

**A thesis submitted to the Department of Environmental Sciences and Policy of Central
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**Public Participation in Environmental Decision -Making in Georgia: Current Practice
and Recommendations for Improvement**

By

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THE CENTRAL EUROPEAN UNIVERSITY

ABSTRACT OF THESIS submitted by:

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In the democratic states public participation in decision-making along with the government entities is well established process. Participation on the one hand grants legitimacy to the decisions and on the other hand contributes to the social equity in the distribution of costs and benefits of project development. The international community introduced Aarhus Convention establishing the minimum requirements of public participation with the purpose to empower civil society and individuals in order to get the powerful actors in the process of democratization.

The study, through analyzing two case studies on hydro power plants development, examines how the public participate in environmental decision-making process in Georgia, identifies key barriers and formulates practical recommendations on the improvement of the current practice. The following strategy was prioritized to achieve the goal: Firstly, legislation analysis with intention to identify the regulatory gaps was conducted and secondly, two case studies on hydro power plants were selected to examine how the legislation works in practice.

The research revealed that public participation mechanisms in Georgia are weak and does not grant any power to public. The reasons are various, starting from the historical background and low environmental awareness to poor political will and environmental regulations.

Key Words: Public Participation, Georgia, Aarhus Convention, hydro power

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List of Abbreviations:

BOO-Build-Own-Operate

BTC- Baku-Tbilisi-Ceyhan oil pipeline

CENN-Caucasus Environmental NGO Network

CIT- Country in Transition

CSRDG- Center for Strategic Research and Development of Georgia

EBRD-European Bank for Reconstruction and Development

ECE-Economic Commission for Europe

EIA- Environmental Impact Assessment

ENGO-Environmental Non-governmental organization

ESIA-Environmental and Social Impact Assessment

EU-European Union

FSU-Former Soviet Union

GWh- Gigawatt Hour

HPP- Hydroelectric power plant

IFC-International Finance Corporation

ME-Ministry of Energy

MENRP- Ministry of Environment and Natural Resources Protection

MESD-Ministry of Economy and Sustainable Development

MoU-Memorandum of Understanding

NCEA- Netherlands Commission for Environmental Assessment

NGO-Non Governmental Organization

NTS-Non-technical Summary

OSCE-Organization for Security and Co-operation in Europe

OECD- Organization for Economic Co-operation and Development

PP-Public Participation

RAP-Resettlement Action Plan

REC-Regional Environmental Center

RoR-Run-of River

SEA-Strategic Environmental Assessment

SCP-South Caucasus Pipeline

UN-United Nations

USAID- U.S. Agency for International Development

UNDP-United Nations Development Program

WCD-World Commission of Dams

WWF- World Wide Fund for Nature

Chapter 1. Introduction

Environmental decision-making process is complex and involves many uncertainties, actors and vulnerable groups. In democratic states public participation in the decision-making along with the project proponents and government entities is well established process. Participation on the one hand grants legitimacy to the decisions and on the other hand contributes to the social equity in the distribution of costs and benefits of project development (Lostarnau et al 2011).

At international level public participation became the well acknowledged tool for environmental decision-making after the United Nations (UN) 1992 Rio Conference on Environment and Development. Principle 10 of the Rio Declaration stated: “environmental issues are best handled with the participation of all concerned citizens at the relevant level” (UN, 1992). Later Aarhus Convention set the minimum requirements of public participation with purpose to empower civil society and individuals in order to get powerful actors in the process of democratization itself (Stec 2005). After various international organizations’ successful recognition (OECD 2001, UN 2002, etc) of the public participation as the central tool in the decision-making , all countries introduced some practical mechanisms for its implementation.

Georgia has ratified Aarhus Convention in 2002 and introduced the basic provisions of public participation in legislation, though like many countries in transition, it faces various challenges in implementing them. The recent decision of the Georgian government to exploit country’s water recourses for the hydro power development have once again manifested the importance of the effective public participation. However both the politics of the hydro power sector and development of the hydro power plants (HPP) projects are associated with number of negative environmental and social impacts and adequate consideration of the public’s

concerns are crucial to achieve sustainability. Effective public participation (PP) mechanisms are vital to get public's voice heard and interests considered. Based on the two case studies on HPP projects, the present thesis will describe and analyze how PP is implemented in Georgia, and provide some insights into how the existing practice can be strengthened in order to make it more effective tool in the hands of communities and civil society struggling to secure their environmental rights.

