the environment and climate?)</p>	<p>0 = no 2 = yes</p>	0

b. Institutional coordination & cooperation (Are national participation processes relating to the environment and climate coordinated across different vertical and horizontal political levels?)	0 = no 1 = there is weak coordination and cooperation 2 = there is good coordination and cooperation 3 = there is very good coordination and cooperation	1
c. Financial resources (Are civil society actors financially supported to participate in environmental/climate policy, e.g. through an allowance, reimbursement of travel costs or funding of staff members?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
Max. score: 7		1

Criterion 4 Qualitative participation processes¹⁵⁸

Indicators	Scores	Score
a. Early participation (At what stage was civil society involved in the process?)	0 = only after most of the decisions have been made 1 = after the first draft of the document/plan/strategy 2 = directly from the beginning	1
b. Broad, inclusive invitation (Was a wide variety of representatives of civil society (CSOs and wider public) invited to participate, including for instance those representing youth, gender, indigenous groups, and minority ethnic groups?)	0 = no civil society representatives invited 1 = not a wide variety invited, just a few selected CSOs 2 = either just CSOs or just the wider public invited 3 = yes, a wide variety invited	1
c. Timely invitation (Was civil society invited early enough to participate?)	0 = some days in advance 1 = less than one month in advance 2 = more than one month in advance	1
d. Adequate participation formats (How was civil society involved in the process?)	0 = through information 1 = through consultation 2 = through several interactive formats, fostering dialogue and collaboration	1

¹⁵⁸ The scoring represents the averaged evaluation of some recent national participation processes relating to the environment and climate in each country, described in detail in the respective chapters of this study.

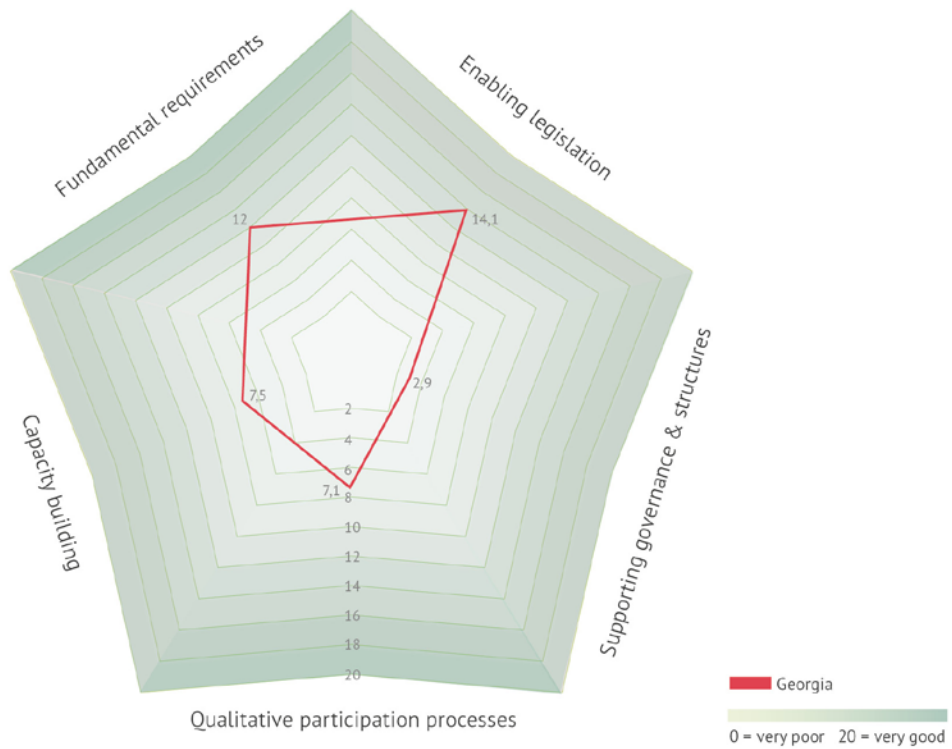
e. Transparency and information (Was information about the technical background and the participation process available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, a lot of information	1
f. Available documentation (Was documentation about the discussions and results available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
g. Transparent review of recommendations (Were recommendations and views from civil society reviewed in a transparent manner?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
h. Evaluation and feedback process (Was there an evaluation and feedback process regarding the participation procedure?)	0 = no 2 = yes	0
	Max. score: 17	6

Criterion 5 Capacity building

Indicators	Scores	Score
a. Environmental education (Is national formal and non-formal environmental and climate education offered to the public?)	0 = no 1 = yes, some education on offer 2 = yes, a lot of education on offer	1
b. Public awareness raising on participation rights and opportunities (Is information about public participation rights and opportunities available to the public?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
c. CSO capacity building on climate change, climate policy, policy dialogue, organisational development, cooperation and networking (Is there capacity building on topics such as climate change, climate policy, policy dialogue, organisational development, cooperation or networking for CSOs?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available	1

<p>d. Capacity building on participation and stakeholder engagement for governments (Is there capacity building on participation and stakeholder engagement for national governments and state officials?)</p>	<p>0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available</p>	<p>1</p>
<p style="text-align: right;">Max. score: 8</p>		<p>3</p>
<p style="text-align: center;">Max. total score</p>		<p style="text-align: center;">59</p>

Figure 7: Assessment of the environment and opportunities to participate in climate policies in Georgia (scaled to a maximum of 20 points)





4.8 Strengthening civil society involvement

One of the main objectives of the project “Strengthening Civil Society for the Implementation of National Climate Policy” is to foster and improve conditions and opportunities for civil society to participate in national climate policy. This chapter therefore presents recommendations derived from the analysed status quo as well as existing barriers and challenges that hamper participation in Georgia. The following conclusions are country-specific and aim to provide guidance for national policy makers as well as other stakeholders who are relevant for climate-related policy making and participation, such as international institutions, donors and civil society itself. The recommendations refer to the current national climate policy in general, but highlight the ongoing planning and revision of the National Determined Contributions (NDCs) which the countries must submit by 2020 and every five years thereafter. The identified entry points on how to improve participation of civil society (organisations) were grouped into five areas of action, illustrated by the “Participation Handprint” in Chapter 2.1: fundamental requirements, enabling legislation, supporting governance and structures, qualitative participation processes and capacity building.

General guidance and recommendations on how to implement participation rights can be found in the Aarhus Convention Implementation Guide (United Nations Economic Commission for Europe, 2014) and the Implementation Guide for the UNEP Bali Guidelines (United Nations Environment Programme (UNEP), 2015).



4.8.1 Fundamental requirements

Raise political will

A fundamental requirement for effective stakeholder participation is a strong political will to define climate protection involving civil society as a key objective of the political programme. The Government of Georgia should consider participation and the contributions of civil society as something of value, not as a barrier in political processes. The government could thereby benefit from civil society engagement and exploit the opportunities that arise: As CSOs know about local circumstances, concerns and regional climate vulnerabilities as well as mitigation and adaptation solutions, the support of civil society can help the state meet international obligations such as the revision of the NDC in a more dynamic and effective way. Political representatives and bodies could furthermore strengthen the legitimacy of their decisions and foster democratic governance, a fundamental prerequisite for EU accession, by granting more rights to CSOs and the public. It is crucial that participation processes are backed by high-level decision makers across the political spectrum to raise political will.

Create transparency

Transparency and accountability are the basis for political credibility and can contribute to prevent corruption. Access to information and the right to examine the process of decision-making support the formation of free opinion and are crucial for effective participation. This applies to climate policy as well as to other policy areas. The Government of Georgia should consider transparency as a vital value for democracy and strengthen it to gain citizens' and civil society's trust as well as to promote their involvement. Therefore, Georgia's engagement within the Open Government Partnership should be continued and intensified. It is necessary to implement the numerous commitments made in the Open Government Partnership Action Plan of Georgia 2018-2019 with regard to the challenges of improving public services, increasing public integrity, managing public resources more effectively, creating safer communities, and

increasing corporate accountability.¹⁵⁹ Although Georgia has been largely successful in fighting corruption over the last 10 years, more effort is needed to continue progress and to avoid democratic backsliding (McDevitt, 2015). Anti-corruption reforms that started in 2003 should be continued to strengthen the Anti-Corruption Interagency Coordination Council (ACC). The mandate of this institutional body is limited to a coordination, evaluation, and recommendation function. In order to guarantee the enforcement of policies, such as the National Anti-Corruption Action Plan, and to combat high-level corruption, it is crucial to assign the ACC with more rights and functions (Tutberidze, 2017).

Additionally, more transparency and information about existing opportunities to participate, current processes and responsible contact persons regarding climate policy are needed. A central website or platform provided by the Environmental Information and Education Centre could be a solution to close the information gap (there are further recommendations below with regard to the “qualitative participation process”). The area of climate policy could thereby serve as a role model for other policy areas.

4.8.2 Enabling legislation



Implement Articles 7 and 8 of the Aarhus Convention into national legislation

To improve the conditions for the participation of civil society in climate-related policy, the requirements of the Aarhus Convention should be fully incorporated into national legislation. Existing legislation should be amended to ensure the effective implementation of Articles 7 and 8 of the Aarhus Convention in particular (these articles refer to public participation with respect to plans, programmes and policies, and the preparation of executive regulations and generally applicable legally binding rules). Requirements for participation in the development of policies, plans and programmes should thereby be specified, without being limited to the SEA Directive and the SEA Protocol. This means that participation should be guaranteed not only regarding plans, programmes and policies that are likely to have significant effects on the environment, but to all plans, programmes and policies relating to the environment. In this framework, Paragraphs 3, 4 and 8 of Article 6 are also to be applied. Paragraph 3 requires reasonable time frames for participation procedures. Paragraph 4 requires parties to provide for early public participation in the process when all options are still open. Paragraph 8 requires that the decision takes “due account” of the outcome of the public participation (United Nations Economic Commission for Europe, 2014).

4.8.3 Supporting governance and structures



Improve coordination and cooperation

In order to design effective and efficient participation processes, leading institutions such as MEPA should foster coordination and cooperation with other ministries, public authorities and political levels. The newly established Climate Change Council could play a major role in this context. Firstly, responsible persons should create awareness for the added value of participative policy-making among political institutions and decision-makers. Secondly, other political entities and bodies should be provided with key functions and involved from the beginning in the organisation of the participation process led by MEPA. Strong hierarchies and power structures hampering open dialogue and participation should be dismantled. Through this approach of multi-level governance, different actors can share responsibilities and bring in their specific competences from the national to the local level.

159 www.opengovpartnership.org/members/georgia, accessed 12 September 2019.

Strengthen long-term structures

The Environmental Information and Education Centre (EIEC) was established in 2013 as a legal entity under public law. This agency of the Ministry of Environmental Protection and Agriculture of Georgia (MEPA) that relies on the principles of the Aarhus Convention should be strengthened. Currently, its work focuses on creating a data base, giving information, and facilitating environmental education. The tasks of the centre should go beyond that according to Order 742 of the Minister of Environmental Protection and Agriculture of Georgia from 2018¹⁶⁰. In the future, the EIEC should perform its duties as a permanent governance structure and put more emphasis on enabling the active participation of civil society in environmental matters. Especially regarding the update of the NDC and the development of the CAP as well as the upcoming National Energy and Climate Plan (NECP), the centre should support MEPA with the organisation and realisation of concrete participatory formats. An additional permanent committee, consisting of different stakeholders such as civil society representatives, citizens and scientists, could be elected to discuss and vote on the proposals and recommendations made by the participants. Also, the new Climate Change Council should be opened up to allow representatives of civil society to join so that they can observe and influence the implementation of Georgia's climate change policy and climate-related international commitments. Moreover, existing structures and bodies such as the Eastern Partnership Civil Society Forum or the Open Government Partnership should be supported and used to promote and sustain the engagement of civil society in climate policy.

Provide resources

Human and financial resources are basic requirements for the work of permanent governance structures dedicated to participatory climate policy making and for Georgian CSOs that are active in climate policy. The Government of Georgia should prioritise the financial support of governance structures that enable participation and should create an enabling financial environment for CSO involvement, for instance through concrete instruments such as a funding programme to enable participation. Another recommendation is to hire national CSOs for the facilitation of participation formats and trainings. Thus, the competence and professionalism of Georgian CSOs would be appreciated by the political level and could help to relieve the responsible staff members at MEPA, its climate change division and the Environmental Information and Education Centre.



4.8.4 Qualitative participation process

Ensure broad and early invitation

Participation processes benefit from the various perspectives and experiences that a broad group of stakeholders can contribute. As climate policy planning is related to many different sectors and topics, it is crucial that MEPA and its supporting international institutions, such as UNDP, GIZ and others, invite a broad variety of CSOs from the national to the local level to consultations and workshops. Detailed stakeholder mapping, supported by CSOs, can serve as a useful tool to get an overview over existing competencies, knowledge, and networks. The government should not only rely on the experiences of big and powerful CSOs that have been

160 MEPA (2018). Statute of the Environmental Information and Education Centre - EIEC // Approved by the Order #2-742 of 6 September, 2018 of the Minister of Environmental Protection and Agriculture of Georgia / Legislative Herald of Georgia, 10.09.2018 / Official Web-page: matsne.gov.ge - Georgian Version [Official Text] - <https://matsne.gov.ge/ka/document/view/4286574?publication=0>

working in the field of climate issues for many years. It should also include smaller and newer organisations that are in close contact with the general public or certain population groups (e.g. the youth). They should be invited to participate in the development and evaluation of plans, programmes and strategies such as the NDC revision and the development of the CAP. Exchange and collaboration with the Covenant of Mayors is useful to reach the local level. CSOs that represent important groups and topics such as gender or youth should be considered as well to ensure inclusiveness. Stakeholders must be invited early, if possible more than one month in advance, to make sure that they have sufficient time to prepare and participate.

Organise appropriate formats

MEPA and other responsible bodies should develop appropriate and diverse formats to engage CSOs meaningfully. Thereby, the aim should not only be to inform civil society, but also to offer methods that foster dialogue and collaboration. The climate change conference organised by MEPA and GIZ in 2018 as well as the creation of sectoral working groups dealing with the CAP and NDC was already a first step towards stakeholder engagement that should be extended. Interactive formats such as roundtables, dialogue fora, regional gatherings, citizen panels, plenums, climate debates or online consultations enable fair and equal participation and strengthen deliberative democracy. The responsible institutions should organise such formats from the beginning for the next revision of the NDC in 2020 and the upcoming development of Georgia's NECP.

Provide transparency and information

The government must comply with its legal obligation to provide comprehensible information about the planned participation process and the topics to be discussed at an early stage. Therefore, the government should establish an online platform in collaboration with EIEC, which informs civil society about policy and climate issues such as the Paris Agreement, the NDC revision and the CAP process as well as ongoing climate-related participation processes in Georgia. Technical information should be simplified, e.g. through short videos and “FAQs” (Frequently Asked Questions). International documents should be translated into the Georgian language. In this context, it is crucial to cooperate with academia, since universities can provide and share sound knowledge about climate change and related topics. Discussions, results, and evaluations of specific events such as the climate change conference organised by MEPA and GIZ or NDC working groups should be documented and published too, in Georgian as well as in English to guarantee easy accessibility. The aim, extent, and time schedule of every participation process should be elaborated and illustrated from the beginning in a stakeholder involvement plan which should be accessible for everyone. The government should extend the possibilities for e-participation by including feedback tools and online consultation. Moreover, print media should complement the communication and information strategy of MEPA. Between the meetings, continuous exchange should be ensured by mailing lists and newsletters.¹⁶¹

Take due account of recommendations

To gain credibility and trust, it is crucial that responsible ministries and bodies invest in a fair and open review process of comments received. They should introduce a transparent system to collect and publish recommendations that were made by CSOs during consultation processes related to environmental and climate issues. The proposals should be evaluated and CSOs should get feedback on whether their recommendations were considered or why they were refused.

¹⁶¹ An interactive website and other communication tools were already demanded by Margvelashvili et al., 2017.

Evaluate and enable learning processes

To ensure effective participation processes, it is crucial that MEPA and other responsible actors offer stakeholders involved the opportunity to give feedback on the ongoing participation processes such as the development of the CAP. The processes should be reflected on regularly, not only after the finalisation. Such an evaluation helps to avoid problems such as misunderstandings and makes a learning process possible. Sometimes, it is necessary to adapt formats, methods, or certain procedures to improve the process and ensure successful results.

4.8.5 Capacity building



Raise public awareness

Education and information are the basis for meaningful participation. On the one hand, awareness and knowledge about climate change impacts as well as possible mitigation and adaptation measures should be raised among citizens through the provision of diverse education and information. Non-formal environmental education and education for sustainable development provided by CSOs and the mainstreaming of environmental education in schools play a crucial role in this context. On the other hand, the broader public should be better informed about existing rights and options in terms of access to information and participation in environmental matters. Besides formal public participation, e.g. within Environmental Impact Assessments, citizens should be aware of their opportunities to influence climate policy making through their commitment and support of CSOs.

Develop skills of CSOs

The capacity of Georgian CSOs to actively participate in policy planning should be strengthened through trainings and other formats. Apart from the need for more technical knowledge about climate change and related climate policy planning from the international to the national level, the study revealed that support is first needed to improve organisational development. To get more political influence and to be taken seriously, Georgian CSOs need to be supported in strengthening their membership base by effective outreach and recruitment. Moreover, capacity building for cooperation and networking between Georgian CSOs is crucial to have more influence on climate policy development.



National climate policy planning in Georgia

5 key measures to ensure civil society's participation is meaningful, effective and long-term

1 Create transparency and strengthen democratic decision-making:

Raise the political will for public participation and consider the contributions of civil society as something of value, not as a barrier in political processes, use mechanisms such as the Open Government Partnership as a forum for increased interaction between the state and civil society.

2 Fully transpose the Aarhus Convention into national law:

Set detailed, binding standards and rules for formal and informal participation procedures that go beyond the requirements of the Policy Planning, Monitoring and Evaluation Handbook and the Rules of Procedure for Development, Monitoring and Evaluation of Policy Documents and implement them.

3 Create and strengthen long-term structures that coordinate participation processes:

Strengthen existing structures such as the Environmental Information and Education Centre, increase its capacity and responsibility to design periodic, long-term participation processes and open new overarching structures such as the Climate Change Council to civil society.

4 Design meaningful, inclusive, transparent and binding participatory processes:

Include important elements and steps such as stakeholder mapping (including the regions and local level), the elaboration of an engagement plan and timeline, appropriate, interactive formats, transparency, accessible information, clear communication, the provision of adequate resources and a transparent review procedure.

5 Increase capacity building and environmental education:

Offer training to authorities on how to implement participation procedures, increase network capacity and technical knowledge about climate protection and adaptation of CSOs and enhance awareness raising on climate change and climate policy among the public.

4.9 Conclusions for Georgia

In Georgia, civil society and non-governmental organisations have a quite high degree of freedom and play an important role as watchdogs. The state generally allows individuals and CSOs to exercise their rights to freedom of association, peaceful assembly, and expression. However, the current political crisis influences civic space, and there are attempts to discredit civil society and other critical voices. In summer 2019, protests against the government started and have become stronger since November 2019 because the parliament failed to pass the amendments necessary to enact a promised proportional electoral system. Since then, a backlash and threats against independent civil society groups have been observed, particularly towards those that are involved in human rights and governance-related work. There are several Georgian CSOs working on ecological topics, but only a few on climate issues. These organisations often have limited time, financial and personal resources and are not well connected with each other. Even though the number of young volunteers and grassroots organisations has increased slightly over the last few years, there is no deeply rooted participatory civic culture and little public trust in CSOs.

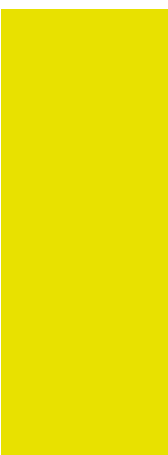
As presented in Chapter 4.7, fundamental requirements for climate-related participation in Georgia can be rated with a score of 6/10. Ecological and climate topics as well as the involvement of civil society in this context do not have high priority in national policy making. Strong power structures and backsliding in anti-corruption reforms are further fundamental barriers to democratic and participatory governance.

