



**SCREENING CHAPTER 27
ENVIRONMENT**

AGENDA ITEM: PUBLIC PARTICIPATION

**Country Session: The Republic of TURKEY
29 May - 02 June 2006**



CONTENT

- **Legislative Framework**
- **Public Participation**



LEGISLATIVE FRAMEWORK

Law No.2872 on Environment as Amended by the Law No.5491, Article 3-e

“In forming environmental policies right of participation is the fundamental principle. Ministry and local authorities are responsible for providing a participation environment to chambers of professions, unions, NGOs and citizens, in which they will use their environmental right.”



LEGISLATIVE FRAMEWORK (CONT'D)

Law No.2872 on Environment as Amended by the Law No.5491, Articles 4 and 5

“Supreme Council of Environment”

According to the agenda of the Council’s meeting;

- union representatives of institutions which are described as public authorities,
- chambers of professions,
- NGOs,
- representatives of local authorities,
- representatives of universities and scientific institutions are invited.



LEGISLATIVE FRAMEWORK (CONT'D)

Law No.2872 on Environment as Amended by the Law No.5491, Articles 4 and 5

Tasks of the Council:

- To determine objective, policy and strategy to ensure an effective environmental management,
- In the framework of sustainable development principle, determine legal and administrative measures that enable to include environmental concerns into economical decisions,
- To give the final decision in conflicts related to the environment in which more than one ministry and institution are involved.



PUBLIC PARTICIPATION

EIA Procedure

Public participation in EIA procedure is provided through the By-law on EIA.

Details of this procedure are covered in the EIA presentation.



PUBLIC PARTICIPATION (CONT'D)

Every person, whose interest is affected, prior to recourse to judiciary, could apply to superior authority for review of the decision.

If there is no superior authority, the applicant could apply to the same administrative body which takes the decision within 60 days after the notification of the administrative decision to himself/herself under the Article 11 of Law No. 2577 on the Procedure of Administrative Justice.



PUBLIC PARTICIPATION (CONT'D)

The person, whose interest is affected, could recourse to administrative judiciary in case of refusal of this request.

It is obligatory that applicant shall follow this application procedure prior to recourse to administrative judiciary if this application procedure is set out in the specific law to which the administrative institution concerned is subject.

If such an application procedure is not set out in specific law, the person, whose interest is affected, could recourse to administrative institution for review of the decision as mentioned above as well as he/she could recourse directly to administrative judiciary within 60 days after notification of the decision to himself/herself under the Article 7 of the Law on the Procedure of Administrative Justice.



PUBLIC PARTICIPATION (CONT'D)

- Case-law of the Council of State sets out that “criterion of the affected interest” means legal, current and individual interest.
- Council of State interprets this criterion in a broader sense as far as possible on the ground that issues such as environment closely concern the public.
- As far as administrative act is concerned, it is obligatory that the person, whose right is violated by administrative act, shall request administrative body concerned to fulfil his/her right within 1 year after notification or notifying of the act under the Article 13 of the Law on the Procedure of Administrative Justice.
- In case of whole or partial refusal of this request or no response to this request, applicant could recourse to administrative judiciary. Compared to “criterion of affected interest”, Council of State interprets “the criterion of the violated right” in a restrictive manner.



Thank you for your attention