Despite the existence of the broad literature on public participation in environmental decision-making worldwide, the study is the first attempt to conduct in-depth analysis of the PP patterns in Georgia and opens room for further investigation. Theoretically the research supports the growing body of literature studying public participation and its implications in the countries in transition to democracy. Also the research has practical contemplations since it reveals the barriers of the effective PP in Georgia through the case-study on hydropower sector development and provides the recommendations for the improvement of the current practice.

1.1. Aim and Objectives

The main aim of the thesis is to *examine how public participate in environmental decision-making process in Georgia, identify key barriers and formulate potentially practical recommendations on the improvement of the current practice.*

Taking into account the complexity of the research topic and the variety of the issues to be examined the following key objectives have been established:

1. Analyze Georgian Legislation and emphasize how the existing legislation facilitate public participation into the decision-making processes;

2. Examine the existing practice, the quality and level of ordinary citizens' and the civil society's involvement in the environmental decision making processes;
3. Identify and evaluate the interaction between historical events, existing political and socio-economic situations and public participation patterns in the country;
4. Analyze hydropower sector development and undertake case studies with intention to better understand how public participation is ensured in practice;
5. Define and evaluate the role of different stakeholders participating in environmental decision-making sector in Georgia.

1.2. *Structure of the Thesis*

The research is organized into seven main chapters. Following the introduction, Chapter 2 provides the theoretical background of public participation through reviewing various scientific papers and literature. Specifically the public participation concept is elaborated in order to contextualize the topic of the study. Also the same chapter presents the brief analysis how the public participation is viewed in the global environmental arena, more precisely the key landmark-Aarhus Convention is reviewed and its role to promote participatory environmental decision-making emphasized. The same chapter puts the Georgian context and reviews the public participation patterns during and after the breakup of the former Soviet-Union (FSU).

Chapter 3 gives outline of the Georgian energy sector with special emphases on the current politics of development of various sizes and scale HPPs. The same chapter investigates the disputed energy projects with two main purpose: on the one hand to provide the background information of the problem and on the other hand to justify the researchers choice to explore public participation in the decisions through analyzing two case studies on the hydro power plants.

The detailed description of the applied methodology is provided in Chapter 4. Qualitative research based on the semi-structured interviews and the participant observation was applied as the main research methods. Additionally, since the key objectives were to juxtapose the legal provisions to their practical implementation and to depict the reality, two in-depth case studies on the HPP projects (Khudoni HPP and Dariali HPP) were undertaken. Finally, literature review and analysis of various secondary sources, including relevant national legislation were essential for achieving the research goals.

Chapter 5 presents the empirical part of the research. However the Chapter is divided into two main bodies. Firstly, the chapter will deal with comprehensive analyses of relevant legislation with intention to identify gaps existing in national regulations. Secondly how the legislation works in practice will be examined through interviews, case studies and observation results.

Chapter 6 overviews the significant barriers of the public participation identified through field research, participatory observation, case study analysis and interviews. The Chapter will be followed by recommendations to improve the current practice. Finally, Chapter 7 makes conclusions about current nature and practice of the PP in Georgia.

Chapter 2. Literature Review: Public Participation in Decision-Making

2.1. Objectives for the Participation

The main purpose of the literature review was to build the theoretical foundation for the research. The deep exploration of the public participation theory and participatory models were critical to describe the forms of the public- participation in Georgia, as well as to identify barriers and draw conclusions about the processes which are currently taking place.

First and foremost, there should be the clear definition of the term “Public Participation” provided, since it is repeatedly mentioned in the literature, often without clear understanding who exactly shall participate. Moreover the words –“stakeholders”, “citizens”, “communities”, “public” are often fungible terms cited by various scholars (Hughes 1998). Petts (2003) emphasizes this inaccuracy and points out that having the specific knowledge of who the “public” are and what their interests are is important, not only to understand how the participation can benefit the project or program, but to design the specific PP actions as well (Petts 2003).

Part of the scholars (for instance Burton 2004) state that “everyone effected by the decision” shall participate, while others (Dietz et al 2008) refer to each individual, group, or organization that may be interested in the activities can participate (Doelle et al 2006). Therefore the umbrella term ‘public participation’ used in the presented thesis will encompass the citizens, stakeholders, civil society and communities that are interested in or affected by the decision.

The theory of the public participation is complex and has various interpretations. However the different definitions of the word *participation* itself leave room for the confusion, especially in the present purposes when participation should be understood from the practice.

