

**Promotion of the Aarhus Convention
in the whole of the Mediterranean -
Regional Training
*Athens, Greece, 14-15 Nov. 2023***

**Pillar II - Presentation by an Aarhus
Party on its experience**

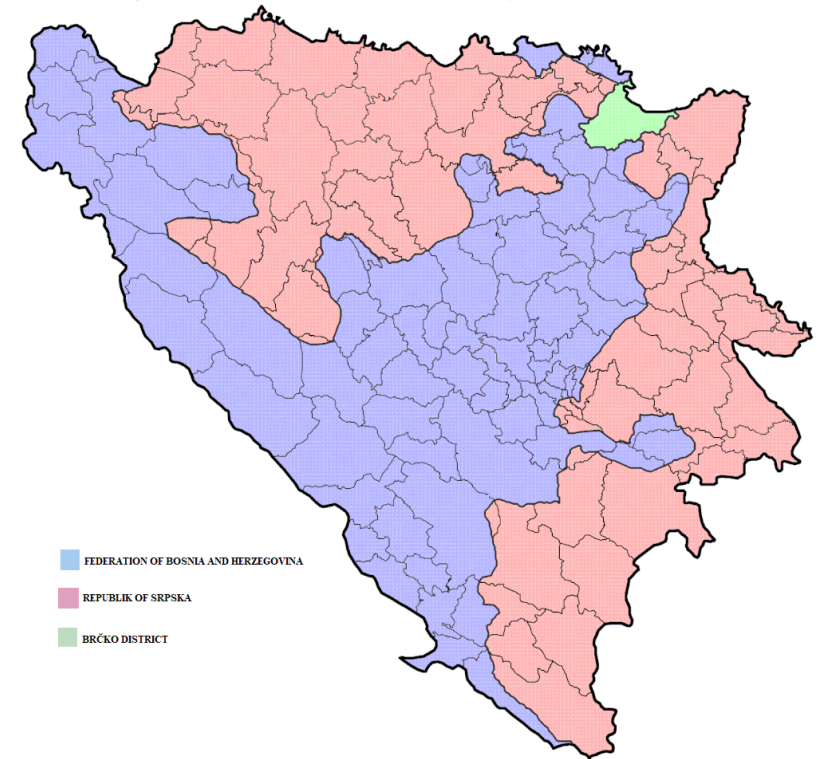
**Public participation in decision
making on urban development/ cities
in
Bosnia and Herzegovina**



Suada Numić, NFP, Bosnia and Herzegovina

Holders of spatial planning in Bosnia and Herzegovina

- Bosnia and Herzegovina is a decentralized state consisting of 2 entities, the Federation of Bosnia and Herzegovina and the Republic of Srpska.
- The Federation of Bosnia and Herzegovina is divided into 10 cantons. Republic of Srpska, which consists of 6 regions. Brčko region has a special status - district status.
- There are 143 municipalities in Bosnia and Herzegovina.
- Spatial planning is not established as a state competence by the Constitution of Bosnia and Herzegovina.
- Given the complex administrative and political structure of Bosnia and Herzegovina, spatial planning is the responsibility of the entities. Entity laws define lower levels of spatial plans and their holders, that is, cantons, cities and local self-government units.
- Spatial planning in the Republic of Srpska is governed by the Law on Spatial Planning and Construction, as the Brčko District and in the Federation of Bosnia and Herzegovina by the Law on Spatial Planning and Land Use and by-laws. Brčko District also has a Law on Spatial Planning and Construction, as does every canton in the Federation of Bosnia and Herzegovina.



Bosnia and Herzegovina and the EU

The development processes followed by Bosnia and Herzegovina must be in accordance with the trends of the member states of the European Union. This implies respect and application of international rules and recommendations established by the United Nations and the Council of Europe, as well as their organizational bodies, through numerous conventions and charters, i.e., with the legal regulations and measures of the European Union contained in:

- ESDP program (European commission's European spatial development perspective 1999),
- CEMAT (European conference of ministers responsible for regional planning),
- Guiding principles for sustainable spatial development,
- Charters on regional spatial development and other acts.

SEA Directive and ESPOO Convention

- The Protocol on Strategic Environmental Impact Assessment to the Convention on Environmental Impact Assessment across State Borders is a key instrument for introducing social and environmental factors into plans, programs and strategies.
- Although the SEA protocol has been integrated into entity laws on environmental protection, its implementation is still not satisfactory, and the existing by-laws need to be improved. **(Transpose the SPUO Directive - Urgent adoption of the Regulation on strategic assessment of the impact of strategies, plans and programs on the environment in the Federation of Bosnia and Herzegovina (currently under preparation)).**
- A very important mechanism for harmonizing European spatial development trends is participation in cross-border, regional and interstate cooperation programs in this area (ESPOO convention).
- In accordance with the European principles of democratization of the spatial planning process in both entities, the obligation of a public hearing was introduced during the preparation of planning documents.

The EIA Directive has been transposed into legislation in both entities in Bosnia and Herzegovina, but this Directive is for individual projects (Annex I and Annex II of the Directive).