Georgia scores quite well (12/17) in regards to its legal framework for participation in environmental policy making. Several provisions and regulations scattered across different policy documents require participation. In particular, the new Rules of Procedure for Development, Monitoring and Evaluation of Policy Documents (2019) are an important national document since they make public participation instruments for the development of political documents such as strategies and programmes mandatory. Yet, the short paragraph about participation does not set detailed standards or guidelines for formal and informal participation processes. Our analysis furthermore showed that the Environmental Assessment Code, adopted in 2017, introduced principles harmonised with that of EU environmental acquis on the Environmental Impact Assessment (EIA) and the Strategic Environmental Assessment (SEA) Directives, as well as the approaches of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its protocol on SEA and the Aarhus Convention. Accordingly, public participation is mandatory within EIAs of projects that are likely to have impacts on the environment. Nevertheless, it can be concluded that the Aarhus Convention, which was ratified by Georgia in 2000, has not yet been fully transposed into national law. To ensure the effective implementation of Articles 7 and 8 of the Aarhus Convention, existing legislation should be amended, considering that the requirements should not be limited to the SEA Directive and the SEA Protocol.

Regarding the structural level, Georgia performs rather poorly (1/7). The Environment and Climate Change Department of the Ministry of Environmental Protection and Agriculture (MEPA) coordinates climate mitigation and adaptation measures at the national level as well as directives from multilateral agreements. MEPA also tries to involve stakeholders in its respective processes. Yet, from the view point of civil society actors, a problem is that the ministry does not have enough decision-making power and political influence compared to other ministries. Moreover, weak vertical and horizontal coordination and collaboration between the political levels and ministries prevent the meaningful participation of civil society in climate-relevant decision-making. Additionally, there is no long-term structure that coordinates participation processes sustainably. Civil society actors should push for improvements at the structural level and demand effective long-term structures as well as financial support enabling also smaller CSOs to participate.

On average, the quality of recent participation processes can be rated with a score of 6/17. For example, some CSOs were formally involved in the development of the Biennial Update Reports (BUR) and the National Communications (NC) to the United Framework Convention for Climate Change (UNFCCC), and the Low Emission Development Strategy (LEDS), and they contributed to national mitigation instruments such as the Nationally Appropriate Mitigation Actions (NAMAs). Furthermore, civil society representatives pointed out that they were quite satisfied with the participation processes related to the development of the Forest Sector Reform Strategy and Action Plan 2016-2021, and the National Waste Management Action Plan 2016-2020. Moreover, CSOs had the opportunity to contribute their opinion and competencies within the development of the second NDC. The climate change conference organised by MEPA and GIZ in 2018 as well as the creation of sectoral working groups dealing with the NDC and the related Climate Action Plan (CAP) was already a good step towards stakeholder involvement that should be extended. Yet, this study revealed that there is still much room for improvement e.g. regarding information, transparency, comprehensible documentation or the consideration and review of civil society positions in climate matters.

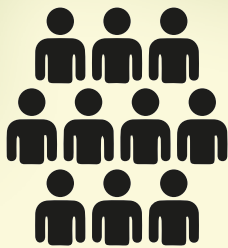
Regarding capacity building, this assessment showed that further effort is necessary to strengthen governmental institutions as well as civil society (score of 3/8). Existing participation mechanisms and opportunities are little known by the public, and also not by some CSOs. Awareness raising on climate change and climate policy should be enhanced to reach citizens and to motivate them to get active. Furthermore, CSOs in Georgia should be supported in their networking efforts so that they can benefit from collaboration and skill sharing. Governmental representatives should be informed and trained continuously to implement meaningful, effective, and long-term participation processes in climate policy.



Ukraine

CO₂ emission estimates¹⁶³
(million tons/ tons per capita):

205.7/ 4.65



Population¹⁶²: **42,386,403**

Population density:

70.23 inhabitants per km²



CIVICUS Monitor rating¹⁶⁴:

Obstructed



Assessment of the environment and opportunities to participate in climate policies in Ukraine, based on this study (see chapter 5.7):

45.1/100 points

Surface area: **603,550 km²**

162 United Nations data, based on the results of the 2014 Population Census, <https://unstats.un.org>, accessed 21 November 2019.

163 <https://edgar.jrc.ec.europa.eu/overview.php?v=booklet2018&dst=CO2emi>, accessed 26 March 2020.

164 CIVICUS Monitor is a research tool built by civil society that aims to share data on the state of civil society freedoms (civic space) all over the world. It analyses to what extent states fulfill their duty to protect the freedom of association, the freedom of peaceful assembly and the freedom of expression. Each country is assigned a rating of the following categories: open, narrowed, obstructed, repressed or closed. For more information: <https://monitor.civicus.org/methodology>, accessed 27 April 2020.

5 Ukraine

5.1 National climate policy

Ukraine ratified **the United Nations Framework Convention on Climate Change (UNFCCC)** in 2004, and the **Paris Agreement** in 2016. As an Annex I Party to the UNFCCC, Ukraine has to submit National Communications (NCs) that regularly provide information on the state of implementation of climate protection measures. The latest Sixth National Communication was submitted in 2013. In the same year, Ukraine handed in its first Biennial Update Report (BUR), which included updates of the national greenhouse gas inventories, information on actions taken for climate change mitigation and adaptation, their effects in the national context, and an outline of needs and international support received. At COP 24 in 2018 it was decided to replace the Biennial Update Reports with Biennial Transparency Reports (BTR) that also give information on tracking progress in implementing and achieving the Nationally Determined Contributions (NDCs) to the Paris Agreement.

The first NDC of Ukraine was submitted in 2015 and includes the commitment to reduce greenhouse gas emissions to 60% of the 1990 levels by 2030, a decrease of 40% in comparison to its emissions in 1990.¹⁶⁵ But in 1990, Ukraine was one of the world's highest-emitting countries, responsible for greenhouse gas emissions of 944.4 megatons of carbon dioxide equivalent (mt CO₂ eq.) or 874.6 mt CO₂ eq. including land use, land-use change, and forestry (LULUCF) activities.¹⁶⁶ Structural change starting in the 1990s, the financial crisis in 2009, and the war in Donbass have caused a significant decrease in greenhouse gas emissions in recent years. In 2017, Ukraine emitted 320.95 mt CO₂ eq. excluding LULUCF, thus 66% less than in 1990 (Ministry of Ecology and Natural Resources of Ukraine, 2019). Experts underline that these current reductions in per capita GHG emissions have occurred obviously due to disruptions and conflicts rather than being a result of ambitious climate policy.¹⁶⁷ Several Ukrainian NGOs criticise the low ambition of the first NDC and fear that the intended decrease of emissions by 40% in comparison to 1990 could even lead to a future increase of emissions (Kovac et al., 2019). The Climate Action Tracker ranks the commitments of Ukraine as “critically insufficient” as they “are not at all consistent with holding warming to below 2°C let alone with the Paris Agreement’s stronger 1.5 °C limit.”¹⁶⁸

Existing climate-related sectoral policies and strategies, such as the 2050 Low Emission Development Strategy (LEDS) that was published in 2018, are more ambitious and could even lead to an over-achievement of the NDC. The most important Ukrainian climate policy instruments are those related to energy, e.g. the Energy Strategy for 2035, because the energy sector is responsible for 84% of Ukraine’s greenhouse gas emissions. The shutdown of 32 unprofitable state-owned coal mines and the loss of coal reserves in the Donbass region as well as a desire for less dependence on Russian energy supplies are strong supporting arguments for a decarbonisation of Ukraine’s energy sector. However, the expansion of renewable energy is still slow. NGOs argue that an emission trading system as favoured by

165 www4.unfccc.int/sites/NDCStaging/pages/Party.aspx?party=UKR, accessed 19 December 2019.

166 Ibid.

167 www.climate-change-performance-index.org/country/ukraine, accessed 19 December 2019.

168 <https://climateactiontracker.org/countries/ukraine>, accessed 19 December 2019.

several ministries should not be implemented. Instead, a tax on CO₂ should be raised and the NDCs should be furnished with concrete, measurable programmes. The climate-driven civil society also criticises that sector specific climate relevant strategies were neither aligned to one another nor to the NDC (Kovac et al., 2019).

The development of the second NDC began in 2019 and uses a new baseline scenario that matches Ukraine's current emissions more closely. Since the elections in July 2019, the new government has dissolved the Ministry of Ecology and Natural Resources and the Ministry of Energy and Coal of Ukraine and has transformed the two ministries into the Ministry of Energy and Environmental Protection (MEEP).

5.2 Climate-engaged civil society in Ukraine

In Ukraine, the Revolution on Granite in 1990, the Orange Revolution in 2004, and the Euromaidan, also called the Revolution of Dignity, in 2013-2014 have strongly influenced the civic space and environment for CSOs.¹⁶⁹ Freedom of association and assembly as well as freedom of expression are guaranteed by the constitution and different laws. According to the Bertelsmann Transformation Index (2018), these rights have been widely respected since Euromaidan. Civil society and CSOs have increased their presence in public discourses and policy making and have become a strong driving force behind ongoing reforms. They have improved their advocacy activities and joined forces in networks and coalitions. In order to increase pressure on the government, CSOs cooperate closely with international actors and donors (Bertelsmann Stiftung, 2018b). After the Revolution of Dignity, open policy making became a common practice so that civil society gained different possibilities to participate in political processes. Due to national legislation, every governmental institution is obliged to consult with civil society on legislative initiatives (Hughes & Huss, 2017), for instance through public councils or advisory bodies. The EU accession plays a major role in this context. Chapter 26 of the EU Agreement highlights the importance of cooperation with civil society. Article 469 stipulates the establishment of a civil society platform.¹⁷⁰ Decree 68/2016 approving the National Strategy for Supporting the Development of Civil Society Organisations of Ukraine for 2016-2020 was signed by the president of Ukraine in February 2016 (Palyvoda et al., 2018). In November 2016, the Coordination Council for Civil Society Development was established. This CSO advisory body enables CSOs to participate in national decision-making processes and to promote better relations between the state and civil society (United States Agency for International Development, 2017). Compared to other former Soviet countries, Ukraine has the richest civil society in terms of number and variety as well as levels and range of activities (Ghosh, 2014).

However, the CIVICUS Monitor that tracks the state of civil society freedoms worldwide, reveals that the above described rights are significantly influenced by the ongoing conflict between Ukraine and Russia in the region of Crimea and in Eastern Donbas. Even though there are a lot of active CSOs, several legal and practical constraints limit their power. The space for non-state media and editorial independence is restricted and journalists as well as activists are faced with attacks.

¹⁶⁹ For more information see for instance the Special Issue “Civil Society in Post-Euromaidan Ukraine, <http://kmlpj.ukma.edu.ua/issue/view/7148/showToc>, accessed 07 May 2019.

¹⁷⁰ http://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155103.pdf, accessed 07 May 2019.

The CIVICUS Monitor rates the civic space in Ukraine with the category “obstructed”. This means that “civic space is heavily contested by power holders, who impose a combination of legal and practical constraints on the full enjoyment of fundamental rights”.¹⁷¹ Amnesty International recently drew attention to numerous human rights violations.¹⁷² Freedom House¹⁷³ rates Ukraine as “partly free” and also mentions attacks towards journalists and civil society activists. A prominent case was the death of Kateryna Handziuk. The Ukrainian civic activist died in 2018 after she was injured in an acid attack.^{174,175}

In Ukraine, CSOs are mainly focused on democratisation and human rights, but also environmental and climate topics have become more and more important in recent years, especially after the ratification of the Paris Agreement in 2016.¹⁷⁶ NGOs and think tanks such as Ecoaction, Ecoclub Rivne, OPORA, Greencubator and DiXi Group work on climate issues and campaign for more ambitious climate and energy policies that meet international requirements (Yeremenko et al., 2019). In 2000, 17 NGOs founded the Ukrainian Climate Network (UCN) to join forces and influence national policy making. Today, 30 CSOs cooperate in this network, from the local to the international level. Members describe the cooperation as being fruitful and successful since it enables them to initiate joint campaigns and develop common positions. The government respects the members of the network as competent stakeholders and gives them the possibility to comment on draft laws, strategies and plans related to climate and environmental issues (Kovac et al., 2019). CSOs can participate in consultations and meetings, and the Ministry of Ecology and Natural Resources of Ukraine (MENR)¹⁷⁷ stays in contact with civil society.

A recent study by the Ukrainian think tank CEDOS shows that both government officials and CSOs believe that the opportunities for cooperation in the field of climate policy have slightly increased over the past few years. One reason is that authorities have become more open to the participation of civil society, according to the experts that were interviewed for this study. Another reason could be that young, motivated people from the climate movement have now begun to work for public authorities. However, this study has also revealed that there are still various obstacles preventing successful cooperation between CSOs and the authorities. Examples of these obstacles include mutual mistrust, the authorities’ lack of interest in ecology and climate change, a lack of financial resources and a lack of public interest for environmental and climate topics, all of which prevent interaction and collaboration (Verbytsky et al., 2020).

In addition to the UCN, different NGOs, including Ecoaction, Ecoclub Rivne, Ecoltava, 350.org Ukraine, and Khmelnytskyi Energy Cluster founded the 100% Renewable Energy Coalition at the end of 2018. During 2019, the members of the coalition organised several meetings to establish working procedures and to develop the new platform that they support with their expertise.¹⁷⁸

171 <https://monitor.civicus.org/country/ukraine>, accessed 07 May 2019.

172 www.unian.info/society/10441440-amnesty-ukrainian-authorities-slow-to-react-to-attacks-against-journalists-rights-advocates-media.html, accessed 07 May 2019.

173 <https://freedomhouse.org/report/freedom-world/2019/ukraine>, accessed 07 May 2019.

174 www.taz.de/Getoetete-Aktivistinnen-in-der-Ukraine/!5570765/, accessed 07 May 2019.

175 www.deutschlandfunkkultur.de/ukraine-der-druck-auf-die-zivilgesellschaft-waechst.2165.de.html?dram:article_id=441703, accessed 07 May 2019.

176 Focus group workshop, Ukraine, 05 March 2019.

177 After the parliamentary elections in June 2019 the Ministry of Ecology and Natural Resources and the Ministry of Energy and Coal of Ukraine were liquidated and transformed into the Ministry of Energy and Environmental Protection (MEEP).

178 <https://energytransition.in.ua>, accessed 12 December 2019.

The work of NGOs is supported by a growing awareness for environmental concerns in society. A study published by the Ukrainian Resource and Analysis Centre shows that Ukrainian and EU citizens share many similar concerns about the environment. Both consider environmental issues as personally important and Ukrainians think that environmental problems should be tackled through enhancing the role of supervisory authorities as well as in cooperation with the EU. While EU citizens name climate change as the major environmental challenge, Ukrainians consider droughts and floods to be the main challenges (Resource and Analysis Centre “Society and Environment,” 2018). A further study of the Friedrich Ebert Foundation showed that Ukrainians think that Europeans care more about the environment than they do. Moreover, they admitted that environmental issues fade into the background when there is financial benefit (Buhbe, 2017). Even though a poll among 2,000 young Ukrainians from 2017 showed that activism and volunteering is unpopular (only 6% volunteered over the past year, reference year: 2017) (Zaremba et al., 2017), hundreds of children and young people participated in the Fridays For Future demonstrations that took place in March 2019 in seven Ukrainian cities.¹⁷⁹

¹⁷⁹ <https://ucn.org.ua>, accessed 07 May 2019.

5.3 Legal framework for participation in Ukraine

5.3.1 International level

Ukraine is party to different international treaties (Table 12) that are linked to public participation in climate-related decision-making and play a significant role, not only with regard to participation, but in the overall national policy formulating process, influencing environmental governance at national level.

Table 12: International treaties ratified by Ukraine that are related to public participation

Treaties	Date of Ratification
Vienna Convention for the Protection of the Ozone Layer	1986 (Acceptance)
Montreal Protocol on Substances that Deplete the Ozone Layer	1988 (Acceptance)
United Nations Framework Convention on Climate Change (UNFCCC)	1997
Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters	1999
Kyoto Protocol to the United Nations Framework Convention on Climate Change	2004
London, Copenhagen and Beijing Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	1997-2007
Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (SEA Protocol)	2015
Paris Agreement on Climate Change	2016

In 1999, Ukraine was one of the first parties to ratify the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, usually known as the **Aarhus Convention**. The Convention entered into force in 2001¹⁸⁰, yet it became an integral part of the national legislation with its ratification in 1999.

¹⁸⁰ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&tmdsg_no=XXVII-13&chapter=27&clang=_en, accessed 26 September 2019.

In 2003, Ukraine also became party to the **Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (SEA Protocol, Kyiv 2003)**. However, this protocol was not ratified until 2015.¹⁸¹ The objective of this protocol is to provide a high level of protection of the environment, including public participation in Strategic Environmental Assessments (SEA).

The United Nations Framework Convention on Climate Change (UNFCCC), which was ratified by Ukraine in 2004, plays an important role regarding participation rights in the context of climate change. Article 4 of the convention specifies that all parties shall “promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations”¹⁸². In 2016, Ukraine ratified the **Paris Agreement** which clearly demands public participation and public access to information in Article 12.¹⁸³

Apart from these international conventions, the **EU-Ukraine Association Agreement** from 2014 had a significant influence on the framework for participation of civil society. Chapter 6 (Environment) underlines that cooperation shall improve the access to environmental information and decision-making processes. To foster dialogue, the agreement demands a civil society platform and a civil society forum.

181 Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

182 <https://unfccc.int/resource/docs/convkp/conveng.pdf>, accessed 17 December 2019.

183 <https://unfccc.int/process/conferences/pastconferences/paris-climate-change-conference-november-2015/paris-agreement>, accessed 17 December 2019.



5.3.2 National level¹⁸⁴

From 2000 to 2010, the process of implementation of the provisions of the Aarhus Convention, especially those on public participation in specific decisions, was slow. Ukraine has been repeatedly found to not comply with Article 6 of the Aarhus Convention. Yet, both the Law of Ukraine on the Protection of the Environment (1991, as amended in 2002-2006) and the Law on Principles of Regulatory Policy in Economic Activity (2004) require public participation in the development of policy and planning documents (strategies, plans and programmes) relating to the environment and normative acts (laws, decrees of the government and separate ministries etc.) regulating economic activities. It is only with the EU-Ukraine Association Agreement (2014) that the new laws on Environmental Impact Assessment (EIA, 2017) and Strategic Environmental Assessment (SEA, 2018) were enacted, finally establishing a proper legal framework for participatory rights in the development of plans, programmes and specific activities that may significantly impact the environment.¹⁸⁵

In the Aarhus Convention Index (2017)¹⁸⁶ Ukraine scored as follows¹⁸⁷:

Table 13: Aarhus Convention Index of Ukraine

Aarhus Convention article	Score based on law	Score in practice
Article 6 "Public Participation in Decisions of Specific Activities"	1.23/3	0.64/3
Article 7 "Public Participation Concerning Plans, Programmes, and Policies relating to the environment"	1.6/3	1.25/3
Article 8 "Public Participation during the Preparation of Executive Regulations and/or Generally Applicable Legally Binding Normative Instruments"	2.2/3	1/3

¹⁸⁴ Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

¹⁸⁵ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29>, accessed 17 December 2019.

¹⁸⁶ <https://accessinitiative.org/resources/aarhus-convention-indicators-summary-report>, accessed 26 September 2019.

¹⁸⁷ It should however be considered that the research for project was conducted in 2016 prior to adoption of the laws on Strategic Environmental Assessment (2018) and Environmental Impact Assessment (2017).

As of September 2019, the legal framework for public participation in climate-related decision-making in Ukraine can be summarised as follows:

Table 14: National legal framework for public participation in climate-related decision-making in Ukraine

Level of climate-related decision-making	Forms of public participation	Instrument that involves public participation	Relevant legislation
Development of environmental (including climate) policy, plans and programmes	Written comments Public hearings (optional) Other forms	Within the general framework for public participation in 1) the development of strategies, plans and programmes related to the environment; 2) development of regulatory acts; 3) development of national policy	Law on the Protection of the Environment (1991) Law on the Principles of Regulatory Policy in Economic Activity (2004) Resolution of the Cabinet of Ministers of Ukraine 996 on Ensuring the participation of the public in the formulation and implementation of the national policy (2010) Resolution of the Cabinet of Ministers of Ukraine 771 on the Procedure for public involvement in discussing decisions that may impact the environment (2011)
Development of policies, plans and programmes that may have an impact on the environment (including climate)	Written comments Public hearings (only for local urban planning documents)	Strategic Environmental Assessment (SEA)	Law on Strategic Environmental Assessment (2018) Law on Urban Development (2011) Resolution of the Cabinet of Ministers of Ukraine 771 on the Procedure of public involvement in discussing decisions that may impact the environment Resolution of the Cabinet of Ministers of Ukraine 555 on the Procedure of holding public hearings in the course of development of local planning documents
Decision-making on specific projects that may have an impact on the environment (including climate)	Written comments Public hearings	Environmental Impact Assessment (EIA)	Law on Environmental Impact Assessment (2017) Resolution of the Cabinet of Ministers of Ukraine #989 on the Procedure of holding public hearings in the Environmental Impact Assessment procedure

Public participation in the development of climate policies, plans and programmes

The legal framework for public participation in environmental policy making in Ukraine is quite complex. It comprises the respective provisions of the **Aarhus Convention**, provisions of sectoral legislation on public participation in environmental decision-making, as well as legal acts of a general nature providing for civic involvement in policy making. The national legal framework neither defines nor explains the term ‘policy’ (and does not define which documents are considered as being a ‘policy’), and it does not regulate its development and adoption procedures. Ukrainian laws do not consider the NDCs (National Determined Contributions), the National Energy and Climate Plan, or any other specific policy or planning document related to climate change as being a policy or environmental policy, and they do not specifically require public participation in their development or revision.