Though the PP is regarded as the favoured tool in the environmental decision-making, the definitions are various, for instance Renn et al. (1995) describe public participation as: 'forums for exchange that are organized for the purpose of facilitating communication between government, citizens, stakeholders, interest groups, and businesses regarding a specific decision or problem'. More widespread explanation comes from Arnstein (1969) who refers to the public participation as the "citizens' power", giving opportunity to the 'citizens, presently excluded from the political and economic processes, to be deliberately included in the future' (Arnstein 1969).

Airnstein (1969) proposes eight, hierarchical steps of the "ladder of public participation" in order to conceptualize the degree of participation (figure 1.) The ladder moves up from the non-participation level through 'tokenism' stage (where participants are listened though they may or may not affect the decision) to the citizen control (Arnstein 1969). However this "ladder" has often been used as the measuring mechanisms to evaluate the political decision of the large-scale development projects.

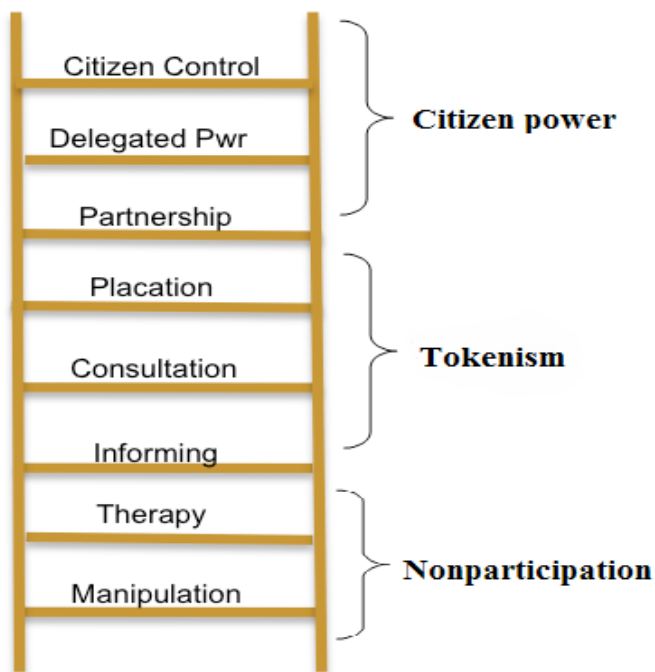


Figure 1 : ladder of Citizens Participation

Source: Adapted by author based on Arnstein's (1969)

The scholars advocating the idea of citizens' inclusion in the decision-making, most frequently refer to the instrumental, substantive and normative rationales (Wesselink et al 2011).

-Instrumental: 'effective public participation makes government decisions legitimate' . There are the cases when the decisions do not consider the opinion of each participant individually (Fiorino 1996), though the public opinion shall effect on the decisions. Petts (2003) emphasize that for the project developers it is important to achieve the legitimacy of the decisions through the public participation in order to avoid protests and opposition to the decisions that may delay or halt their implementation. The Instrumental rationale aims to identify and resolve the conflicts before the final decision about the projects are made.

-Substantive: Citizens have invaluable contribution due to their unique, non-scientific knowledge about the local resources, issues and problems, experts may lack. It provides the ‘breadth and depth’ of the information and ensures the better quality of the decisions (Wesselink et al 2011).

-Normative: The objectives of normative rationale are associated with the democratic principles. Scholars argue that since the decisions related to the natural resources virtually affect on the everybody’s life, every individual shall be given the chance to influence the decision (Glucker et al 2013). Moreover it suggests that the process of the public’s participation in the decisions that have direct impact on them, can make them better citizens in future since “we learn to participate by participating and that feeling of efficacy are more likely to be developed in a participatory environment” (Fiorino 1996; Pateman 1970). Moreover public participation enables citizens to learn about the environmental problems and leads to change their behaviour (Coenen 2008). One more important objective of the public participation is its contribution to the social learning (Fiorino 1996); with this regards authors argue that public participation in the environmental decision-making enables ‘deliberation among the stakeholders that results with the social learning ‘(Glucker et al 2013; Garmendia et al 2010).