Spatial planning and citizen involvement

If citizens do not participate in spatial planning, planning cannot be high-quality, realistic and accepted by citizens.

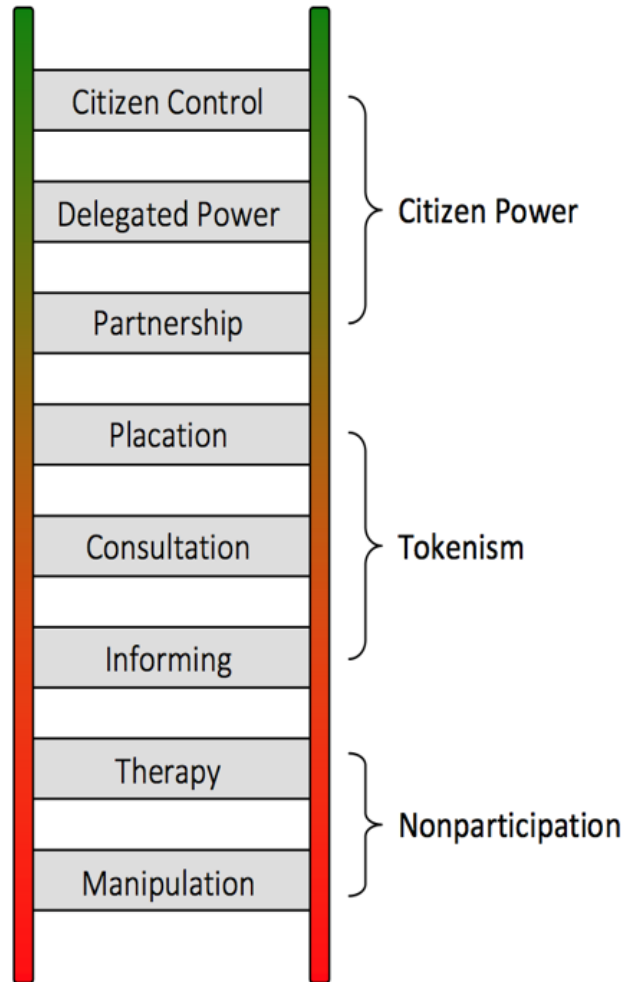
The space planning process or methodology is carried out in four phases:



The laws in force do not give equal rights to all citizens of Bosnia and Herzegovina to participate and decide on the future of the area. In one entity, rights are retained only in the phase of adopting the plan, while in the other entity, citizens are legally involved in all phases of planning, especially in the phase of plan preparation.

In the phase of implementation of the urban plan, citizens are legally guaranteed the same rights as in the process of creating the plan.

Participation scale model



CITIZEN POWER

It is the power of exclusive decision-making in situations where attitudes formulated through a participatory process are the only decision-making factor.

TOKENISM

Formal participation is enabled, but it does not carry any real power and serves for information and consultation, that is, for calming social tensions that may exist through involvement.

NON-PARTICIPATION

Participation formally exists, but with its help it is not possible to achieve any influence because it does not produce any effects.

Is the planning documentation publicly available?

- All adopted planning documents in Bosnia and Herzegovina are public.
- Planning documents are normative acts, i.e., they prescribe what is allowed and possible, which is why they are available for public inspection/insight.
- Decisions on adoption and implementation and the textual part of the planning document are published in the Official Gazette, while the electronic version must be available on the website in order to inform interested entities and the public.
- Decisions of the competent authorities on the adoption of the plan or the initiation of the creation, amendment or modification of the plan are also available.

When is public inspection and public hearing organized?

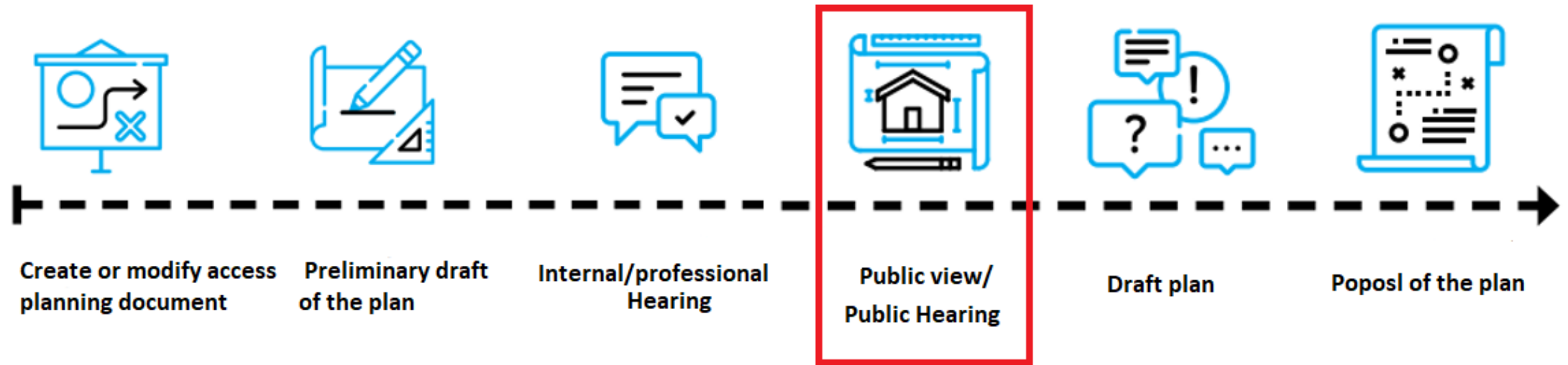
- After determining the draft of the planning document, a public inspection and hearing is organized according to the decision on joining the development of the planning document.
- The public is informed about the place, time and method of presenting the draft planning document for public inspection through an advertisement that is published in public newspapers at least three times, with the first notice being published eight days before the start of public inspection, and the second two consecutive days immediately before the start of public inspection/insight.
- Public inspection of planning documents under the canton's jurisdiction cannot be shorter than 60 or longer than 90 days.
- Public inspection of planning documents under the jurisdiction of the city and municipality can last up to 30 days for detailed planning documents.
- The draft must be exposed, physically available with the presence of experts who can provide clarifications, while the abbreviated draft is officially delivered to other interested persons as planning participants.