However, policy choices are often made within framework laws. For example, the **Law on Protection of the Environment** contains several policy provisions. Other policy documents (e.g. various strategies) are usually adopted by an act of parliament or government. The two most recent environmental strategies, the Main Principles (Strategy) of the National Environmental Policy of Ukraine for the Period until 2020 (2010)¹⁸⁸, and the Main Principles (Strategy) of the National Environmental Policy of Ukraine for the Period until 2030 (2019)¹⁸⁹ were adopted by acts of parliament (laws). Thus, as of today, public participation in the development of environmental policy is required by these acts containing rules for public participation in the preparation of legislative and governmental documents.

According to the Ukrainian constitution, international agreements ratified by the Ukrainian parliament (such as the Aarhus Convention) become integral parts of national legislation with direct applicability. Due to the given complexity and conflicting legal norms governing public participation in environmental decision-making, Ukrainian courts often rely on the respective provisions of the Aarhus Convention to form their decisions.

The Law of Ukraine on Protection of the Environment (1991)¹⁹⁰ is the central and oldest piece of environmental legislation in Ukraine. In 2002, it was amended for transposing the provisions of the Aarhus Convention into domestic legislation.¹⁹¹ According to Article 6 of the law (as amended in 2002), ministries and other governmental bodies, have to involve the public in the decision-making process when developing environmental programmes by publishing the drafts of environmental programmes in a way that the public can study them, prepare their comments, and participate in public hearings regarding environmental programmes. The law is missing a paragraph on public involvement in the development of environmental policy. However, Articles 9 and 21 (on the rights of citizens and environmental NGOs) allow public participation in the development of plans and programmes relating to the environment as well as legal normative acts on environmental matters.

In 2003, the Ministry of Environmental Protection adopted a **Procedure of Public Participation in Environmental Decision-making** through Order 168¹⁹² to implement the respective provisions of the Ukrainian Law on the Protection of the Environment. As well as giving guidance for participation in specific projects, the procedure also covers public participation in the development of intergovernmental, state, regional and local programmes, plans, strategies, and concepts as well as legislative and other normative acts. Although lacking some basic elements of effective public participation and being dramatically

188 <https://zakon.rada.gov.ua/laws/show/2818-17>, accessed 26 September 2019.

189 <https://zakon.rada.gov.ua/laws/show/2697-19>, accessed 26 September 2019.

190 <https://zakon.rada.gov.ua/laws/show/1264-12>, accessed 26 September 2019.

191 <https://zakon.rada.gov.ua/laws/show/254-15>, accessed 26 September 2019.

192 <https://zakon.rada.gov.ua/laws/show/z0155-04>, accessed 26 September 2019.

outdated¹⁹³, the procedure is technically still in force. Its other disadvantage is that it only covers decisions made by the Ministry of Energy and Environmental Protection¹⁹⁴.

In 2011, the Cabinet of Ministers of Ukraine approved the **Procedure for Public Involvement in Discussing Decisions** that may Impact the Environment through Resolution 771¹⁹⁵. One of the goals of this document was to oblige all governmental bodies to involve the public when making decisions relating to the environment. Yet, the scope of the decisions covered by the procedure and the elements of the prescribed public participation procedure were insufficient to guarantee the effective implementation of Article 7 and 8 of the Aarhus Convention.

In parallel, in 2004, the parliament passed the **Law on Principles of Regulatory Policy in Economic Activity**¹⁹⁶, which provides for public participation in the development of regulatory acts (laws, resolution of the government and ministries etc.). The objective of this law is to protect business from overregulation by the state. According to Article 1, a regulatory act means a normative act which is aimed at regulating economic (business) relations and relations between regulatory authorities and economic entities. The law provides for all essential elements of effective public participation (via written comments). Although it is limited in scope to relations between the state and business, in practice the law with its public participation provisions was applied to the processes of the development of many draft laws and governmental normative acts formulated by various branches of the government.

In 2010, the government adopted the **Resolution of the Cabinet of Ministers of Ukraine 996 on Ensuring Public Participation in the Development and Implementation of National Policy**¹⁹⁷. Just like the Law on the Principles of Regulatory Policy in Economic Activity, this document is not sectoral (environmental) and covers all areas of state policy. According to this resolution, all ministries (including the Ministry of Energy and Environmental Protection) have created respective public councils, serving as an official communication and consultation channel between the government and the public. Although it does provide certain elements of public participation, some provisions of the resolution are quite general and unclear.

Finally, a good level of adherence to international standards on public participation in the development of policies, plans, and programmes was achieved due to the adoption of the **Law on Strategic Environmental Assessment (SEA)** and the accompanying legislative and regulatory package. Among others, the **Procedure for public involvement in discussing decisions that may impact the environment**, approved by the Cabinet of Ministers of Ukraine's Resolution 771, was significantly amended (2019)¹⁹⁸. As of today, the procedure covers normative acts and state planning documents (strategies, plans, programmes etc.) developed by national and local governmental authorities. The procedure includes the necessary elements of effective public participation and is in line with Aarhus obligations and

193 Refers to the procedures that preceded EIA and SEA procedures introduced in 2017 and 2018.

194 A Ministry solely dedicated to the environmental issues existed in Ukraine since its independence in 1991 until September 2019.

195 <https://zakon.rada.gov.ua/laws/show/771-2011-п>, accessed 26 September 2019.

196 <https://zakon.rada.gov.ua/laws/show/1160-15>, accessed 26 September 2019.

197 <https://zakon.rada.gov.ua/laws/show/996-2010-п>, accessed 26 September 2019.

198 <https://zakon.rada.gov.ua/laws/show/128-2019-п>, accessed 26 September 2019.

provisions for respective directives. However, public participation is not required at the beginning of the procedure, but only when a draft document is already prepared. In contrast, within the SEA procedure, participation can be carried out in parallel to the development of the document itself, or when the draft is finished. In any case, public participation is required twice within the SEA procedure – at the stage of scoping and at the stage of the final SEA report. Participatory rights are vested in the general public. Nevertheless, the legal basis for such participation is missing in Ukrainian laws (namely the Law of Ukraine on Protection of the Environment). Such a legal basis is required for the full implementation of the respective Aarhus provisions as well as the European Public Participation Directive (Directive 2003/35/EC of the European Parliament and of the Council of 26th May 2003), providing for public participation in regards to developing certain plans and programmes relating to the environment.

Public participation in the development of policies, plans and programmes that may have impacts on the environment

In March 2018, the Ukrainian parliament adopted the **Law on Strategic Environmental Assessment (SEA)**¹⁹⁹. The law was approved to implement Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment and came into force in October 2018. The law provides for effective public participation in SEA procedures for strategies, plans and programmes for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, urban and rural planning, and land use. The implementation of the law may have a significantly positive effect on the environment. According to Article 1, the environmental impacts that are assessed within the SEA procedure include impacts on the climate.

The law lays down the procedure for public participation in the scoping phase, requirements to publish draft documents as well as the notification of the beginning of the public consultation phase, a public's right to submit written comments, and the authorities' obligation to take due account of the result of public participation. As a rule, holding public hearings is optional in SEA procedures. If being held, public hearings have to be carried out according to detailed rules outlined in the Procedure for Public Involvement in Discussing Decisions that may Impact the Environment, approved by the Cabinet of Ministers of Ukraine's Resolution 771²⁰⁰.

Furthermore, according to Article 12 of the Law on Strategic Environmental Assessment and Article 21 of Law on Regulation of Urban Development Activities²⁰¹, public hearings are mandatory for local planning documents (city master plans etc.). A detailed procedure for the announcement and the implementation of public hearings on local planning documents is required by the **Procedure for Holding Public Hearings in the Course of Development of Local Planning Documents**, approved by the Cabinet of Ministers of Ukraine's Resolution 555²⁰².

In 2019, both of the above mentioned procedures were amended and now require effective public participation procedures within the respective strategic or planning decisions.

199 <https://zakon.rada.gov.ua/laws/show/2354-19>, accessed 26 September 2019.

200 <https://zakon.rada.gov.ua/laws/show/128-2019-п>, accessed 26 September 2019.

201 <https://zakon.rada.gov.ua/laws/show/3038-17>, accessed 26 September 2019.

202 <https://zakon.rada.gov.ua/laws/show/555-2011-п>, accessed 26 September 2019.

The major setback of the new Law on Strategic Environmental Assessment in terms of public participation is its definition of the public that are entitled to have participatory rights. According to Article 1 of the law, ‘the public’ is defined as one or more natural or legal persons, or their associations, organisations or groups, registered in the area covered by the respective strategic/planning document. This narrow definition of ‘the public’ results in a significant restriction to the concerned public that is allowed to participate in SEA procedures.

Public participation in decision-making on specific projects that may have significant impacts on the environment

In May 2017, the Ukrainian parliament adopted the **Law on Environmental Impact Assessment (EIA)**²⁰³. This law was approved to implement the European EIA Directive 2011 (Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment) and came into force in December 2017. The law provides for effective public participation during EIA procedures for projects that may have significant impacts on the environment.

According to Article 1 of the law, environmental impacts that are assessed within EIA procedures include impacts on the climate. According to Article 6, an EIA report has to include a description and an assessment of possible impacts of the planned activity on the environment, in particular the project’s impact on the climate (for example the nature and magnitude of greenhouse gas emissions), and the vulnerability of the project to climate change.

According to Article 1, ‘the public’ means one or more natural or legal persons, their associations, organisations, or groups. This means that anyone can participate in the decision-making process (submit written comments and participate in public hearings).

The law lays down detailed procedures for public participation in the scoping phase of an EIA, requirements to publish an EIA report as well as a notification of the start of the public consultation period, a public’s right to submit written comments and participate in public hearings, and an authority’s obligation to take due account of the result of public participation. Holding public hearings is obligatory in EIA procedures. They are carried out according to detailed rules outlined in the Procedure of Holding Public Hearings in Environmental Impact Assessment Procedure approved by the Cabinet of Ministers of Ukraine’s Resolution 989²⁰⁴.

Apart from the above mentioned laws and mechanisms, referenda, public initiatives and petitions are tools of direct democracy that can be used by civil society to influence political decision-making in Ukraine. National referenda are binding and calling them requires three million signatures of eligible voters, including at least 100,000 signatures from each region.²⁰⁵ At the national level, Ukrainian citizens can submit online petitions to parliament, the president and the Cabinet of Ministers. If 25,000 signatures have been collected within three months, a review by the authorities is mandatory (Council of Europe, 2016).²⁰⁶

203 <https://zakon.rada.gov.ua/laws/show/2059-19>, accessed 26 September 2019.

204 <https://zakon.rada.gov.ua/laws/show/989-2017-п#n10>, accessed 26 September 2019.

205 Law of Ukraine On all-Ukrainian referendum (2012): <http://zakon5.rada.gov.ua/laws/show/5475-17>, accessed 18 June 2020. A draft of the newly developed Law of Ukraine “On all-Ukrainian referendum” (2020) is available online. The public is requested to submit remarks and proposals for its improvement: <https://rada.gov.ua/en/news/News/page/en/news/News/190587.html>, accessed 18 June 2020.

206 Law of Ukraine On Amendments to the Law of Ukraine On Citizens’ Appeals (2015): <http://zakon3.rada.gov.ua/laws/show/577-19>, accessed 18 June 2020.

5.4 Structures and institutions enabling participation in climate policy

Our analysis revealed different structures, institutions and initiatives which support the involvement of Ukraine's civil society in climate-related policy. Some of them are state or EU-driven, others were initiated by civil society itself.

5.4.1 EU accession and the Eastern Partnership

The fact that Ukraine is aiming towards EU accession strongly influences political developments, the environment for CSOs and the nature of cooperation between civil society and the state. Experts in the focus group, held as part of this study, described it as a “stick and carrot” strategy that has effected a lot of change in Ukraine. Due to EU regulations the government is obliged to drive reforms, and NGOs should benefit from this window of opportunity to advocate for their positions. According to the interviewed CSOs, nothing would change without the pressure from the EU. Even under the current requirements, some ministries such as the Ministry of Energy and Coal Mining ignored comments from the EU in regard to the Energy Strategy of Ukraine for 2035.²⁰⁷

87 Ukrainian NGOs are members of the Eastern Partnership Civil Society Forum that was founded under the Eastern Partnership in 2008 in order to cooperate with other CSOs and the EU.²⁰⁸ Environmental organisations such as Environment-People-Law, Ecological Club Kray, Ecoaction (the successor of the National Ecological Center of Ukraine), and OPORA take part and can get involved through the Ukrainian National Platform and different working groups, in particular Working Group 3 (environment, climate change, and energy security). Activities and the coordination of the platform are mainly financially supported by the Civic Synergy Project that is funded by the EU and the International Renaissance Foundation (IRF).²⁰⁹ Another European platform that aims to strengthen public participation in the implementation of European integration reforms in Ukraine is the EU-Ukraine Civil Society Platform.²¹⁰ In the framework of this platform, Working Group 5 (energy, transport, environment and climate change) published a report which analyses Ukraine's progress in meeting its international climate commitments, including the provisions of the association agreement.²¹¹ It also highlights the powerful expert and civil community in the area of climate change that developed in recent years (Working Group 5 of the EU-Ukraine Civil Society Platform, 2018).

The cooperation between municipalities is supported by the EU-funded Covenant of Mayors (CoM) (Kovac et al., 2019). In Ukraine, 164 municipalities signed the CoM with the aim of implementing sustainable energy policies and facilitating their contribution to climate change mitigation and adaptation in the framework of their Sustainable Energy Action Plans (SEAPs). Experts of the focus group emphasised the importance of powerful municipalities in the context of sustainable

207 Focus group workshop, Ukraine, 05 March 2019.

208 <http://eap-csf.eu/members>, accessed 03 May 2019.

209 www.civic-synergy.org.ua/en, accessed 03 May 2019.

210 <https://eu-ua-csp.org.ua>, accessed 03 May 2019.

211 Interview with Ecoclub Rivne, Berlin, 13 February 2019.

development. The current decentralisation process in Ukraine gives much more power and financial means to the local level and supports self-governance instead of the former top-down approach. This new setting opens doors for civil society to bring in ideas at the local level and to accelerate concrete activities.²¹²

5.4.2 Public councils

At the national level, civil society can formally participate in political decision-making through public councils or advisory bodies which must be established by each Ukrainian ministry according to the Cabinet of Ministers Resolution 996. The public council that was led by the Ministry of Ecology and Natural Resources (now the Ministry of Energy and Environmental Protection) until the elections in 2019, was founded in 1996 and aims to ensure public participation in environmental policy in line with the Aarhus Convention (World Bank, 2016). It is divided into several committees, including a committee on climate issues and ozone layer protection (Marcu et al., 2017). Although public councils represent a formal format enabling public consultation, some NGOs criticise that they are not appropriate to find solutions and to change current policies as they do not influence the ministry.²¹³

5.4.3 Inter-Agency Commission on Climate Change (ICCC)

The ICCC was founded in 1999 and brought together representatives of the MENR, the Ministry of Economic Development, the Ministry of Energy and Coal Industry, the Ministry of Infrastructure, and other ministries and departments until the parliamentary elections in 2019. The Ukrainian Climate Network represented civil society within this intergovernmental body (Melnikova et al., 2017). The NGOs that were interviewed mentioned the ICCC as a positive structure but also pointed out that the ICCC is too closely connected to the Chamber of Commerce that acts as a civic institution in this context.²¹⁴

5.4.4 Aarhus Information and Training Centre

To meet the requirements of the Aarhus Convention, the Aarhus Information and Training Centre was established within the Ministry of Ecology and Natural Resources of Ukraine (MENR) and the State Ecological Institute of the MENR in 2014. Its aim is to promote the three pillars of the Aarhus Convention and to raise awareness among the public and governmental authorities concerning environmental issues and participation.²¹⁵ However, the experts from the NGOs that were interviewed mentioned that the financial and organisational barriers are too high for NGOs to use the centre for organising workshops or other events. In their opinion, it is rather a room for the ministry itself to carry out internal seminars, meetings and briefings.²¹⁶

²¹² Focus group workshop, Ukraine, 05 March 2019.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ www.unece.org/env/pp/acintro.html, accessed 03 May 2019.

²¹⁶ Focus group workshop, Ukraine, 05 March 2019.

5.4.5 Climate Investment Funds (CIF)

The Climate Investment Funds have been financing climate action in the fields of clean technology, energy access, climate resilience, and sustainable forests in developing and middle income countries since 2008. It comprises of two funds, the Clean Technology Fund and the Strategic Climate Fund, with a total of 8 billion dollars. Observers from civil society have the opportunity to participate in Trust Fund Committee and Sub-Committee meetings. In Ukraine, Irina Stavchuk, former executive director of Ecoaction, followed the process for three years within the Clean Technology Fund. The selection process of observers is organised by the NGO RESOLVE, and based on a set of criteria (Elges & Martin, 2014). The meetings take place twice a year and provide the opportunity to comment on draft reports, policy papers and planned projects or programmes as well as to ask questions and get information about ongoing processes. Besides the meetings, observers are involved via e-mail. According to Ecoaction, while on the one hand, the meetings are a good possibility for NGOs to participate in decision-making, on the other, they require a lot of time, knowledge and human resources that in turn have financial implications that cannot always be met by CSOs. Transparency International also assessed the possibilities for participation as strong and advanced: “The funds’ policies are advanced regarding civil society participation both as observers in the Trust Fund Committee and Sub-Committee meetings and as consulted stakeholders at the project level.” (Elges & Martin, 2014, page 3). Nevertheless, they point out that, “This process is ongoing, however, and such participation can be further strengthened to enable more open, meaningful engagement and better uptake of citizens’ concerns. Ongoing actions being undertaken by the funds should be supported and monitored.” (ibid.).

5.4.6 Ukrainian Climate Network (UCN)

In 2000, CSOs dealing with climate issues founded the Ukrainian Climate Network (UCN), at that time named “NGOs Working Group on Climate Issues”. Nowadays the UCN unites 30 CSOs from various regions of Ukraine and is headed by the General Session of Member Organisations. The executive and coordinating board is elected biannually and is currently led by the climate coordinator from Ecoclub Rivne. The members of the network act on the local, regional, national, and international level, and focus on the topics: sustainable energy, climate education and adaptation to climate change. At the international level, they play the role of watchdog regarding the compliance of Ukraine to its climate commitments, for instance, by participating in UN negotiations as public observers (Ukrainian Climate Network, 2019). Unfortunately, this was not possible in 2018 when Polish authorities detained two staff members from Ecoaction and denied their entry to the COP 24 in Katowice. This incident was considered as a strong violation of their civil liberties.^{217,218}

On the national level, the UCN works on topics such as energy efficiency measures in buildings and the 2035 Energy Strategy, and provided comments to the draft state policy concept on climate change (Ukrainian Climate Network, 2019).

217 <https://www.bund.net/service/presse/pressemitteilungen/news-page/1>, accessed 03 May 2019.

218 www.climatenetwork.org/press-release/civil-society-representatives-denied-entry-poland-participate-climate-talks, accessed 03 May 2019.

Members of the UCN promote the transition to 100% renewable energy in Ukraine, based on a recent study²¹⁹ that was initiated by the Heinrich Böll Foundation Regional Office in Ukraine. With regard to local policy, the focus lies on sustainable transport, energy efficiency, energy saving and climate change mitigation and adaptation (Ukrainian Climate Network, 2019).