2.2. Public Participation in Global Environmental Arena

The National Environmental Policy Act (NEPA) of the USA in 1969 made the public participation in the environmental decision-making institutionalized at the country level through adopting Environmental Impact Assessment EIA system. Soon the debates to involve the public in environmental matters have widespread all over the world, here of course the international forums such as United Nations, World Bank, IFC played key role. In parallel, the controversies over the environmental and social issues and economic growth, have given

further incentives to public participation. The citizens, non-governmental organisations (NGOs) and advocacy organizations emphasized number of gaps in the existing practice of the citizen's involvement and demanded the urgent changes (Depoe et al 2004).

The important role of the public participation in the environmental decision-making has been actively acknowledged by international community for the recent decades. In 1992 the Rio Declaration has clearly indicated the participation in the environmental decision-making as the key principle of the environmental governance. Principle 10 of the Declaration 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....States shall facilitate and encourage public awareness and participation by making information widely available".

Later (in 1995) the UN/ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-making (Sofia Guidelines) was one step forward the international community made towards the better environmental governance. The Guidelines identified public participation as one of the seven important elements of the long-term environmental program for Europe (Stec and Casey-Lefkowitz 2000).

The most important landmark is the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matter, well-known as the Aarhus Convention, adopted at the Fourth Ministerial Conference Environment for Europe in Aarhus, Denmark in 1998. Initially 39 countries of European community signed the Convention in 1998 and it came into force in 2001. The Convention is based on three 'pillars': access to information, public participation and access to justice.

Pillar I—Access to information

The pillar provides right to the public to seek access to information, as well as oblige authorities to disseminate information of public interest no matter whether there is the specific request of such information or not (Aarhus Convention 1998).

Pillar II—Public participation in decision-making

The second pillar is largely based on the first and third pillars, specifically the information pillar guarantees the informed participation, while the access to justice assures that public participate occurs in reality and not on a paper (Stec and Casey-Lefkowitz 2000). The public participation pillar has three different domains: 1. participation in decisions on specific activities, 2. Participation in adopting policies and programs with regard to the environment and 3. Participate in preparation of the specific regulation or any legally binding normative mechanisms.

Pillar III—Access to justice

The third pillar aims to enforce the first and second pillars in the national legal systems and ‘strengthens enforcement of domestic environmental law’ (Stec and Casey-Lefkowitz 22000).

Hence the global community acknowledged the central role of the public participation in decision making and gradually all countries attempted to integrate some measures for the PP in their national legislation. However all the multilateral financing agencies such as World Bank and IFC set mandatory requirements for guaranteeing involvement of public in decisions (Bisset 2000). These efforts lead the countries to stronger democracy and better environment (Fiorino 1996). The review of the literature reveals that in most cases, especially in developing countries, such measure is the EIA legislation (Bisset 2000), though

it is obvious that countries experience the different level of public participation that raise a lot of questions regarding the reliability and credibility of the decisions. While countries with higher level of democracies are much advanced in this sense, most newly emerged democracies still have many problems due to the non existence of the history of the public engagement in the decisions and number of legislative deficiencies.

2.3. Effective Public Participation

In the previous sections the thesis emphasized the value and key objectives of the public participation. This section has more specific goal: to understand what makes the participation process work effectively and what are the factors leading to conflicts, mistrust and injustice. Obviously the challenges to implement effective public participation are different for the developed states and the countries in transition. Nevertheless the literature gives opportunity to identify key factors leading to the success.

The scholars highlight that effective public participation covers both formal and informal methods, though practitioners argue that the methods alone does not guarantee the success. For instance Depoe et al (2004) suggested that the methods (public hearings, conferences , stakeholder forums) are meaningless if the technocratic approach is prevailed and the government officials, program/project proponents see their main function as to educate and ‘persuade the participants about the legitimacy of their decisions’ (Depoe et al 2004).

Participatory theory provides the opportunity to develop practical mechanisms that promote democratic participation; in particular Fiorino (1996) suggests a basic criterion that leads to the effective participation:

1. *Direct Participation of amateur*: ‘in a pluralist model, citizens participate in the activities through the elected governments and its appointed representatives’ (Fiorino

1996), though the goal of the participation theory is to include the people in the processes as amateurs rather than professionals.

2. *Participation on a more equal basis*: the mechanisms that are the most widespread, such as public hearings, do not allow the public ‘to develop much information on the issues at hand’ (Fiorino 1996). An effective participation provides details on the issues, alternatives, consequences and gives the public opportunity to interact with the main decision-making authorities and not with junior staff.
3. *Sharing in decision-making*: the goal of the public participation is that the citizens have real choices and their opinions define the actual outcome.