When citizens get involved?

The law stipulates that public participation is ensured in the phase of preparation and creation of spatial planning documents.

- The holder of the preparation is obliged to create a public involvement program in the process of preparing and creating all spatial planning documents, which defines the ways of involving the public (organizing forums, round tables, public hearings and other forms).
- The place of advertising is particularly important.
- Expert help in formulating objections can be obtained from the person in charge of preparation and the person responsible for creating the plan or from the expert on duty at the place of presentation.
- Remarks, suggestions and opinions on the draft plan after public inspection, they are submitted in writing to the holder of the preparation.
- The holder of the preparation is obliged to enable submission of objections to the draft by e-mail.
- It is mandatory to organize public meetings with a discussion on the draft of the detailed plan in each local community that is included in the plan.

Scheme of the adoption of the plan or changes and additions to the spatial planning documentation



After public inspection and public discussion:

- Accepted changes are incorporated by the developer in the textual and graphic part of the proposal of the planning document.
- The holder of the preparation determines the proposal of the planning document and submits the complete material to the competent authority for consideration and approval.

What are the most common forms of violation of the law?

- incorrect or completely omitted publication of the place, time and manner of presenting the planning document for public inspection;
- improper publication of information about the place and time of the public hearing;
- scheduling a public hearing at an inappropriate time and in an inadequate place (e.g., during working hours);
- scheduling a public hearing in a place that is very far from the place of residence of the interested public;
- holding a public hearing in a room that is inadequately sized for a large number of participants;
- impossibility of access and insight into the draft proposal for changes and additions to spatial planning documentation;
- the absence of experts at the public hearing whose role is to clarify professional terms and interpret spatial planning documentation;
- denial of the right to comment on the draft spatial planning document during the public hearing;
- making a decision on the adoption of a spatial plan without adequate explanation as to why the remarks and remarks of the interested public, etc., were not taken into account.

What does the public need to know?

- who is obliged to organize public inspection and discussion;
- time, method and form of publication of public inspection/insight and discussion;
- place, time and method of presenting the planning document for public inspection;
- the manner and form of participation in the public hearing;
- deadline by which written opinions, remarks and suggestions can be sent;
- to which authority and what is the deadline when an appeal can be sent to the decision made;
- legal mechanisms, i.e., initiation of an administrative dispute by filing a lawsuit/administrative dispute if legal regulations are not respected during the administrative procedure of changes and planning of the spatial plan;
- that in an administrative dispute, a citizen must prove in writing that he participated in the public hearing in the process of amending and planning the spatial plan as an interested party.

Raising public awareness means

- education on the relevant legal provisions, as well as extensive study of the presented spatial planning documentation in order to prepare for participation in the public hearing;
- enable citizens to turn to non-governmental organizations (NGOs) and associations that provide free legal assistance;
- advise citizens to take enough time to familiarize themselves with the draft spatial plan changes, in order to make quality comments on the draft;
- institutions must create tools with which citizens, especially women, can be more easily involved in urban planning in all phases;
- stronger inclusion of women in the decision-making process - gender equality;
- public administration at all levels of government must develop special methods and include the specific needs of women and men in urban planning.

Abstract

- laws of entities, cantons and municipalities prescribe public participation;
- it is necessary to improve public participation, increase interest;
- it is necessary to strengthen the awareness of citizens, especially women, about the importance of participation and encourage participation;
- provide professional assistance to citizens for a better understanding of spatial planning documentation;
- through education, encourage citizens to participate and demand respect for their opinion;
- strengthen trust between all planning participants: authorities, experts and citizens;
- institutions at all levels of government (entity, cantonal, municipality) must recognize the importance of citizens' participation;
- high-quality urban planning with the participation of citizens contributes to the development of the country.