5.4.7 Reanimation Package of Reforms (RPR)

After the Revolution of Dignity in 2014, the Reanimation Package of Reforms (RPR)²²⁰ was initiated by leading NGOs, public activists, experts, journalists, and researchers to promote political reforms and enhance the participation of civil society. Within this network, 84 NGOs work together in 22 working groups. One of these working groups focuses on the energy sector reform and one deals with environmental protection and sustainable development. Participation in the RPR offers actual information about recent legislative procedures and facilitates access to decision makers. CSOs can demonstrate their expertise by commenting on draft laws and influencing policies. However, missing financial resources make it difficult to guarantee the long-term commitment of working group leaders (Kovac et al., 2019).

219 <https://ua.boell.org/en/2017/11/07/transition-ukraine-renewable-energy-2050>, accessed 06 May 2019.
220 <https://rpr.org.ua/en>, accessed 03 May 2019.



5.5 Practices and examples of climate-related participation

Thanks to the legal requirements and supported by the structures described above, Ukrainian CSOs were involved in the development of some climate-related policies, strategies and plans during the last few years, mostly through formal consultation processes. However, it has to be taken into consideration that many documents related to climate change were developed and adopted by the Cabinet of Ministers of Ukraine before the enactment of the law on SEA (on 12th October 2018), thus without a legal framework for public participation in the development of policies, plans and programmes that may impact the environment.

5.5.1 Revision of the Nationally Determined Contribution (NDC)

CSOs were already involved in the development of the first NDC (submitted in 2016), coordinated by UNDP and supported by the United States Agency for International Development (USAID) within the project “Municipal Energy Reform in Ukraine”, but they were not very satisfied since the process was neither open nor transparent in their opinion.²²¹

The current process to update the NDC started in 2019, and was originally organised by the MENR. Now, it is being led by the new MEEP with support of the Institute of Economics and Forecasting of the National Academy of Science of Ukraine. A working group that comprises of 50 participants including CSO representatives meets regularly to update the NDC of Ukraine.²²² The first meeting took place in February 2019. The second NDC methodological workshop was held in March 2019 in Kyiv. It was part of the European Bank for Reconstruction and Development (EBRD) project “Support to the Government of Ukraine on Updating its Nationally Determined Contribution (NDC)” funded by the Swedish International Development Agency (SIDA).²²³ CSOs such as Ecoclub, Green Movement of Nikolaev, Greencubator, Environmental Humanitarian Association Green World, 350.org, and the Ukrainian Climate Network followed an open call and took part in this workshop.²²⁴ In July 2019 and February 2020, the third and fourth meeting took place. Public consultations were planned for April and May 2020, but had to be postponed because of the Corona pandemic. In May 2020, a webinar on the preliminary results of modelling scenarios for the second NDC took place. Information about the meetings and working groups can be found in Ukrainian on the former website of the MENR²²⁵ as well as on a Facebook page.²²⁶ CSOs tried to influence the NDC process by participating in the meetings, but also criticised the process for not being ambitious enough. Therefore, they developed the detailed 2030 Climate Goal Roadmap that they will feed into upcoming climate-relevant political processes.²²⁷

221 Focus group workshop, Ukraine, 05 March 2019.

222 Ibid.

223 <http://uwea.com.ua/en/news/entry/metodologicheskij-seminar-po-razrabotke-vtorogo-nacionalno-opredelennogo-vz>, accessed 07 May 2019.

224 Communication via E-Mail with the Institute of Economics and Forecasting, 07 May 2019.

225 <https://menr.gov.ua/news/33080.html>, accessed 16 March 2019.

226 www.facebook.com/ukrainendc, accessed 08 May 2019.

227 <https://en.ecoaction.org.ua/roadmap-climate-goals-2030.html>, accessed 12 June 2019.

Development of the Second NDC

- **2019:** Creation of a working group to elaborate the second NDC
- ▼
- **February 2019:** First working group meeting
- ▼
- **March 2019:** Second working group meeting
- ▼
- **July 2019:** Third working group meeting
- ▼
- **February 2020:** Fourth working group meeting
- ▼
- **May 2020:** Webinar on the preliminary results of modelling scenarios for the second NDC

5.5.2 Climate Change Policy

A formal public participation process was organised as part of the development of the Concept for the Implementation of the Climate Change Policy and the Implementation Plan of the Climate Change Policy. A public hearing was performed as required by the Resolution of the Cabinet of Ministers of Ukraine 996 on ensuring participation of the public in the formulation and implementation of the national policy (2010) and the Resolution of the Cabinet of Ministers of Ukraine 771 on the procedure for public involvement in discussing decisions that may impact the environment (2011). In contrast to the concept, which contains rather general provisions and thus received fewer comments, the plan received a significant number of comments that were taken into consideration. The Concept for the Implementation of Climate Change Policy and the Implementation Plan of the Climate Change Policy were adopted in December 2016.^{228,229}

5.5.3 Low Emission Development Strategy (LEDS)

The 2050 Low Emission Development Strategy is a national policy instrument that merges climate change action with national development. This Ukrainian long-term strategy, which outlines different decarbonisation pathways and helps to identify and prioritise Nationally Appropriate Mitigation Actions (NAMAs) was submitted to the UNFCCC in 2018. CSOs were involved in the development of the LEDS. They participated in an initial meeting, and were consulted in the subsequent development.²³⁰

228 <https://zakon.rada.gov.ua/laws/show/932-2016-%D1%80>, accessed 17 January 2020.

229 Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

230 Interview with Ecoclub Rivne, Berlin, 13 February 2019.

5.5.4 National Emission Reduction Plan (NERP)

As a member of the European Energy Community²³¹, Ukraine must comply with its obligations and therefore approved a National Emission Reduction Plan (NERP) in 2017. This aims to gradually reduce Ukraine's emission of sulphur dioxide, nitrogen oxides and dust from large combustion plants. Before it was approved, NGOs achieved a revision of the plan and hope to be involved in this process in the future as well, since experts explained that the plan is based on outdated assumptions. It was written before Russia occupied the Donbass region where many coal power plants are located.²³²

5.5.5 National Renewable Energy Action Plan (NREAP)

CSOs were also formally involved in the elaboration of the National Renewable Energy Action Plan (NREAP), but criticised that the plan is not aligned with higher level documents, such as the National Energy and Climate Action Plan (NECP) for 2030.²³³ EU member states and members of the Energy Community are supposed to formulate NECPs to harmonise existing planning requirements in the fields of energy and climate policy, and to improve the synchronisation of drafting processes (Eyl-Mazzega & Mathieu, 2019).

5.5.6 National Energy and Climate Action Plan (NECP)

The “Low Carbon Ukraine” project organised a kick-off meeting to launch the NECP development process in May 2019 in cooperation with the responsible Ministry of Energy and Coal Industry. High-ranking officials from the Ministry of Energy, the Ministry of Ecology and Natural Resources and the State Agency of Energy Efficiency (SAEE) took part in this meeting. It is intended for the following drafting process to be accompanied by stakeholder consultations (Nitsovych et al., 2019). A working group was created, consisting of 57 representatives from different state bodies and some NGOs.²³⁴

231 www.energy-community.org, accessed 06 May 2019.

232 Focus group workshop, Ukraine, 05 March 2019.

233 Focus group workshop, Ukraine, 05 March 2019.

234 Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

5.6 Barriers to participation

Although participation in environmental matters is a fundamental right and plays a crucial role in the promotion of democratic governance, many obstacles exist in the improvement of political decisions as well as in the empowerment of civil society that impede equal and effective political participation. This chapter gives an overview of the barriers and factors that were identified in Ukraine regarding the involvement of civil society in environmental and climate-related decision-making. The barriers were classified into the following categories: fundamental, legal, structural, institutional and process-related.

5.6.1 Fundamental barriers

Representatives of civil society in Ukraine pointed out that the political will for participatory governance in environmental matters is not very strong. Therefore, CSOs are rarely involved in political decisions from the beginning. They are not really taken seriously by politicians, and participation is often regarded as a pure formality rather than an opportunity to add value. Environmental organisations don't have as much political weight as other stakeholders and lobby groups. Political discourse often focuses on other urgent issues such as the war in Eastern Ukraine or corruption.²³⁵ According to the Corruption Perception Index²³⁶, Ukraine faces huge corruption problems and is failing to preserve the checks and balances that are fundamental to control corruption. The enforcement of anti-corruption reforms remains incomplete, anti-corruption bodies do not succeed, and progress is too slow.²³⁷

5.6.2 Legal barriers

Even though the legal framework for public participation in environmental policy making in Ukraine is quite extensive and complex, the provisions of the Aarhus Convention and the European Public Participation Directive (Directive 2003/35/EC of the European Parliament and of the Council of 26th May 2003) are not fully implemented within national legislation. The framework environmental law (Law of Ukraine on Protection of the Environment) lacks a clear and legal basis for the involvement of the public and CSOs in environmental and climate decision-making processes. The Procedure of Public Participation in Environmental Decision-making²³⁸ that was adopted to implement the law is outdated and only covers decisions made by the Ministry of Energy and Environmental Protection.²³⁹ With regard to the new Law on Strategic Environmental Assessment (SEA), the narrow definition of “the public” is a major barrier since it results in significant restrictions on the public able to participate in a Strategic Environmental Assessment procedure.²⁴⁰

235 Focus group workshop, Ukraine, 05 March 2019.

236 www.transparency.org/cpi2019, accessed 20 March 2020.

237 www.transparency.org/country/UKR#, accessed 01 November 2019.

238 <https://zakon.rada.gov.ua/laws/show/z0155-04>, accessed 01 November 2019.

239 A Ministry solely dedicated to the environmental issues existed in Ukraine since its independence in 1991 until September 2019.

240 Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

5.6.3 Structural and institutional barriers

Political level

Parliamentary elections and reshuffling of responsibilities

After the new president Volodymyr Zelenski dissolved the Ukrainian parliament on 21st May 2019 during his inauguration, parliamentary elections were held on 21st July 2019. The following political transformation and reshuffling of responsibilities also influenced climate policy making and the involvement of civil society. The Ukrainian Ministry of Environment and Natural Resources and the Ministry of Energy and Coal were dissolved and combined to form the Ministry of Energy and Environmental Protection.²⁴¹ Thus, CSOs have to establish new contacts to foster their involvement and influence on political processes.

Individual interests instead of science

Regarding institutional barriers on the political level, representatives of CSOs mentioned the problem that processes and decisions are often driven by opinions and interests. Instead, scientific results should guide climate-related policy making and be spread more widely. As an example, the study “Transition of Ukraine to the Renewable Energy by 2050” that was carried out by the Institute for Economics and Forecasting of the National Academy of Sciences of Ukraine in 2016-2017 in cooperation with CSOs and public authorities, should be considered more in the current NDC update because the targets of this study are more ambitious than the current energy strategy.²⁴²

Lack of understanding and consolidation of planning processes

The need for interdisciplinary approaches and inter-ministerial cooperation in terms of climate protection and civil society involvement is not fully understood among authorities and state bodies. Even though climate change affects many different sectors, the responsibilities to tackle it are very restricted to single topics. This missing holistic approach also influences policy planning in terms of the required policy documents, plans and programmes. Although certain documents are related to climate issues, the connection is not seen by authorities, because climate is not expressly mentioned. The consolidation of policy planning processes including public participation is weak and possible synergies between the development of required strategies, plans and documents are not fully exploited.²⁴³

Compensation for political deficits

Another structural problem lies in the inappropriate distribution of roles and responsibilities: In some cases, CSOs do the work that should be carried out by governmental or scientific institutions. Civil society thus compensates for political deficits with the effect that the workload becomes too high and makes effective participation impossible.²⁴⁴

²⁴¹ Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

²⁴² Interview with Ecoclub Rivne, Berlin, 13 February 2019.

²⁴³ Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

²⁴⁴ Focus group workshop, Ukraine, 05 March 2019.

Civil society level

The Ukrainian public lacks a profound understanding of the opportunities and tools to influence climate policy. In addition to missing knowledge, it is sceptical or underestimates its role within political processes. Currently, formal opportunities to participate within the procedure of Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) are rarely used.²⁴⁵

One major barrier that hinders Ukrainian CSOs from participating in climate policy is their lack of capacity on different levels: Most CSOs do not have enough members, volunteers and employees to take part in all relevant processes. Often, financial resources²⁴⁶ or the specific technical knowledge to contribute meaningfully are also missing.²⁴⁷ Due to certain constraints and demands related to their (mostly international) funding, many CSOs are not able to pursue a single topic over a long period. This discontinuity makes it difficult to develop a clear profile and to be acknowledged as a qualified partner or consultant e.g. on climate issues.²⁴⁸ Although environmental CSOs in Ukraine have good networks, communication as well as cooperation is sometimes insufficient.²⁴⁹ Their positions and demands remain partially invisible. Consequently, their influence on political discourse is not as high as it could be.²⁵⁰

5.6.4 Process-related barriers

Representatives of CSOs see the lack of comprehensible information and the lack of cooperation between the government and scientific institutions as a major obstacle to participate in concrete climate-related processes. On the one hand, there is not much qualitative national scientific support.²⁵¹ On the other hand, existing information is too technical and thus cannot be understood by the wider civil society.²⁵² Moreover, a transparent review of public recommendations and comments is missing. In many cases, the public and CSOs do not get responses on how their contributions were taken into consideration, or why they were dismissed.²⁵³ Even though the Cabinet of Ministers Regulation 996 requires the publication of reports on the results of public consultations by the respective ministry or national authority within two weeks after the relevant decisions have been made, only one in three national authorities provide detailed feedback (Council of Europe, 2016).

245 Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

246 Focus group workshop, Ukraine, 05 March 2019, Interview with Ecoclub Rivne, Berlin, 13 February 2019, Interview with Friedrich-Ebert-Stiftung, Kyiv, 07 March 2019.

247 Focus group workshop, Ukraine, 05 March 2019, Interview with Ecoclub Rivne, Berlin, 13 February 2019.

248 Interview with Ecoclub Rivne, Berlin, 13 February 2019.

249 Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

250 Interview with Friedrich-Ebert-Stiftung, Kyiv, 07 March 2019.

251 Focus group workshop, Ukraine, 05 March 2019.

252 Interview with Ecoclub Rivne, Berlin, 13 February 2019.

253 Based on research of EPL, commissioned in the framework of this study, Ukraine, October 2019.

5.7 Assessment of the environment and opportunities to participate

This chapter illustrates the results of the assessment of the situation and conditions for civil society participation in environmental and especially climate-related decision-making in Ukraine (Table 15 and Figure 8). The assessment is based on the analysis made in the previous chapters and evaluations from Ukrainian civil society experts derived from interviews.

Table 15: Assessment of the environment and opportunities to participate in climate policies in climate in Ukraine

Criterion 1 Fundamental requirements

Indicators	Scores	Score
a. Stability and peace (What is the intensity of ongoing conflicts?) ²⁵⁴	0 = high intensity of conflict (limited war or war going on) 1 = medium (violent crisis going on) 2 = low intensity of conflict (non-violent crisis or dispute going on) 3 = very low intensity of conflict (no dispute, crisis or war going on)	0
b. Anti-corruption and transparency (What is the perceived level of corruption?) ²⁵⁵	0 = highly corrupted, CPI of 0 1 = corrupt, CPI equal to or under 50 2 = clean, CPI higher than 50 3 = very clean, CPI of 100	1 (30/100)
c. Security of environmental defenders (Are environmental defenders secure from threats?) ²⁵⁶	0 = alarmingly weak security for environmental defenders (more than one murder documented) 1 = weak security for env. defenders (one murder documented) 2 = Environmental defenders are somewhat secure (no murders documented)	2

²⁵⁴ This indicator and related scoring is based on the Conflict Barometer 2018 by HIIK (www.hiik.de/conflict-barometer/?lang=en, accessed 23 April 2020). The Conflict Barometer uses a five-level model, defining disputes and non-violent crises as non-violent conflicts with a low conflict intensity, violent crises as violent conflicts with medium conflict intensity and limited wars and wars as violent conflicts with high conflict intensity.

²⁵⁵ This indicator and related scoring is based on the Corruption Perception Index 2019 by Transparency International (www.transparency.org/cpi2019, accessed 27 April 2020). According to Transparency International a scoring of zero means “highly corrupt” and 100 is “very clean”. The scoring “1=corrupt” and 2=clean” was set by UfU. Transparency International defines corruption as the “abuse of entrusted power for private gain”, whereas “transparency is about shedding light on rules, plans, processes and actions. (...) “It is the surest way of guarding against corruption, and helps increase trust in the people and institutions on which our futures depend.” (www.transparency.org/what-is-corruption, accessed 23 April 2020).

²⁵⁶ This indicator and related scoring is based on the Global Witness Report “At what cost? which documents the murder of land and environmental defenders in 2017 (www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost, accessed 23 April 2020). It is important to note that the absence of murder does not mean that there are no other threats, attacks or harassments of environmental defenders and activists.

<p>d. Political commitment (Is political participation of civil society related to the environment and climate backed by high-level political bodies and decision makers?)</p>	<p>0 = no 1 = yes, to some extent 2 = yes, fully</p>	<p>1</p>
<p>Max. score: 10</p>		<p>4</p>

Criterion 2 Enabling legislation

Indicators	Scores	Score
<p>a. Commitment to international conventions and agreements (Did the country sign and ratify (accept, approve, accede to) the Aarhus Convention or the Escazú Agreement, requiring civil society participation related to the environment and climate?)</p>	<p>0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)</p>	<p>2</p>
<p>b. National laws requiring the proactive participation of civil society (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>obligate the state or state agencies at national level to proactively seek the participation of civil society in decision-making related to the environment and climate, going beyond the official notification of participatory events?)²⁵⁷</p>	<p>0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)</p>	<p>0</p>

²⁵⁷ If there is a primary act requiring participation that affects several subordinate laws the latter are counted as well.

<p>c. National laws requiring timely participation (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require timely participation (before a decision is made and so that there is enough time for a public authority to consider the public comments) of civil society in decision-making related to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	3
<p>d. National laws requiring information regarding the participation process (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require all information relevant to decision-making processes relating to the environment and climate to be made available to civil society, without civil society having to make an official information request?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	2
<p>e. National laws requiring the consideration of civil society's comments (To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to take due account of civil society's comments in decision-making relating to the environment and climate?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	3

<p>f. National laws requiring notification of civil society on the decision made along with the reasons and considerations on which the decision is based</p> <p>(To what extent does/do</p> <ul style="list-style-type: none"> • the constitution, • national framework laws regarding environment and climate, • strategic environmental assessment laws, • or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) <p>require the state or state agencies at the national level to promptly inform civil society about the decision and provide a written response explaining which comments were taken into account as well as giving reasons for dismissing others?)</p>	<p>0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed</p>	<p>3</p>
Max. score: 17		13

Criterion 3 Supporting governance & structures

Indicators	Scores	Score
<p>a. Governance structure</p> <p>(Is there an institutional body or mechanism, such as a committee, division or centre, supporting and coordinating participation processes relating to the environment and climate?)</p>	<p>0 = no 2 = yes</p>	<p>0</p>
<p>b. Institutional coordination & cooperation</p> <p>(Are national participation processes relating to the environment and climate coordinated across different vertical and horizontal political levels?)</p>	<p>0 = no 1 = there is weak coordination and cooperation 2 = there is good coordination and cooperation 3 = there is very good coordination and cooperation</p>	<p>0</p>
<p>c. Financial resources</p> <p>(Are civil society actors financially supported to participate in environmental/climate policy, e.g. through an allowance, reimbursement of travel costs or funding of staff members?)</p>	<p>0 = no 1 = yes, to some extent 2 = yes, fully</p>	<p>0</p>
Max. score: 7		0

Criterion 4 Qualitative participation processes²⁵⁸

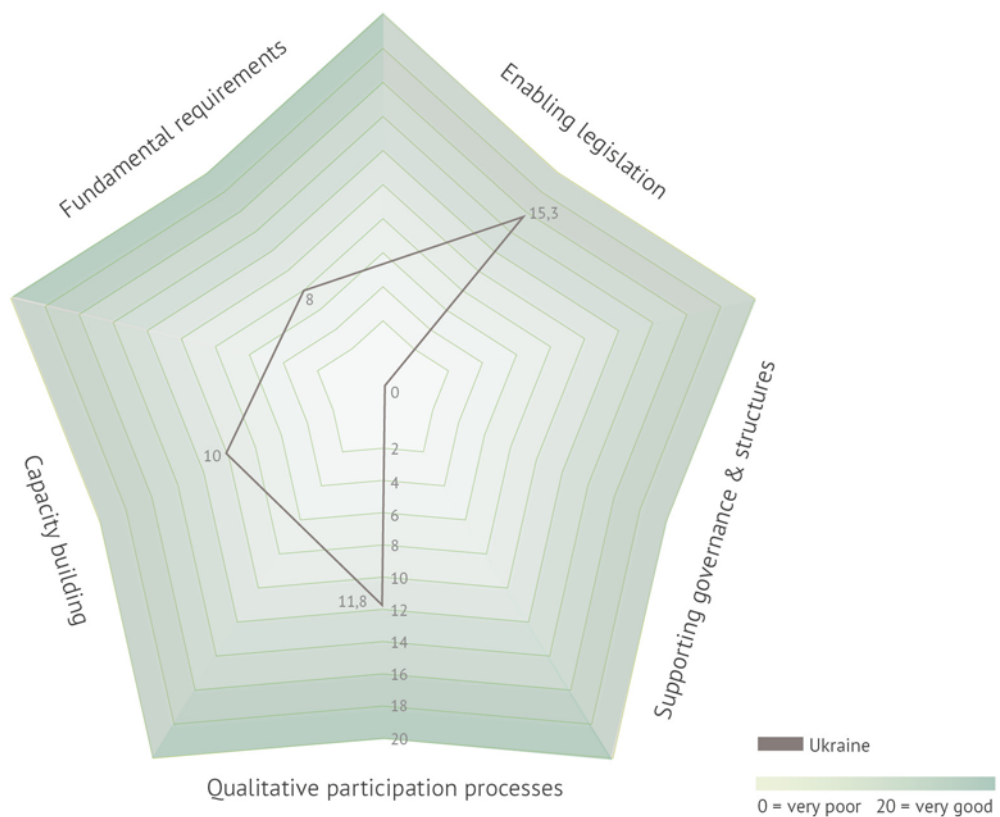
Indicators	Scores	Score
a. Early participation (At what stage was civil society involved in the process?)	0 = only after most of the decisions have been made 1 = after the first draft of the document/plan/strategy 2 = directly from the beginning	1
b. Broad, inclusive invitation (Was a wide variety of representatives of civil society (CSOs and wider public) invited to participate, including for instance those representing youth, gender, indigenous groups, and minority ethnic groups?)	0 = no civil society representatives invited 1 = not a wide variety invited, just a few selected CSOs 2 = either just CSOs or just the wider public invited 3 = yes, a wide variety invited	1
c. Timely invitation (Was civil society invited early enough to participate?)	0 = some days in advance 1 = less than one month in advance 2 = more than one month in advance	2
d. Adequate participation formats (How was civil society involved in the process?)	0 = through information 1 = through consultation 2 = through several interactive formats, fostering dialogue and collaboration	2
e. Transparency and information (Was information about the technical background and the participation process available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, a lot of information	1
f. Available documentation (Was documentation about the discussions and results available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
g. Transparent review of recommendations (Were recommendations and views from civil society reviewed in a transparent manner?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
h. Evaluation and feedback process (Was there an evaluation and feedback process regarding the participation procedure?)	0 = no 2 = yes	2
	Max. score: 17	10

²⁵⁸ The scoring represents the averaged evaluation of some recent national participation processes relating to the environment and climate in each country, described in detail in the respective chapters of this study.

Criterion 5 Capacity building

Indicators	Scores	Score
a. Environmental education (Is national formal and non-formal environmental and climate education offered to the public?)	0 = no 1 = yes, some education on offer 2 = yes, a lot of education on offer	1
b. Public awareness raising on participation rights and opportunities (Is information about public participation rights and opportunities available to the public?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
c. CSO capacity building on climate change, climate policy, policy dialogue, organisational development, cooperation and networking (Is there capacity building on topics such as climate change, climate policy, policy dialogue, organisational development, cooperation or networking for CSOs?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available	1
d. Capacity building on participation and stakeholder engagement for governments (Is there capacity building on participation and stakeholder engagement for national governments and state officials?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available	1
	Max. score: 8	4
Max. total score	59	31

Figure 8: Assessment of the environment and opportunities to participate in climate policies in Ukraine (scaled to a maximum of 20 points)





5.8 Strengthening civil society involvement

One of the main objectives of the project “Strengthening Civil Society for the Implementation of National Climate Policy” is to foster and improve conditions and possibilities for civil society to participate in national climate policy. This chapter therefore presents recommendations derived from the analysed status quo as well as existing barriers and challenges that hinder participation in Ukraine. The following conclusions are country-specific and aim to provide guidance for national policy makers as well as other stakeholders who are relevant in climate-related policy making and participation, such as international institutions, donors and civil society itself. The recommendations refer to the current national climate policy in general, but highlight the ongoing planning and revision of the National Determined Contributions (NDCs) which the countries must submit by 2020 and every five years thereafter. The identified entry points for how to improve participation of civil society (organisations) were grouped into five areas of action, illustrated by the “Participation Handprint” in Chapter 2.1: fundamental requirements, enabling legislation, supporting governance and structures, qualitative participation processes, and capacity building.

General guidance and recommendations on how to implement participation rights can be found in the **Aarhus Convention** Implementation Guide (United Nations Economic Commission for Europe, 2014) and the Implementation Guide for the UNEP Bali Guidelines (United Nations Environment Programme (UNEP), 2015).



5.8.1 Fundamental requirements

Raise political will

A fundamental requirement for effective stakeholder participation is the strong political will to set climate protection involving civil society as a key objective in the political programme. The new Ukrainian government should consider participation and the contributions of civil society as an asset, not as a barrier in political processes. It could thereby benefit from the involvement of civil society and exploit the opportunities arising from it: As CSOs know about local circumstances, concerns and regional climate vulnerabilities as well as mitigation and adaptation solutions, the state can meet international obligations such as the revision of the NDC with the support of civil society in a more dynamic and effective way. Political representatives and bodies could furthermore strengthen the legitimacy of their decisions and foster democratic governance, a fundamental prerequisite for EU accession, by granting more rights to CSOs and the public. It is crucial that participation processes are backed by high-level decision makers across the political spectrum to raise political will.

Create transparency

Transparency and accountability are the basis of political credibility and can prevent corruption. Access to information and the right to examine the process of decision-making support the formation of free opinion and are crucial for effective participation. The new Ukrainian government should consider transparency as

a vital value for democracy and strengthen it to gain citizens' and civil society's confidence as well as to promote their involvement. It is therefore important that Ukraine implements the 17 commitments featured in the Ukraine Action Plan 2018-2020 in the framework of the Open Government Partnership.²⁵⁹ Especially the obligations related to the policy area of civic space should be taken seriously to foster the involvement of civil society, for instance the provision of free access for citizens to environmental information. Within the research project "Civil society against corruption in Ukraine: political roles, advocacy strategies and impact"²⁶⁰ 242 CSOs were identified that actively fight corruption and demand transparency in 57 Ukrainian cities (Bader, 2019). These actors are crucial to achieve the progress needed and should thus be strengthened.



5.8.2 Enabling legislation

Amend the Law of Ukraine on Protection of the Environment

Articles 9 and 21 of the Ukrainian Law on Protection of the Environment (1991), listing environmental rights of citizens and environmental NGOs, should be amended to effectively implement international obligations on public participation in the development of strategies, plans and programmes relating to the environment and climate. A separate article should be added, laying down general requirements for public participation in environmental decision-making and referring to different procedures. It should specify details for public participation on various levels of environmental decision-making, consisting of the development of policies, plans and programmes relating to the environment, development of policies, plans and programmes that may impact the environment, and decision-making on specific projects that may have significant impact on the environment. It is crucial to consider that the **Aarhus Convention** requires wider participation than regulated within EIA and SEA to strengthen the involvement of civil society (United Nations Economic Commission for Europe, 2014).

Revise the Law on Strategic Environmental Assessment

It is recommended to revise the Law on Strategic Environmental Assessment (SEA) in terms of the definition of the public who have the right to participate. According to Article 1 of the law, 'the public' is defined as one or more natural or legal persons, associations, organisations or groups registered in the geographical area covered by the respective strategic/planning document. This narrow definition of 'the public' results in significant restrictions in those able to participate in SEA procedures. The definition should be amended in a way that allows the participation of at least the public affected or likely to be affected by, or with an interest in the decision being made. In doing so, relevant NGOs, such as those promoting environmental protection, should be able to participate. As research shows that state bodies often do not apply the provisions of SEA, it is finally crucial to establish a detailed implementation plan that fosters good practice in participation.

²⁵⁹ www.opengovpartnership.org/members/ukraine, accessed 01 November 2019.

²⁶⁰ www.universiteitleiden.nl/en/research/research-projects/humanities/civil-society-against-corruption-in-ukraine-political-roles-advocacy-strategies-and-impact, accessed 01 November 2019.

Amend legislation to enable better access to information

National legislation should be revised in order to create legal requirements for broad and timely information of the public on the development of plans, programmes and strategies related to climate change. Laws should be created that oblige officials to disclose accessible information on the launch of decision-making processes as well as related results.



5.8.3 Supporting governance and structures

Improve cooperation and consolidation of planning processes

The newly established Ministry of Energy and Environmental Protection of Ukraine should benefit from the parliamentary reshuffle and improve cooperation with other important ministries, public authorities, and especially scientific institutions from the very beginning to promote an ambitious climate policy and commitment from civil society. It is therefore vital that political decisions and activities are based on and led by scientific results rather than individual interests. Through better cooperation and exchange of information, responsible ministries should also consolidate the development of climate-related documents, plans and strategies such as the NDC, the required National Energy and Climate Plan (NECP) and the National Renewable Energy Action Plan that has to be revised. Since Ukraine is a member of the European Energy Community, it is obliged to formulate its own NECP that integrates different measures and policies. This should cover a ten year period and consider previous legislative developments and formulated strategies (Eyl-Mazzega & Mathieu, 2019). The alignment of these planning processes helps to exploit synergies and to involve CSOs and other civil society actors meaningfully from the outset.

Share responsibilities adequately

Responsibilities should be shared adequately between state, civil society and science to ensure the fair and efficient involvement of CSOs within the drafting and revision of climate-related plans, programmes and strategies. Ukrainian state officials must fulfil their legal obligations to involve civil society in climate policy planning, to facilitate appropriate processes, and to ensure access to information. Science and academia should support climate policy and participation processes as they can provide fundamental and essential findings on climate change as well as mitigation and adaptation opportunities. CSOs enrich the decision-making process as they are key actors in giving voice to local needs and concerns of society as well as providing technical knowledge. It is crucial to discuss and agree on the different responsibilities and expectations right from the beginning to avoid misunderstandings and excessive demands.

Provide resources

Human and financial resources are basic requirements for the work of permanent governance structures dedicated to participatory climate policy-making as well as for Ukrainian CSOs that work in climate policy. The Ukrainian

government should prioritise the financial support of governance structures, such as the Aarhus Information and Training Centre, to enable participation and create an appropriate financial environment for CSO commitment. For example, favourable tax rules or specific instruments such as a funding programme for participation, are suitable incentives to encourage the participation of civil society. It is furthermore recommended to engage and pay national CSOs for the facilitation of participation formats and training. Thus, the competence and professionalism of Ukrainian CSOs would be acknowledged by the political level and could help to relieve responsible persons from the ministry and other supporting institutions.



5.8.4 Qualitative participation process

Ensure broad and early invitation

Participation processes benefit from the various perspectives and experiences that a broad group of stakeholders can contribute. As climate policy planning is related to many different sectors and topics, it is crucial to broaden the variety of invited CSOs from the national to the local level. Detailed stakeholder mapping can serve as a useful tool to get an overview of existing competences, knowledge, and networks. The government should not only rely on the experience of big and powerful CSOs that have been working in the field of climate issues for many years. Smaller and newer organisations should also be invited to participate in the development and evaluation of plans, programmes and strategies such as the NDC revision and its implementation. Often, they are in close contact with the general public or certain population groups (e.g. young people) and can give voice to their concerns. Exchange and collaboration with the Covenant of Mayors is vital to access the local level. CSOs that represent important groups and topics such as gender or youth should be considered as well to ensure inclusiveness. Stakeholders must be invited early, if possible more than one month in advance, to make sure that they have sufficient time to prepare and participate.

Provide transparency and information

The government must comply with its legal obligation to provide comprehensible information about the planned participation process and the topics to be discussed in the consultations at an early stage. Therefore, the government should establish an online platform in collaboration with the Aarhus Information and Training Centre, which informs civil society about policy and climate issues such as the **Paris Agreement**, the NDC revision as well as ongoing climate-related participation processes in Ukraine. Technical information should be simplified, e.g. through short videos or “FAQs” (Frequently Asked Questions). International documents should be translated into the Ukrainian language. In this context, it is crucial to cooperate with academia since universities and research institutes can provide and share sound knowledge on climate change and related topics. Discussions, results, and evaluations of specific events such as the NDC working groups should also be documented and published in Ukrainian as well as in English to guarantee easy accessibility. The objective, extent, and time schedule of every participation process should be elaborated and explained from the beginning in a stakeholder involvement plan that should be accessible for everyone. The

government should extend the application of e-participation by including feedback tools and online consultation. The continuous exchange of information should be ensured between meetings through mailing lists and newsletters. With regard to formal participation processes within SEA and EIA, it is recommended to create an SEA registry, similar to the new Unified National EIA Registry, to ensure more transparency. The EIA registry aims to record and publish the assessment of each project's potential impact on the environment and human health, to simplify the EIA procedure and to facilitate the participation of civil society.

Take due account of recommendations

The government should introduce a transparent system to collect and publish recommendations that were made by CSOs during the consultation processes related to environmental and climate issues. The proposals should be evaluated and CSOs should get feedback on whether their recommendations were considered or why they were rejected. It is crucial that the Ukrainian government invests in a fair and open review process to gain credibility and trust.

Evaluate and enable learning processes

It is recommended that the Ministry of Energy and Environmental Protection and other responsible actors offer involved stakeholders the opportunity to give feedback on the ongoing participation processes such as the development of the NDC, to ensure an effective participation process. The processes should be reviewed on a regular basis, not only after they have been finalised. Regular evaluation helps to avoid problems such as misunderstandings and makes it possible to learn. Sometimes it is necessary to adapt formats, methods or certain procedures to improve the process and ensure successful results.



5.8.5 Capacity building

Raise public awareness

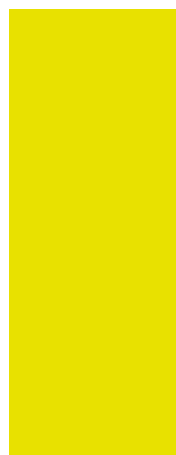
Awareness and knowledge about the impact of climate change and possible mitigation and adaptation measures should be raised among citizens through diverse education and information campaigns. Non-formal environmental education and education on sustainable development provided by CSOs, e.g. through organisations of the Ukraine Climate Network, play a crucial role in this context. The wider public should also be better informed about their existing rights and opportunities to access information and participate in environmental matters. In addition to formal public participation, for example within EIA and SEA procedures, citizens should be made aware of the opportunity to influence climate policy-making, e.g. through their commitment and support of CSOs.

Develop skills of CSOs

The capacity of Ukrainian CSOs to actively participate in policy planning should be strengthened through trainings and other formats. However, it should be noted that the requirements vary from one organisation to another. Train-the-trainer formats and peer-to-peer learning could help to share knowledge between NGOs. Apart from the need for more technical knowledge about climate change and related climate policy planning from the international to the national level, support in organisational development could be helpful for some organisations. Representatives of CSOs indicated that it could be useful to strengthen their membership base through effective public relations and recruitment in order to gain more political influence and be taken seriously by political representatives.

Develop skills of governmental institutions

The analysis showed that governmental actors should be trained in the interdisciplinary approaches and inter-ministerial cooperation required to foster climate protection and participation, especially because climate change affects many different sectors of society. Moreover, consultation is needed to find out how to consolidate current climate policy planning processes and exploit synergies between the development of required strategies, plans and documents, including the involvement of civil society.



National climate policy planning in Ukraine

5 key measures to ensure civil society's participation is meaningful, effective and long-term

1 **Fight corruption and strong power structures:**

Foster the new government's political will to promote participatory decision-making, going beyond the legally-required formal involvement of CSOs.

2 **Fully transpose the Aarhus Convention into national law:**

Revise the Law of Ukraine on the Protection of the Environment and the Law on Strategic Environmental Assessment to effectively implement international obligations on public participation in the development of strategies, plans and programmes relating to the environment and climate and amend the legislation in favour of better access to information.

3 **Establish institutional structures and mechanisms that organise and coordinate participation processes:**

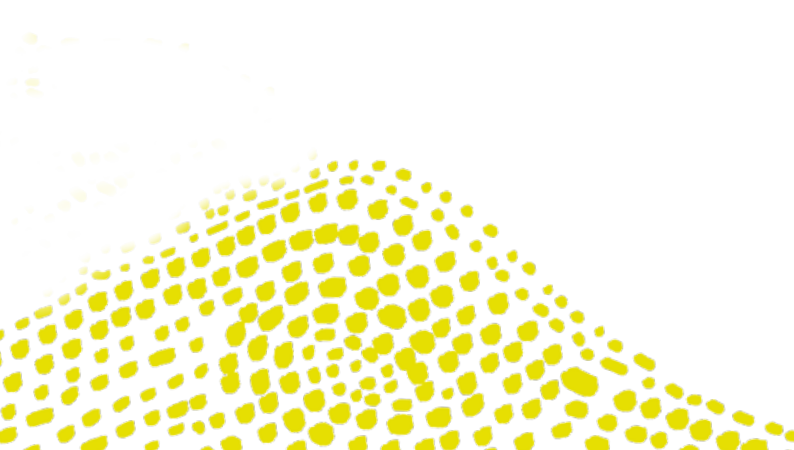
Use the parliamentary reshuffle to improve cooperation across different political levels, to consolidate climate-related planning processes including civil society's involvement and to strengthen existing structures such as public councils, the Inter-Agency Commission on Climate Change or the Aarhus Information and Training Centre.

4 **Design meaningful, inclusive, transparent and binding participatory processes:**

Put emphasis on inviting a broad range of civil society actors at an early stage, on providing accessible and clear information as well as on the evaluation of ongoing participation processes to improve future procedures.

5 **Increase capacity building and environmental education:**

Offer training to authorities on the interdisciplinary approaches and inter-ministerial cooperation required to foster climate protection and participation, and enhance awareness raising on climate change and climate policy among the public.



5.9 Conclusions for Ukraine

In Ukraine, the Revolution on Granite in 1990, the Orange Revolution in 2004, and the Revolution of Dignity in 2013-2014 have strongly influenced civic space and the environment for CSOs. CSOs have increased their presence in public discourse and policy making and have become a strong driving force behind ongoing reforms. Ukrainian NGOs and CSOs are mainly focused on democratisation and human rights, but environmental and climate topics have also become increasingly important over the last few years, especially after the ratification of the **Paris Agreement** in 2016. CSOs that participate in national climate policy processes still form a relatively small group in Ukraine, but are becoming increasingly stronger and better organised. They already benefit from some participation rights and specific opportunities to get involved in climate-related policy making. However, this study revealed there are still many obstacles that impede equal and effective political participation.

Ukraine performs rather poorly in regards fundamental requirements and conditions for participation, with a score of 4/10 points. Representatives of civil society mentioned the fundamental problem that the political will to go beyond the legally required formal involvement of CSOs in participatory governance is weak among high-level decision makers. Furthermore, Ukraine faces huge corruption problems that are connected to a lack of transparency, which is a prerequisite for democratic governance. Furthermore, the ongoing war between Ukraine and Russia in the Crimea and Eastern Donbas has a significant impact on participatory rights and processes.

Our analysis showed that in Ukraine, the legal framework for public participation in environmental policy making is quite extensive and complex. As there are already different national laws and regulations providing for participation, the country scores quite well in this regard (13/17). In particular, the new laws on Environmental Impact Assessment (2017) and Strategic Environmental Assessment (2018) that were enacted after the signature of the EU-Ukraine Association Agreement (2014) established a proper legal framework for participatory rights with regard to plans and programmes as well as specific activities that may significantly impact the environment. Nevertheless, provisions of the **Aarhus Convention** and the European Public Participation Directive (Directive 2003/35/EC of the European Parliament and of the Council of 26th May 2003) are not yet fully implemented within national legislation. It is therefore crucial that civil society pushes for the required amendment of the legislation and its practical implementation. CSOs working on this topic should make use of their rights to participate in respective consultations and hearings to influence the process.

Ukraine scores poorly in an analysis of the structural level (0/7) since there are no effective institutional structures or mechanisms at the national level that organise and coordinate participation processes across different political levels and topics. The Aarhus Information and Training Centre was established to promote the three pillars of the **Aarhus Convention** and to raise awareness among the public and governmental authorities concerning environmental issues and participation. Civil society actors however pointed out that in practice, the centre does not meet these expectations. Some other existing structures and initiatives that support political participation are driven by the EU or organised by civil society itself. Additionally, financial resources for the organisation of participation processes and the support of participating CSOs are missing. Long-term structures for participation as well as financial support should be established. The newly established Ministry of Energy and

Environmental Protection of Ukraine should furthermore improve cooperation with other important ministries, public authorities and scientific institutions at an early stage to foster ambitious participatory climate policies. It is important that CSOs demand improvements at the structural level and benefit from the ‘window of opportunity’ that has arisen from the current government reshuffle.

Ukraine performs averagely (10/17) in regards specific participatory processes. It can be stated that CSOs succeeded to join the discussion and contribute their positions in several recent climate-relevant processes at the national level. Some civil society actors took part in a public hearing and commented on the Implementation Plan of the Climate Change Policy that was adopted in 2016. The National Emission Reduction Plan (NERP), which was approved in 2017, had to be revised due to the involvement of civil society representatives. During the development of the 2050 Low Emission Development Strategy (LEDS, 2018), CSOs participated in an initial meeting and were consulted in the subsequent development. Some CSOs were also formally involved in the development of the National Renewable Energy Action Plan (NREAP). A working group was created that includes some CSOs to develop the National Energy and Climate Plan (NECP) required by the European Energy Community. The process to develop the second NDC that started in 2019 seems to be more open to CSOs than the first process was. A working group, also including some representatives of CSOs, met regularly to set new national climate targets. However, most of the CSOs criticise the process for not being ambitious enough and developed the detailed 2030 Climate Goal Roadmap that they will feed into upcoming climate-relevant political processes. Our analysis also showed that most of the processes are formal consultations rather than being open and innovative and do not involve CSOs from the very beginning. Another main obstacle is the lack of comprehensible information about the topics and the processes themselves. Moreover, a transparent review of the contributions and comments given by civil society is missing. In many cases, civil society is not informed as to whether the contributions were taken into account or the reasons for their dismissal.

The interviews also revealed that it is crucial to continuously develop the skills of civil society and governmental institutions regarding their involvement and organisation of participation processes. Ukraine scored 4 out of 8 points in the field of capacity building, since governmental actors should be better informed and trained on how to consolidate current climate policy planning processes and how to exploit synergies between the development of required strategies, plans and documents, including civil society involvement. Likewise, there is a need to raise awareness of climate change and to increase participation rights and opportunities among civil society (organisations). CSOs should get a clear understanding of their own role within climate policy processes and develop strategies on how to meaningfully influence ongoing processes. Ukrainian CSOs have different competencies and focuses. It is therefore important to build networks, use synergies and communicate the strengths and skills of CSOs to the government.

The aim of the new government should be to fully implement the **Aarhus Convention** and strengthen CSOs' participation rights and opportunities in climate issues. By granting more rights to CSOs and the public, political representatives could strengthen democratic governance, a fundamental prerequisite for EU accession. Moreover, the involvement of civil society is crucial to develop ambitious climate targets and measures that meet the **Paris Agreement**. The perspectives and competences of civil society should also be included when the next step is to develop the National Energy and Climate Plan (NECP) required by the EU, to implement specific climate protection measures and afterwards submit the revised NDCs by 2025.

Part 3

Exploring:

International good practices

6 International good practices of civil society participation in climate policies

6.1 Introduction and methodology

The participation of civil society in the development and implementation of climate policies is crucial to design measures and activities in such a way that they are socially just by considering the individual needs and circumstances in communities and societies. Recent participatory processes for the design and implementation of climate policies in various countries have included certain aspects which can be seen as “good practice”. The study has not yet been able to identify an example of “best practice”, which is defined as an entire public participation process using the best available techniques in all of its aspects. A copy-paste implementation of participation approaches would lack an awareness of problems that can occur in the regional context and also of the disadvantages one approach has when compared to others. Thus, our research is based on “good practice”, defined as aspects of participatory approaches which can be used as a model for others to replicate.

In this chapter, eight “good practice” examples in climate policy development and implementation are presented which have proven to be good approaches to include civil society in decision-making processes. A total of 30 climate-related policy development and implementation processes were compared with the characteristics of a qualitative participatory process as defined in the evaluation criteria presented in chapter 2.3.²⁶¹ Besides these procedural aspects, participatory processes were also considered to be “good practice” when they were outstanding in other crucial aspects, such as including a transparent review of recommendations, having a good evaluation and feedback process, and containing capacity building measures. Thus, all the processes outlined below possess one or more aspects which are outstanding and demonstrate a good approach to including citizens’ views in climate policy making. Where needed, the weaknesses of the process are also mentioned.

The research on “good practice” examples included a literature review and where possible, interviews with experts and/or representatives from civil society which took part in the participatory processes evaluated. These interviews were especially useful and necessary not only to get a second opinion on the participatory methods used, but also because often, official information about climate-related participation processes did not throw sufficient light on the actual procedures and practices used within the process. In cases where it was not possible to obtain expert feedback, we had to make our conclusions solely based on the information found in literature and government reports. It is mentioned in the text where this is the case.

²⁶¹ These characteristics include timely invitation, a broad, inclusive invitation, financial resources, transparency and information, available documentation, early, regular and long-term participation, adequate participation formats and methods to foster empowerment and fairness.

6.2 The Citizens' Convention on Climate and previous local initiative sessions (France)

Good practice in:

- Broad and inclusive invitation
- Financial resources
- Transparency and information
- Available documentation
- Adequate formats for cooperation, exchange and decision-making
- Transparent review of recommendations
- Capacity building

In France, civil society could currently contribute to the development and implementation of France's climate policies via local assemblies about "ecological transition" as part of the grand national debate (Grand Débat National), via a related online survey and public consultation booths and via the Citizens' Convention on Climate (Convention Citoyenne pour le Climat).

The local assemblies about ecological transition were one of the four topics of the grand national debate. These local assemblies could be organised by any citizen. The government provided the organisers with a kit containing practical advice for the organisation of such assemblies, and a guide for their moderation, including guiding questions and templates for the documentation of proposals. A factsheet for participants gave information about climate change and included close-ended and open questions that could be discussion points or filled out by each citizen.²⁶² A completed form to document the debate was then to be sent to the public authorities. The local assemblies were complemented by public consultation booths at public places across France and an online consultation which was open for all French citizens for one month. The feedback gained through these processes was fed into the work of the citizens' convention.

The ensuing Citizens' Convention on Climate (Convention Citoyenne pour le Climat) was initiated by the French president based on a proposal for a form of deliberative democracy made by the "yellow vests" (gilets jaunes) protestors. 150 French citizens were randomly selected and invited to take part in the convention, which met between October 2019 and April 2020 to formulate proposals how to "reduce French emissions of greenhouse gas by at least 40 % compared to 1990, in a spirit of social justice." The format and sessions were prepared and accompanied by the Economical, Social and Environmental Council (CESE) and a government committee, which is responsible for the development of the working programme and to ensure its implementation. The committee consisted of three climate experts, two experts from ministries, three experts in participative democracy and three socio-economic experts. Furthermore, three so-called "guarantors", among them one civil society representative and two experts from French legislative bodies were responsible to safeguard the process's compliance with the rules of independence and ethics. Furthermore, a legal and technical support team

²⁶² <https://granddebat.fr/pages/ressources>, accessed 24 March 2020.

supported the convention, for example in translating the requests of the citizens into legal wording.



Broad and inclusive invitation

Seen as one process, the three participatory formats created a balance between a broad citizen consultation, giving as many citizens as possible the chance to hand in their proposals, and more deliberative and dialogue-orientated formats such as local assemblies and the Citizens' Convention on Climate. Linking the proposals from the broader public to the convention, which has the task to prioritise them, is a way to integrate all proposals from the entire civil society as much as possible.



Financial resources

The overall budget for the Citizens' Convention on Climate was four million Euros. An overview of the distribution of the expenses is published online. However, it remains unclear what budget was provided by the government to support the local assemblies and the (online) surveys preceding the Citizens' Convention on Climate. The 150 randomly selected citizens received a remuneration of their travel expenses (transport, hotel) and working time, and received a partial refund of their childcare expenses if it was needed. It sets a good example that 0.2% of the convention's budget was for the compensation of its own emissions.²⁶³



Transparency and information

In all of the processes highlighted in this case study, civil society was informed about the objective, the participatory format chosen, and about rules of behaviour in the discussions via various methods of communication.²⁶⁴

Members of the convention received a personal letter explaining their mandate and how the initial sessions are organized. Participants of the local assemblies as well as members of the convention received neutral information about the challenge and its scientific context using language that was relatively easy to understand.²⁶⁵ According to the convention's website, the government committee tried to keep any pressure from interest groups and wrong information away from citizens by providing them with suitable, neutral and fact-driven information. Members of the convention could also invite experts if needed.

Information about challenges, goals, members and the decision-making process of the citizen convention and the dialogue format of the local assemblies can be found online for the general public and is easily accessible.²⁶⁶



Available documentation

The online documentation of the digital survey and the local assemblies consists of a summary of the most frequent proposals from the local assemblies on ecological transition, the process preceding the grand national debate. This includes a summary of the minutes from local debates as well as proposals from citizens

²⁶³ www.conventioncitoyennepourleclimat.fr/budget/, accessed 16 March 2020.

²⁶⁴ <https://granddebat.fr/pages/ressources>, accessed 16 March 2020.

²⁶⁵ <https://granddebat.fr/pages/ressources>, accessed 16 March 2020.

²⁶⁶ <https://granddebat.fr/pages/ressources> and www.conventioncitoyennepourleclimat.fr/#, accessed 16 March 2020.

collected at the debates, via email and at the street booths. The summary divides the collected proposals into individual contributions or collective contributions. The documentation of this process is completed by summaries of the biggest issues where consensus and disagreement was reached, plus remarkable points from collected contributions.²⁶⁷

The documentation of the Citizens' Convention on Climate is a very good example due to its completeness: Each session was recorded in video and audio and is accessible online. In addition, each session's agenda, key messages, working packages, guidelines, and preliminary results, as well as the documentation from the governance committee and the guarantors can easily be found online in an accessible and understandable format. The documentation is intuitive and is visualized in an attractive way.²⁶⁸



Adequate formats for cooperation, exchange and decision-making

According to the online information on the website, the meetings of the convention were planned in such a way that a combination of various forms of dialogue was used to support deliberation and collaborative discussions between its 150 members with the aim to reach a joint decision through the discussion of reasoned arguments. The convention met on seven weekends, giving citizens enough time to address the issues discussed.

After the first weekend for knowledge building, the convention members split into five working groups on the second weekend. Each group worked on concepts, focus actions, and budgets in one area (e.g. transport or agriculture). On the third weekend, more profound measures were jointly defined and matched to the overall goal. The proposed measures were then prioritised and divided into recommendations or standards by mixed groups. The fifth weekend was used to formulate a suitable proposal for each (package of) measure(s), including arguments supporting them and the more detailed planning of the measures. On weekend six, each working group presented its (packages of) measures at a plenum. This was followed by an in-depth discussion of the presented measures by the whole plenum, for which 4-5 hours for each area and working group were given. This was followed by a presentation of the detailed plan. At the seventh weekend session, it was planned that the convention members finalise and formally adopt the explanatory statement for the final plan against climate change with all structured actions and measures in it.²⁶⁹ According to the convention's website, the formats were developed in such a way that a group dynamic was maintained in which several contradictory objectives were balanced. Opinions of minorities and important concerns were to be taken into consideration as well.²⁷⁰ However, it remains unclear how the results of this process will be reflected in the final proposals for decision-makers.

²⁶⁷ <https://granddebat.fr/pages/syntheses-du-grand-debat>, accessed 16 March 2020.

²⁶⁸ www.conventioncitoyennepourleclimat.fr/les-travaux-de-la-convention-3/, accessed 16 March 2020.

²⁶⁹ www.conventioncitoyennepourleclimat.fr/comment-travaillent-ils/, accessed 16 March 2020.

²⁷⁰ www.conventioncitoyennepourleclimat.fr/les-travaux-de-la-convention-3/, accessed 16 March 2020.



Transparent review of recommendations

While only a summary of the contributions from the online survey and local assemblies are taken into consideration by the government and the convention, it is stated on the convention's website that the French president "is held to translate proposed measures "without filter" into a referendum, into draft laws to vote on in parliament or into direct guidelines for implementation through the administration."²⁷¹ Furthermore, the French government announced that it will give public responses to all proposed measures including the publication of a calendar showing when measures will be implemented. Climate convention members can also comment on the responses of the government.²⁷² Although the convention's proposals cannot be evaluated for their transparency at present, several tools have been announced that will be put in place to urge politicians to adopt the proposals and to implement them in a transparent way.



Capacity building

As already mentioned, there were several channels and mechanisms in all three participatory formats to foster capacity building of civil society, not only regarding climate change issues, but also regarding the organisation and implementation of forms of deliberative democracy and participation. Examples for this are the factsheets offered to citizens, who organised and participated in the local assemblies, and introductory documents that shared knowledge with people to enable them to participate in the online survey.

The Citizens' Convention on Climate started with a whole weekend of capacity building on climate change (each of the individual working groups also had capacity building training but in a shorter time period). In addition to this, it is also a good example that convention members had access to scientific experts to discuss and clarify open questions during the whole process. They could rely on a group of scientific employees from universities and scientific institutes of various disciplines supporting them as "fact checkers"²⁷³, and even external experts could be invited when it was jointly agreed on by the working group members.

271 www.conventioncitoyennepourleclimat.fr/foire-aux-questions/, accessed 16 March 2020.

272 www.conventioncitoyennepourleclimat.fr/foire-aux-questions/, accessed 16 March 2020.

273 www.conventioncitoyennepourleclimat.fr/facts-checkers/, accessed 16 March 2020.

6.3 The Stakeholder Roundtables for the National Climate Agreement (The Netherlands)

Good practice in:

- Early invitation
- Transparency and information
- Available documentation
- Highly flexible reaction to participant's evaluation and feedback
- Adequate formats for cooperation, exchange and decision-making
- Capacity building

The National Climate Agreement from June 2019 (Government of the Netherlands, 2019), comprising of activities and measures to reach the country's (and the EU's) emission reduction target (formulated in the NDC) was developed through a participatory process which involved more than 100 stakeholders from five sectors in the Netherlands. Activities, measures and priority actions were discussed and defined in five sectoral roundtable discussion groups (electricity, built environment, mobility, industry, agriculture and land use) which were mostly headed and moderated by independent and renowned experts. Furthermore, the Climate Council was established to serve as a consultative body for the entire process, coordinating and managing the discussion and negotiation process towards a climate agreement. The council brought together representatives from the Ministry of Economic Affairs and Climate Policy, local and regional authorities, CSOs, businesses, other relevant stakeholders and the heads of the five sectoral roundtables.



Early invitation

The invitations to the sector roundtables were sent quite early in the process. Experts and stakeholders were informed about the sectoral roundtables well before the invitations came.²⁷⁴



Transparency and information

The objectives of the sectoral roundtables were clear and were published by the responsible government authorities. Although the process to define and jointly agree upon the objectives and terms of reference of the five sectoral roundtables as well as deciding on the chair persons took several months, the regulations and conditions were then quickly published on the government website, making them easily accessible. Also the responsibilities were clearly assigned. The participants received relevant information some time before the events took place. However, the quantity of information made it difficult for the participants to deal with it sometimes.





Available documentation

All important documentation can be found on the website klimaataakkoord.nl²⁷⁵, including the meeting minutes, proposals, scientific reports, scenarios and calculations which were taken into consideration. They are accessible in a relatively good manner through a search engine. Citizens were also informed about the status of the negotiations via Twitter.



Highly flexible reaction to participant's evaluation and feedback

The high level of flexibility of the negotiation process in the Netherlands is an example of good practice. While the basic structure and configuration of the five sectors remained during the whole process, the process was open to organisational changes and the introduction of other formats if this was agreed by all participants. Based on this high flexibility, other formats (e.g. sub-groups, clusters) were set up and then retired once they had fulfilled their purpose (LIFE PlanUp, 2019).²⁷⁶ This ensured not only the high efficiency of the process, but also opened opportunities to find jointly agreed solutions for previously controversial aspects.



Adequate formats for cooperation, exchange and decision-making

The participatory process in the Netherlands used a variety of formats to engage and involve stakeholders. In addition to the Climate Council and the five sectoral roundtables, also regional citizen roundtables were set up as a more informative format. They were complemented by several sub-groups of the roundtables, clusters and task forces dealing with specific issues. Many sectoral roundtables also established core groups to develop agreements which were then approved by the broader group (LIFE PlanUp, 2019).²⁷⁷

Decisions within the sub-groups were made following the Dutch consensus-based polder model, where the inputs from all stakeholders are considered and reflected. The goal is to get the approval and buy-in from all stakeholders before activities, measures and priorities are finalised (LIFE PlanUp, 2019). To reach consensus, deliberations had four phases: The start-up phase to arrange the composition of the participants, including the selection of facilitators, of the sectoral roundtables, the inventory phase in which all parties presented their contributions and in which a categorisation between issues with high consent among participants and issues where further in-depth deliberation was needed took place. In the exploratory phase, parties jointly explored conceivable solutions for deadlocked issues and developed a package of measures. In the consolidating phase, the members of the sectoral roundtables were working towards a coherent package of measures which was aligned between sectoral roundtables.²⁷⁸ Although the polder model was not completely successful in roundtable groups with little common ground, such as the sectoral roundtables on electricity and industry, it

²⁷⁵ www.klimaataakkoord.nl/documenten?trefwoord=andstartdatum=andeinddatum=andonderdeel=Alle+onderdelenandtype=Alle+documenten, accessed 19 March 2020.

²⁷⁶ Interview with Milieudedefensie (Friends of the Earth Netherlands), 17 February 2020.

²⁷⁷ www.klimaataakkoord.nl/documenten/afbeeldingen/2018/04/26/organogram-klimaataakkoord-nvde, accessed 19 March 2020.

²⁷⁸ Klimaataakkoord (2018): Het Klimaataakkoord: de doelen, de organisatie en de weg er naartoe www.klimaataakkoord.nl/documenten/publicaties/2018/04/13/klimaataakkoord-doelen-organisatie-weg, accessed 19 March 2020.

contributed positively to the development of policy packages accepted by the majority of the stakeholders.²⁷⁹



Capacity-building through providing scenarios

No capacity building on background information was needed due to the fact that only experts participated in the sectoral roundtables. Instead, the sectoral roundtables worked closely with the ministerial planning office and other civil servants, who contributed to the informed decision-making process by presenting different options and related scenarios to the participants of the sectoral roundtables.^{280, 281} This information was sometimes quite complex, so participants needed to spend some time to go through all information.²⁸²

6.4 The Citizens' Assembly "Making Ireland a leader in tackling climate change" (Ireland)

Good practice in:

- Available documentation
- Adequate formats for cooperation, exchange and decision-making
- Transparent review of recommendations
- Capacity building

Five citizens' assemblies deliberating different topics were established by the Irish parliament in 2016. The Irish Citizens' Assembly on Climate was one of these five. It consisted of a chairperson and 99 randomly selected citizens, with the aiming of being representative of the Irish electorate in age, gender, social class and regional distribution.²⁸³ The Citizens' Assembly on Climate met on two weekends to discuss the question of how the state can make Ireland a leader in tackling climate change. It was accompanied by a steering group responsible for the assembly's organisation and an expert advisory group supporting knowledge building among the participants.

The broader public could participate in the assembly discussion by handing in proposals and recommendations, which were then considered for further deliberation. The members of the Citizens' Assembly on Climate had the opportunity to discuss new and existing recommendations, to decide on the precise wording and to vote on the final document. The citizens' assembly showed strong support of the measures voted upon with mostly between 85 to 100% of votes supporting propositions (Citizens' Assembly of Ireland, 2019). One of the citizens' assembly's proposals, to put in place a system of community engagement to build public

279 Interview with Milieudefensie (Friends of the Earth Netherlands), 17 February 2020.

280 Interview with Milieudefensie (Friends of the Earth Netherlands), 17 February 2020.

281 Some of the scenarios & technical information presented can be found at the klimaateakkoord website: www.klimaateakkoord.nl/documenten?onderdeel=Alle+onderdelen&type=Alle+documenten&pagina=34, accessed 27 March 2020.

282 Interview with Milieudefensie (Friends of the Earth Netherlands), 17 February 2020.

283 www.citizensassembly.ie/en/what-we-do/about-the-members/, accessed 18 March 2020.

support for the action plans, has been formalised through the National Dialogue on Climate Action (NDCA).



Available documentation

The discussions and results of the Citizens' Assembly on Climate are available online in different formats. This includes a YouTube channel²⁸⁴ with livestreams from the assemblies including Q&A sessions, presentations and an explanation of the voting procedures. Only the roundtable and working group discussions have not been published as a Youtube-video. All speeches and presentations from experts have been summarised in writing and are accessible online (Citizens' Assembly of Ireland, 2017). Further information about the Citizens' Assembly on Climate is summarised in reports which are accessible online and were constantly updated during the assembly meetings. The final report gives information about the membership of the assembly, the steering group and the expert advisory group. It explains the work programme, the engagement of the public within the assembly, voting arrangements and the development of the ballot paper. Furthermore, it gives an overview of the selected recommendations including a detailed breakdown and explanation (Citizens' Assembly of Ireland, 2019). All 153 submissions made by advocacy groups and citizens were accessible online, although the page was no longer available when this study was being finalised.²⁸⁵



Adequate formats for cooperation, exchange and decision-making

The Citizens' Assembly on Climate combined a range of different participative formats with sessions for capacity building including expert advice. The format was open to organisational changes when approved by a majority of the assembly members: The decision to prolong the deliberation time from one to two meetings was requested by the Citizens' Assembly itself.²⁸⁶

Under the umbrella of climate change policies, the Citizens' Assembly on Climate discussed topics such as energy, transport and agriculture, as well as the planning and implementation of climate-related policy. The assembly had the goal of agreeing upon recommendations by vote and summarising them in a joint document (Citizens' Assembly of Ireland, 2019).

The assembly invited members of the general public, representative groups and citizens' organisations to submit their suggestions on the topic of the climate over a period of six weeks.²⁸⁷ The key issues and topics from the submissions were then summarised in order of popularity in a guidance paper developed by experts which served as the foundation for discussions in the assembly.²⁸⁸ The formats used during the two assembly weekends ranged from presentations by experts and roundtable discussions with one facilitator per table, to Q&A sessions with questions collected from each group and forwarded to experts by the group's facilitator. After several rounds of discussions, the members of the Citizens' Assembly on Climate could then

284 www.youtube.com/playlist?list=PL8jOxQOnEpsg8e4kCh38SD3g2pZN7fP7x, accessed 18 March 2020.

285 www.citizensassembly.ie/en/submissions/how-the-state-can-make-ireland-a-leader-in-tackling-climate-change/submissions-received/, accessed 18 March 2020.

286 www.citizensassembly.ie/en/how-the-state-can-make-ireland-a-leader-in-tackling-climate-change/how-the-state-can-make-ireland-a-leader-in-tackling-climate-change.html, accessed 18 March 2020.

287 www.citizensassembly.ie/en/how-the-state-can-make-ireland-a-leader-in-tackling-climate-change/how-the-state-can-make-ireland-a-leader-in-tackling-climate-change.html, accessed 18 March 2020.

288 Ibid.

decide on the precise wording of the ballot by making proposals for amendments of the draft before a vote on the final version of the joint recommendations was carried out.²⁸⁹



Transparent review of recommendations

Although the recommendations from the assembly are non-binding, the Irish parliament (Oireachtas) saw them as a starting point for further policies. It decided to establish a special parliamentary committee, the Joint Committee on Climate Action, to take forward the assembly's recommendations. The Joint Committee on Climate Action responded to the Citizens' Assembly's recommendations in a special report (Joint Committee on Climate Action, 2019), which reshaped Ireland's Climate Action Plan²⁹⁰ and contributed to the declaration of a climate and biodiversity emergency shortly after.²⁹¹



Capacity building

While the proposals of the Citizens' Assembly were implemented by the new climate law, the assemblies called for the establishment of a permanent structure to organise the flow of information, to create structures for exchange, to organise events to facilitate discussion and deliberation on the response to the challenges of climate change and to enable and empower people to take action at the national, regional and local level.²⁹² The resulting National Dialogue on Climate Action combines various elements including the Tidy Towns awards for climate-related awareness raising concepts on the local level²⁹³, a climate ambassador programme²⁹⁴, a climate lecture series for the Environmental Protection Agency²⁹⁵ and "Regional Gatherings", all with the aim of carrying out capacity building, informed deliberation and climate education.²⁹⁶ Regional gatherings are regional one-day workshops open for citizens from the individual regions to participate. They give participants the opportunity to gain knowledge via short talks from expert speakers involved in climate change initiatives as policy-makers, researchers and community activists, and to share their climate-related concerns, hopes, experiences and ideas through a combination of different formats.²⁹⁷ The Department of Communications, Climate Action and Environment, which is responsible for the development and implementation of the activities, defines itself as an intermediary between the government and local community groups, and also has the task of bringing local groups together to collaborate on community-based projects.²⁹⁸

289 Ibid.

290 www.climatechangenews.com/2019/06/27/irelands-world-leading-citizens-climate-assembly-worked-didnt/, accessed 18 March 2020.

291 <https://greennews.ie/dail-call-climate-emergency/>, accessed 18 March 2020.

292 <https://dcaae.gov.ie/en-ie/climate-action/topics/national-dialogue-on-climate-action/Pages/default.aspx>, accessed 26 March 2020.

293 <https://dcaae.gov.ie/en-ie/climate-action/topics/national-dialogue-on-climate-action/tidytowns-awards/Pages/Tidytowns-Awards.aspx>, accessed 26 March 2020.

294 <https://climateambassador.ie/>, accessed 26 March 2020.

295 www.epa.ie/climate/communicatingclimatescience/climatechangelectureseriesandpresentations/, accessed 26 March 2020.

296 <https://dcaae.gov.ie/en-ie/climate-action/topics/national-dialogue-on-climate-action/Pages/FAQs.aspx>, accessed 26 March 2020.

297 <https://dcaae.gov.ie/en-ie/climate-action/topics/national-dialogue-on-climate-action/Pages/FAQs.aspx>, accessed 26 March 2020.

298 Communication via E-Mail with the Environmental Protection Agency Ireland, 01 July 2019.

6.5 The public audiences and consultancies in the development of the National Policy on Climate Change (Brazil)

Good practice in:

- Broad and inclusive invitation
- Financial resources
- Transparency and information
- Available documentation
- Adequate formats for cooperation, exchange and decision-making

The elaboration of Brazil's National Policy on Climate Change (PNMC) in 2007 was initiated by a broad participatory process. A first draft for the PNMC containing possible measures and activities was written by an inter-ministerial committee based on technical and scientific information and existing climate policies. This initial draft was open to the general public for amendments, public discussion and for the introduction of new issues and measures in the original document. This could be done in four ways:

A) Municipal and state conferences in which representatives from civil society and business groups discussed together with public servants and could propose amendments to it via vote,

B) The National Conference on the Environment (III CNMA), in which delegates from all Brazilian states and societal groups discussed and amended the draft and the proposals from state conferences before they decided upon the final document (Government of Brazil, 2007).

The development of climate policies was then continued through:

C) Sectoral dialogues) involving civil society and sector representatives to map implemented actions, to review and update existing sector plans and to identify and elaborate necessary future activities and

D) The Brazilian Climate Change Platform (FNMC). The FNMC is a national meeting platform for governmental and civil society representatives with thematic working groups and counterparts at the state level. It holds one of the nine seats at the Inter-Ministerial Committee on Climate Change (CIM), which is the body responsible for the development, implementation, monitoring and evaluation of Brazil's climate policies. However, the FNMC is only invited as a guest to meetings of the CIM (Government of Brasil, 2000).

With its four participatory formats, the development of the National Policy on Climate Change of Brazil (PNMC) via state conferences and the National Conference on the Environment include some characteristics which can be seen as "good practice".



Broad and inclusive invitation

According to the website of the Brazilian Ministry of the Environment (MMA), more than 115,000 people participated in the development of the PNMC via 566 municipal conferences, 153 regional conferences and 26 state conferences. 1,104 of them were delegates to the III CNMA.

The delegates of the III CNMA were members of the Brazilian government, from governmental agencies linked with climate policies and also people chosen using a formula ensuring the participation of representatives from different social backgrounds and representing different sectors. It is commendable that 40% of the III CNMA delegates were to come from civil society (including social movements, syndicates, associations, cooperatives, NGOs and networks), while 5% of the delegates were from indigenous communities, 30% from business and industry and 20% from governments, of which half had to come from the municipal level.



Financial resources

The delegates to the III CNMA received free transport and accommodation to attend the III CNMA. This included also travel costs in Brasilia and free meals during all conference days. Medical help and services such as a luggage compartment were provided to all participants. This study could not establish how travel and other costs were refunded at the regional conferences.



Transparency and information

The procedure and formats of discussion and decision-making in the III CNMA are clearly set out in regulations which can be found on the MMA website. Delegates were informed about the reason and targets of the III CNMA through two manuals: The first manual gives basic information and an overview of the challenges related to climate change (Ministério do Meio Ambiente, 2008b), the second gives information on the proceedings and regulations in the decision-making process, as well as on organisational issues (Ministério do Meio Ambiente, 2008a). Both manuals are still available online and are written in a style that is easy to understand.



Available documentation

According to national regulations, the MMA is responsible for the publication and for broad public access to the resolutions of the III CNMA. A consolidated draft text was published on the website of MMA, containing all agreed changes and decisions made at the III CNMA. Furthermore, this document also shows alternative proposals suggested at regional conferences, including a reference to the origin of the proposal and a note on whether proposals were included in the final document (Ministério do Meio Ambiente, 2008c).



Adequate formats for cooperation, exchange and decision-making

The III CNMA included different participatory formats which supported deliberative debates among the delegates, including plenary sessions, working groups and self-organised workshops. While the delegates were able to shape the self-organised workshops as they wanted, the working groups were organised according to pre-defined rules. They were moderated by two coordinators, one from the MMA, one elected by the working group who organised the debate and speaking times.²⁹⁹

Discussions were based on the consolidated draft text, which delegates could edit, remove sections, (partially) modify passages or make written amendments. The proposals from the regional conferences were organised and then discussed by the III CNMA delegates if they reached the threshold for discussions by having support from at least 40% of the delegates from regional conferences. Decisions on the final texts were made after a deliberative debate and a simple majority vote within the working group.³⁰⁰ The deliberative process included a procedure for defining priorities, but a limited budget was not a criteria.

After this phase, the working groups presented their proposals in plenary and the highlights were debated. There was also the option to submit further proposals for amendments in the plenary meeting. All proposals in the plenary meeting were presented by one speaker in favour and one against, giving the delegates a relatively rapid knowledge base for decision-making. After all final votes on proposals and amendments were held, the delegates voted on the final text, which was presented to all delegates for one hour beforehand.³⁰¹

²⁹⁹ www.mma.gov.br/responsabilidade-socioambiental/conferencia-nacional-do-meio-ambiente/iii-conferencia/documentos.html, accessed 17 March 2020.

³⁰⁰ www.mma.gov.br/responsabilidade-socioambiental/conferencia-nacional-do-meio-ambiente/iii-conferencia/documentos.html, accessed 17 March 2020.

³⁰¹ www.mma.gov.br/responsabilidade-socioambiental/conferencia-nacional-do-meio-ambiente/iii-conferencia/documentos.html, accessed 17 March 2020.

6.6 The Dialogues on Pathways for a Just Transition (South Africa)

Good practice in:

- Broad and inclusive invitation
- Transparency and information
- Adequate formats for cooperation, exchange and decision-making
- Evaluation and feedback processes
- Documentation of open questions

The participative Just Transition Dialogues are based on the National Development Plan (NDP) of South Africa’s National Planning Commission (NPC). Chapter 5 of the NDP defines South Africa’s just transition to a low carbon, climate resilient economy and society by 2050 built upon a common vision for this transition. Consensus about this common vision was to be developed through a series of dialogues with the government, labour representatives, communities and experts.³⁰²

The process was set up around two series of meetings: A “Social Partner Dialogue Series” consisting of several high-level dialogue meetings with social partners, and three broader “Stakeholder Engagement Workshops” which took place in Western Cape, Limpopo and KwaZulu-Natal, the regions mostly impacted by coal mining activities. The dialogue was complemented by bilateral meetings and roundtable discussions with youth, labour and business organisations. Each dialogue built upon the previous one, culminating in a final draft document and a summit in April 2019. Based on the dialogues, the commission proposed three priority working areas, but also stated in its final report that the dialogues and activities should still be continued and intensified. Scaling up the dialogues to include more actors and communities at different levels and increase the frequency, while connecting the dialogues to ongoing research, are activities proposed by the commission. It also demands that sector interventions and worker transition plans are institutionally embedded and financed.³⁰³



Broad and inclusive invitation

The Just Transition Dialogues Process is an example of good practice due to the combination of two types of participatory processes: Within the Social Partner Dialogue Series, a broad range of experts from “social partners”, namely the government and representatives from labour, civil society and business

³⁰² National Planning Commission of South Africa (2018): National Development Plan – 2030: A Just transition to a low carbon, climate resilient economy and society. Where are we? Where should we be? How do we get there? Presentation held at the Talanoa Dialogue at 23. and 24. of August 2018, presentation received from the National Planning Commission.

³⁰³ National Planning Commission of South Africa (2019): Social Partner Dialogue for a Just Transition May 2018 to June 2019: Draft Proposal–Version Two: Revised proposal following the outcomes of the Concluding Conference held on 29 May 2019, presentation received from the National Planning Commission.

were invited (Stockholm Environment Institute, 2019). Hereby, it can be seen as commendable that the National Planning Commission, as an independent body invited the participants to the meetings.

These more expert-orientated dialogues were intertwined with stakeholder engagement workshops which were open for everybody. Invitations to the later were spread through various channels, such as NGOs, communication channels within the communities and official websites (National Planning Commission, 2018).



Transparency and information

The targets, purpose and requirements of the Just Transition Dialogues were pre-defined in the NDP for 2030. The general responsibilities and opportunities were therefore clear for the participants and organisers. The steps to prepare a final version of the Just Transition Document and the role of the participants were made transparent and explained in an easily understandable way. They were visualised in a flowchart explaining the process in an easily understandable manner³⁰⁴ and explained to the participants by the chairperson at the beginning of each meeting.³⁰⁵



Adequate formats for cooperation, exchange and decision-making

Formats used within the stakeholder workshops and in the social partner dialogues combined different forms of dialogue and exchange, which all supported informed interaction and deliberation between participants. While the formats within workshop and dialogue sessions sometimes differed, there were nevertheless many similarities: All sessions started with an opening speech and an explanation of the process, as well as a summary of previous sessions. This was followed by a plenary discussion about the topic itself and also of the structure of the process. This was often followed by a second round of presentations about main issues, scenarios and research findings, including a Q&A session. The plenary was then often separated into working groups moderated by an expert, in which participants discussed a vision for the year 2050, sometimes supported with guiding questions. In some dialogues and stakeholder workshops, a second breakout session with guiding questions took place, discussing the impacts of development models on energy, water and land.³⁰⁶ No prioritisation of options or activities took place within the workshops and dialogues, leaving this challenging task to policy makers.



Evaluation and feedback processes

Within the Social Partner Dialogue Series itself, part of the open discussion was the structure and depth of the consultative process. In the initial dialogue for example, the discussion of the structure of the participatory process resulted in an agreed change in the original programme for the same day (National Planning Commission, 2018).

The discussions about process structure were not only summarised in the

³⁰⁴ https://oneworldgroup.co.za/wp-content/uploads/2019/04/Workshop_Flowchart.pdf, accessed 17 March 2020.

³⁰⁵ See as examples the reports on the following website: <https://oneworldgroup.co.za/oneworld-projects/pathways-to-a-just-transition-in-south-africa-2017-2019/>, accessed 17 March 2020.

³⁰⁶ Ibid.

meeting reports, the National Planning Commission also used the input from the first Social Partner Dialogue Workshop to change the Just Transition Dialogue according to the proposals: The introduction of broader stakeholder workshops was a direct result of the participant's proposals for the process structure (National Planning Commission, 2018).

The main results of these feedback rounds with stakeholders were summarised in the final report, including a summary of the participants' proposals on how further participatory processes should be set up, leaving it open for the organisers of further measures to orientate themselves on these proposals.³⁰⁷



Documentation of open questions

An interesting aspect of the documentation of the Just Transition Dialogues was the documentation of open questions arising from the participants. These open questions can be used by policy makers and other stakeholders as stepping stones to initiate further research and discussions on these open questions.

6.7 Public participation in the Integrated Concept for Energy and Climate Protection for Baden-Württemberg (Germany)

Good practice in:

- Available documentation
- Broad and inclusive invitation, empowerment of young people
- Transparent review of recommendations

In the development phase of the updated Integrated Concept for Energy and Climate Protection (IEKK), the federal state of Baden-Württemberg used different methods to enable citizens to participate, including an online survey, citizen roundtable discussions and a roundtable discussion group for federations and associations, as well as one for young people. At the roundtables, proposals for new measures and policies could be proposed by the participants, while there was also the opportunity to discuss and evaluate proposals developed by state agencies. Participants could furthermore rate the measures by expressing their approval, rejection or abstention of the following statements: “*The measure is generally appropriate*”, “*Its implementation is necessary*” and “*I support its implementation*”. Discussions included the climate-relevant topics of electricity, health, transport, agriculture, industry and the cycle of materials as well as cross-sectoral topics.³⁰⁸ The participatory approach for the development of the updated IEKK built upon the concept used to develop the IEKK in 2013.³⁰⁹

³⁰⁷ National Planning Commission of South Africa (2019): Social Partner Dialogue for a Just Transition May 2018 to June 2019: Draft Proposal–Version Two: Revised proposal following the outcomes of the Concluding Conference held on 29 May 2019, presentation received from the National Planning Commission.

³⁰⁸ <https://um.baden-wuerttemberg.de/de/klima/klimaschutz-in-baden-wuerttemberg/integriertes-energie-und-klimaschutzkonzept/oeffentlichkeitsbeteiligung/>, accessed 18 March 2020.

³⁰⁹ https://um.baden-wuerttemberg.de/fileadmin/redaktion/m-um/intern/Dateien/Dokumente/4_Klima/Klimaschutz/IEKK/BEKO/BEKO_Pruefergebnis.pdf, accessed 7 August 2020.

The citizen roundtable was carried out as six one-day workshops (three workshops per day). 20 people, who were randomly selected from a pool of interested and registered citizens, were invited to discuss one of the topics. Representatives from civil society groups such as environmental and farmers' organisations as well as trade unions and industry federations could participate at the roundtable for federations and associations. The participation concept also included a roundtable for young people, which was a one-day workshop to which interested people aged 16 to 26 could register to take part.

Citizens could hand in new proposals for climate protection measures and activities and comment on proposals from the authorities via an online survey from mid-May until the end of July 2019. It was possible to comment online on existing measures by expressing approval, rejection or abstention, and/or by handing in qualitative comments on individual proposals and measures (Ministerium für Umwelt, Klima und Energiewirtschaft Baden-Württemberg, 2019b).



Available documentation

The participatory approach used in the development of the IEKK is a good example of the comprehensive, transparent and well comprehensible documentation of proposals and the participants' priorities. The results are structured in an easily comprehensible way and diagrams give a quick overview over the overall prioritisation and support of each measure in the roundtable discussions and online survey. All of the participants' comments from the online survey are published in the overview of every proposal, as well as their feedback on the statements mentioned above (Ministerium für Umwelt, Klima und Energiewirtschaft Baden-Württemberg, 2019a). The overview of the proposals comes with an introductory explanation of the structure of the documentation and summarises the results of each thematic workshop and the online survey.³¹⁰ The documentation makes also clear from which participatory format the proposals came from. The information is presented in a very structured and easily understandable manner, especially given the quantitatively and qualitatively complex feedback that was obtained.



Broad and inclusive invitation, empowerment of young people

The participation of young people was encouraged in the development of the IEKK with the aim of receiving feedback, proposals and priorities from young people aged between 16 and 26. This group is proportionally more affected by climate change, but is usually underrepresented in formal decision-making processes in Baden-Württemberg. A one-day workshop was organised in Stuttgart by the youth initiative of the sustainability strategy (JIN), together with the Ministry of the Environment of Baden-Württemberg.³¹¹ Participants were interested young people who had previously registered online and also randomly selected participants, so that the real composition of the youth was reflected as much as possible. Representatives from civil society movements such as Fridays4Future also participated. Moderators were supplied by JIN. The results of the youth

³¹⁰ <https://beteiligungportal.baden-wuerttemberg.de/de/mitmachen/lp-16/klimaschutz-mitwirkung/klimaschutz-mitwirkung-ergebnisse-entwurf/>, accessed 18 March 2020.

³¹¹ <https://beteiligungportal.baden-wuerttemberg.de/de/mitmachen/lp-16/klimaschutz-mitwirkung/jugendbeteiligung/>, accessed 18 March 2020.

participation roundtable were documented and published online in the same way as in the other participatory formats. An article on JIN's website also summarises the findings of the event.³¹²



Transparent review of recommendations

The previous IEKK of 2013, was also based on a participatory approach. The documentation of this participatory process included a transparent and easy-to-understand presentation of the public authority's review of participants' proposals. The document summarising the review of all comments on the IEKK 2013 is accessible online.³¹³

In this document, each proposal is listed and sorted according to source (online survey, citizen roundtable or roundtable for federations and associations) and sector it refers to. The public administration assigned each proposal to one of the five evaluation categories being introduced. This approach allowed interested persons to easily understand if a proposal was (partially) taken into account or was already included in the IEKK draft. Furthermore, the document indicated if a decision on a proposal will take place at a later stage or if a proposal will be considered during the implementation stage of a specific measure listed in the IEKK. It also informed if a proposal was rejected. In this case, the reasons for the rejection of the proposal were made transparent.³¹⁴

³¹² www.wir-ernten-was-wir-saeen.de/wir-muessen-radikaler-denken-und-handeln, accessed 18 March 2020.

³¹³ https://um.baden-wuerttemberg.de/fileadmin/redaktion/m-um/intern/Dateien/Dokumente/4_Klima/Klimaschutz/IEKK/BEKO/BEKO_Pruefergebnis.pdf, accessed 7 August 2020.

³¹⁴ https://um.baden-wuerttemberg.de/fileadmin/redaktion/m-um/intern/Dateien/Dokumente/4_Klima/Klimaschutz/IEKK/BEKO/BEKO_Pruefergebnis.pdf, accessed 7 August 2020

6.8 The Advisory Councils for Climate Change and the Working Group on Civil Society Relations (Mexico)

Good practice in:

- Creation of governance structures

Two institutions were established by the Mexican Climate Law of 2012 (Government of Mexico, 2012) to formalise the participation of civil society in developing climate policies: The Advisory Council(s) for Climate Change (Consejo(s) Ciudadano(s) del Cambio Climático) under the Ministry of the Environment and Natural Resources, and the Working Group for Relations with Civil Society (GT-VINC).

The national advisory council has, according to the law, the right to submit recommendations to the Inter-Ministerial Commission on Climate Change (CICC), which is the decision-making and coordinating body in climate policies and supports responsible and informed social participation through consulting the general public. Advisory councils can also be established on state level if the concerned state has a state climate law. The council members are civil society experts from NGOs, universities and the private sector selected by the CICC and the president.³¹⁵ The members themselves decide on the procedural rules applied in the advisory council³¹⁶. Results and recommendations of the council are presented to meetings of the members of the National Climate Change System (SINACC). However, the advisory council's recommendations are non-binding and their consideration or non-consideration is not always made transparent by the public authorities.

The Working Group for Relations with Civil Society complements the participatory formats from the side of the government authorities. It is one out of six working groups of the CICC and is composed of 15 civil servants, one nominated by each ministry taking part in the CICC. The Secretariat for Environment and Natural Resources (SEMARNAT)'s Coordination Unit for Social Participation and Transparency and the General Directory for Relations with Civil Society Groups in the Under-Secretary for Multilateral Issues and Human Rights of the Ministry of the Exterior are jointly responsible for the coordination of the GT-VINC.

According to the CICC's annual report, the GT-VINC defines its annual working plan independently and also develops an annual report of activities. Both documents have to be forwarded to the CICC and are mentioned in its annual report until the year 2016.³¹⁷ This study could not determine what type of activities were carried out by the GT-VINC because reports could not be found online.

315 <https://cambioclimatico.gob.mx/consejo-de-cambio-climatico>, accessed 18 March 2020.

316 Interview with the Mexican Center for Environmental Law (Centro Mexicano de Derecho Ambiental – CEMDA), 3 March 2020.

317 See as an example: Gobierno de Mexico, Comisión Intersecretarial de Cambio Climático: Informe Anual de Actividades 2015, www.gob.mx/cms/uploads/attachment/file/162798/Informe_Anual_de_Trabajo_2015.pdf, accessed 18 March 2020.



Creation of governance structures

The participation of civil society in decision-making and in the implementation of climate policies is formally ensured by a number of different laws and regulations in Mexico.

The Federal Law for the Promotion of Activities undertaken by Civil Society Organisations from 2004 and 2018 calls for the establishment of entities and government bodies promoting and supporting civil society activities. Moreover, the law encourages coordination between federal government agencies and civil society organisations. This includes specifically NGOs which promote citizen participation, the rights of indigenous communities and the protection of nature and natural resources.

The law gives CSOs, among others, the right to join the participation and consultation bodies of the federal administration which must be established and operated by state entities. They also have the right to participate in social monitoring mechanisms and in the planning, execution and monitoring of policies, programmes, projects and processes established and carried out by state entities. NGOs can also receive advice, training and collaboration to fulfil these activities from the state entities mentioned. The Support Commission for Activities of Civil Society Organisations (Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil) is a government entity that is responsible for defining policies to support civil society and to promote dialogue between public, social and private sectors (Government of Mexico, 2018).

Civil society participation is formalised in the Mexican Climate Law by being defined as an integral part of the National Climate Change System (SINACC) (Government of Mexico, 2012). Based on the law, two institutions have been established to formalise civil society participation in climate policies: The Advisory Councils for Climate Change under the Ministry of the Environment and Natural Resources, and the Working Group for Relations with Civil Society. GT-VINC is an institution which is an integral part of the decision-making and coordination of the CICC. Its tasks are to promote participation and civil society relations. It is therefore an entry point for government authorities to enable participatory formats. The formalisation of a working group on civil society relations within the public authorities was accompanied by training for government officials on how to support good civil society participation.

6.9 The Dialogue “Let’s talk about the framework law on climate change” (Peru)

Good practice in:

- Broad and inclusive invitation
- Available documentation
- Transparent review of recommendations

The participative process *Let’s talk about the framework law on climate change* (Dialoguemos sobre el Reglamento de la Ley Marco sobre Cambio Climático) took place in 2018 and 2019. The aim was to elaborate a more detailed implementation plan of the framework law on climate change (Ley Marco sobre Cambio Climático, Law 30754). With the intention of being a participative, multilevel and multi-stakeholder process, the process had the aim of “collecting the contributions of all Peruvians”. Various meetings at the national level were organised with the support of public entities, civil society and international development agencies. Citizens also had the option to submit recommendations and comments by post. According to the Ministry of the Environment of Peru, more than 2,000 participants representing different societal groups participated.³¹⁸ The meetings with indigenous people and the proposed implementation plan for the framework law were translated into five indigenous languages. The plan is accessible online as an audio file in all five indigenous languages. Due to missing online-protocols of the meetings, their exact agenda and format remains unclear. However, the inputs from the online documentation suggest that a draft of the document was presented to the participants, followed by the collection of comments and inputs from the participants for each part of the implementation plan. The inputs from all meetings and the contributions submitted by post were evaluated input by input. The draft implementation plan was revised accordingly. It seems that participants could not vote on the final version of the drafted document. It also remains unclear how mutually exclusive contributions or opposing demands from different stakeholder groups or/and meetings were dealt with.

The documentation of the summarised results from the process, namely the inputs from the participative meetings and postal contributions, and different versions of the draft regulation of the framework law can be found online on MINAM’s Online Platform for Citizen Information called *Attention to the Citizen* (Plataforma de Atención a la Ciudadanía³¹⁹). A quite comprehensive (compared to other participative processes) review of the inputs from citizens and information on the indicators used to evaluate those inputs can also be found on the website. The implementation plan of the Framework Law on Climate Change was officially adopted in December 2019 as Decreto Supremo N° 013-2019-MINAM.

318 Ministerio del Ambiente de Peru (2019): Dialoguemos sobre el Reglamento de la Ley Marco sobre Cambio Climático. Plataforma de Atención a la Ciudadanía www.minam.gob.pe/cambioclimatico/dialoguemos-reglamento-lmcc, accessed 13 July 2020.

319 Ministerio del Ambiente de Peru (2019): Dialoguemos sobre el Reglamento de la Ley Marco sobre Cambio Climático. Plataforma de Atención a la Ciudadanía. www.minam.gob.pe/cambioclimatico/dialoguemos-reglamento-lmcc/, accessed 13 July 2020.



Broad and inclusive invitation

The participatory process included meetings for different stakeholder groups (public sector, young people, private sector, indigenous people, indigenous women) at different locations within Peru and translated into indigenous languages such as Quechua, Aymara, Shipibo Conibo, Awajún and Asháninka. It was also possible to submit recommendations for the new law via post. These initiatives helped to reduce barriers for disadvantaged groups to take part in the process.



Available documentation

Most of the documentation of the participatory process was published by MINAM on its online platform *Attention to the Citizen*. The documentation includes photos from the meetings, laws drafted at different times in the participatory process, finalised versions from the proposed implementation plan in different languages and all contributions from the public meetings with stakeholders. The documentation does not include minutes from the meetings.

All contributions from stakeholders can be found in excel sheets on the platform. They are sorted in chronological order and according to type of stakeholder and meeting. Each document includes a short introduction, followed by the contributions sorted in the order of the agenda that was discussed in the meeting.³²⁰

The documentation platform is more functional than visually appealing, yet relatively easy to understand. It is remarkable that the final version of the suggested law is not only available in Spanish, but in five indigenous languages and in audio formats, broadening the accessibility of information also for the indigenous population of Peru.



Transparent review of recommendations

The dialogue *Let’s talk about the framework law on climate change* included a well thought through and transparent review process. Before the citizen meetings were carried out, indicators for the analysis of stakeholder contributions were defined and published as an online document accessible to everybody.³²¹ These steps towards more transparency in the review process were completed by the publication of excel sheets in which interested citizens could monitor the level of each stakeholder contribution and see which of the contributions were considered in the proposed implementation plan. The excel documents also included explanations from MINAM if contributions could not be considered. These review reports are accessible on the online platform except those that are missing or only open for team members to view.³²² Although the online documentation of the review process could be visually more appealing, it is presented in such a way that the tracking of all recommendations and its impacts is possible.

³²⁰ See: https://drive.google.com/drive/folders/1GuJdz99LKGiQWzwPld6LYwl607h_JkTw, accessed 13 July 2020.

³²¹ Ministerio del Ambiente de Peru (2018): Criterios para incorporación de aportes para el Reglamento de la Ley N° 30754, Ley Marco sobre Cambio Climático. Accessible online: www.minam.gob.pe/cambioclimatico/wp-content/uploads/sites/127/2018/10/Criterios-para-incorporaci%C3%B3n-de-aportes-para-el-Reglamento-de-la-Ley-N%C2%B0-30754-LMCC_181029.pdf, accessed 13 July 2020.

³²² Ministerio del Ambiente de Peru (2019): Dialoguemos sobre el Reglamento de la Ley Marco sobre Cambio Climático. Plataforma de Atención a la Ciudadanía. www.minam.gob.pe/cambioclimatico/dialoguemos-reglamento-lmcc, accessed 13 July 2020.

7 Conclusions

Civil society participation in climate-related policy-making can contribute to enhance the quality and ambition of climate policy. Thus, it is especially needed at a time when most countries are currently obligated to revise their NDCs, which will determine climate-related policies for the following years. However, although civil society has become more active in promoting more ambitious climate protection in many countries, a wide range of barriers still impedes its effectiveness and reduces its scope. In addition, civic space, which is essential for any open and democratic society, is shrinking in many countries of the world. Yet in spite of the potential and obvious threats climate-related civil society participation is facing, detailed information on its status in different countries is still rare. Moreover, there is a lack of knowledge on the various possible ways to strengthen the involvement of civil society in making climate policies. Thus, this study provided country-specific information on five criteria of climate-related civil society participation in three countries: Colombia, Georgia, and Ukraine. Furthermore, it outlined possible strategies to tackle the identified structural and process-related problems that are specific to these countries. The results of this analysis can be used for the development of the Climate Action Plans and other climate-related documents and strategies for the upcoming NDC revision process in 2025.

Since all investigated countries have different contexts with different histories and political structures, their performance in terms of climate-related participation is hardly comparable and strategies to tackle the identified problems must be tailored individually. However, some basic principles, values, and requirements regarding civil society participation can be considered as being universal for open, responsive, and democratic policy-making. The compliance of all countries with these universal principles should be promoted. In this study, these principles were grouped into five criteria: fundamental requirements, enabling legislation, supporting governance and structures, qualitative participation processes, and capacity building. The study examined climate-related civil society participation in Colombia, Georgia, and Ukraine according to these five criteria in detail and identified barriers to civil society participation that are specific to each country (see PART 2).

In addition, “good practice” examples of participation processes and supporting governance and structures from other countries around the globe were collected (see PART 3). Although each country has its own unique context and the adaptation of one certain country’s approach to another country might be difficult, these examples can nonetheless inspire other countries and spark ideas to strengthen civil society involvement based on their individual shortcomings. The proposals given in this section must be viewed in connection with these recommendations.

The analysis showed that Colombia performed comparatively poorly in the categories of fundamental requirements, enabling legislation, and qualitative participation process, whereas Georgia performed comparatively well in most of the categories with room for improvement regarding qualitative participation process and capacity building. In Ukraine, a lack of supporting governance and structures constituted the most significant barrier to effective civil society participation. Colombia’s recent history is characterised by the Colombian conflict. Thus, fundamental requirements for participation are mostly missing. However,

Colombian civil society nonetheless shows great willingness to tackle climate-related issues. However, although institutions for climate change management have been recently established, they rarely involve civil society stakeholders appropriately and the coordination of civil society involvement is rather low. Consequently, Colombia's supporting governance and structures scored comparatively well (3/7), but still reveal much scope to improve. Colombia especially lacks financial support for civil society participation, while its participation processes performed especially poorly regarding inclusiveness, adequate participation formats, and evaluation of the processes, corresponding to Colombia's rather low score (6/17). The good practice example from Brazil showed how to do this better, as all of these aspects were dealt with rather well. In contrast to Colombia which favoured economic representatives over NGO representatives and larger, national NGOs over local, smaller active NGOs, during the development of Brazil's National Policy on Climate Change (PNMC) the Brazilian Ministry of the Environment (MMA) ensured participation on the municipal and regional level and of people with different social backgrounds, including indigenous people. Additionally, more than 1,000 delegates received free transportation, meals, accommodation and medical support if needed to participate in the National Conference about the Environment. This stands in contrast to Colombia's low budget for participatory processes. Furthermore, while Colombia focused mainly on providing information, the Brazilian ministry organised workshops, discussions and joint decision-making processes in order to actually delegate power to the participants. In this context, the Brazilian example can serve as an inspiration for Colombian decision makers to design more inclusive participation procedures in the future and to actively promote and support participation of different groups of society.

In comparison to Colombia, Georgia offers a rather safe environment for civil society engagement although the current political crisis is accompanied by new threats and restrictions for civil society actors. In addition, Georgian CSOs have only limited resources and are not yet actively engaged in climate issues. Georgia's legal framework for civil society participation in environmental policy making is comparatively comprehensive, but in spite of this Georgia performed rather poorly in the criteria of qualitative participation processes (6/17). There is still room for improvement in terms of adequate participation formats, methods and transparent reviews of recommendations from stakeholders. As proposed in the recommendations, Georgia should introduce a transparent system to deal with the concerns and proposals of the public. A positive example for transparent and traceable consideration of recommendations from the public is Ireland. Ireland established a committee to respond to recommendations given by the citizen's assembly in a report and to enable their integration into Ireland's CAP and policy. In this way, citizens can monitor how their recommendations have been processed. In drawing on Ireland's example, Georgia can enhance the delegation of decision-making power to its public and thus increase the legitimacy of governmental decisions.

CSOs in Ukraine have gained in strength and attention over the last decades and increasingly expanded their focus from human rights and democratisation to environmental and climate issues. However, although the Ukrainian legal framework for public participation in environmental policy making is quite extensive, a lack of political will, high corruption and ongoing conflicts prevent effective civil society participation. This is supported by the fact that Ukraine severely lacks supporting governance and structures for environmental policy participation (0/7), including institutional coordination and cooperation, and financial resources for participation processes. It further performed rather poorly in terms of inclusiveness and transparent review of recommendations. However, CSOs were able to participate in climate-related policy processes and to initiate changes, e.g. in the National Emission Reduction Plan, explaining its moderate score (10/17). In order to improve its participation processes, Ukraine might take a closer look at France's climate policy participation. France offered all citizens the chance to make proposals and to join in discussions and the government publicly responded to all proposals made during the process. By establishing similar participatory processes, Ukraine could legitimise government decisions and improve the quality and ambition of its climate policy.

Colombia, Georgia and Ukraine have different strengths and weaknesses regarding climate-related civil society participation, but all three countries still need strong improvements to ensure meaningful, effective and long-term participation. Some countries have already provided examples for good climate-related civil society participation. These examples, although with their own deficits, may serve as an orientation and starting point for strengthening civil society participation. They are presented here to inspire further learning and exchange among different countries aspiring towards change in this field.

Overall, the results of this study emphasise the need for further and more vigorous efforts to strengthen civil society participation in climate-related policies worldwide. Although other crises currently seemingly overshadow the relevance of climate protection and civil society participation, it is more important than ever to involve the perspectives of those most affected. Civil society actors must actively demand participation and decision-making power and governments should provide them with opportunities to be involved. This is necessary to improve the quality, effectiveness and ambition of climate-related policies. Tackling climate change is a common goal and can only be achieved if all countries combine their efforts and are willing to learn from each other.

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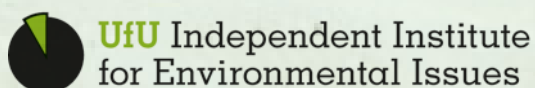
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In 2015, Colombia, Georgia and Ukraine agreed, together with many other countries, on the Paris Agreement to limit global warming and its impacts. However, current national commitments (Nationally Determined Contributions – NDCs) are inadequate to keep the rise in global temperature in this century well below 1.5 °C above pre-industrial levels. Time is running out, and rapid and far-reaching shifts across all sectors are required. Civil society actors play a crucial role in developing and implementing climate policies because they act as watchdogs and advocates for a fair socio-environmental transformation. The scope of their activities and advocacy work ranges from raising awareness about climate change, building capacity, supporting climate change mitigation and adaptation activities to conducting research, developing strategies and measures, and influencing concrete climate policies.

The purpose of the study “Civic space for participation in climate policies in Colombia, Georgia and Ukraine” was to investigate the environment and conditions for climate-related participation, such as the legal framework for participation, as well as concrete practices of participatory policy making in Colombia, Georgia and Ukraine. The analysis explores how national civil society is being involved in political processes related to the Paris Agreement. The focus thereby lies on organised groups, rather than individuals and the general public. Are civil society organisations involved in the development of climate-relevant national plans, strategies and other documents? Are there good examples or good approaches of participation that enable civil society actors to effectively influence national political processes and raise ambition in climate matters? The study also identifies concrete country-specific barriers that hamper or avoid meaningful, effective and long-term participation, and gives advice for overcoming these barriers. Furthermore, the study examines selected examples of good practice in climate-related participation from eight other countries around the world.

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