Most of the authors suggest that the key of the successful public participation process is the early and ongoing involvement of the public (Depoe et al 2004; Doelle and Sinclair, 2006). Public shall be included at all stages starting from planning to the management and evaluation of the project. For instance Bisset (2000) based on the past experience claims that the projects better achieve their objectives, avoid costly delays and are less likely to fail if early and planned public participation takes place (Bisset 2000). The Article 6 of the Aarhus Convention state:” The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner. . .(2)....The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public. . .(3)”

Another key factor proposed by the literature (Petts 2003) and Aarhus Convention for the effective public participation is accessibility to all relevant documents that may be important for decision making. “An indication of the public authority from which relevant information

can be obtained and where the relevant information has been deposited for examination by the public” (Article 6, Aarhus Convention).

Habermas’s (1984) theory of communicative action encompass two key criteria –“fairness” and “competence”, while Petts (2003) considers social learning, timing and public trust as important provisions for effective participation.

2.4. Public Participation in Decision-Making in Georgia

2.4.1. Historical Background: Public Participation During the Soviet-Union

As in the whole Soviet Union, economic development at any cost was prioritized during several decades of the 20 century in Georgia, without much concern about environmental or social impacts of the rapid industrial and agricultural progress. Public participation in decision-making never took place under socialism, simply due to the tight control over the dissemination of information (CTC 2005). Moreover there was no Ministry of Environment in Georgia until independence. The responsible entities dealing with environmental issues in the country were the Nature Protection Society and the Nature Protection Committee, though it should be pointed out that environmental responsibilities were overlapped between different government entities and there was not room for the effective decisions (CTC 2005).

Environmentalism, environmental movement and public’s interest in environmental issues evolved at late 1980s, when Gorbachev initiated new policies -*perestroika* and *glasnost*, about the availability of information (Hopkins 1993) . The issues often discussed behind the closed doors immediately attracted public’s attention and in all countries ecological matters became the most acute and problematic for the communist regime. The legislation and regulations for the examining the projects existing in the FSU failed to satisfy the public’s interest, moreover the existing practice of the project appraisal often portrayed the planned,

environmentally harmful projects as the acceptable, that ignited public's outcry (Mnatsakanian 2000). Soon scientists and intellectuals initiated new practice-public expertise-for every new important project. The public expertise that mostly had the form of public hearings and debates very often used to reveal project's severe impacts on environment and public health that had ignored during the project's planning. Of course the findings of the public expertise used to inflame the public's rage (CTC 2005). In late 1980s nearly all states in the FSU organized the public ecological expertise and every country had at least one project rejected due to the public's protest (Mnatsakanian 2000) .

The Khudoni HPP and Trans-Caucasus railway were such projects in Georgia, both stopped due to the unprecedented mobilization of public protest. The campaigns against the construction of the HPP and railway were motivated by environmental concerns (CTC 2005). In parallel , late in the 1980s in the states where the communist regime always tried to control all social activities, number of NGOs appeared rapidly and inclusion of the 'civil society' in the ongoing processes became natural trend. Georgia's Greens movement described in the literature as the "public-political organization" acting through the following key principles: "ecological safety, democracy, and nonviolence" (Peterson 1993). In Georgia, like in the whole FSU environmental issues first ignited the national identity, which very soon collapsed Soviet Union (CTC 2005). *"To many citizens, the destruction of nature in their homelands epitomized everything that was wrong with Soviet development, the Soviet economy, and the Soviet state itself, and these great injustices against nature were obvious and easy focuses for action"* (Peterson 1993).

2.4.2. Public Participation after the Breakup of the Soviet Union

After the breakup of the Soviet Union the general trend in all member countries was the considerable reduced interest towards environmental issues, mainly due to new economic and

political consequences. After the regime change Georgia together with independence got the high rate of crime, economic crisis and severe social situation respectfully. Soon two ethno-political wars, a civil war and thinking about survival did not leave much time and place for the volunteering in environmental activities. However Georgia with assistance of the international donor organizations in 1990s formulated and enacted the key environmental laws and became signature of basic international conventions (Gachechiladze&Antypas 2009). The fundamental principles of the international environmental governance as pollution prevention and risk reduction were integrated into the state's regulations. Basic environmental legislation and Constitution of Georgia established the guarantees for citizens to obtain full and objective information about their environment and provided simple mechanisms of public participation in decision-making process.

First of all, the Constitution of Georgia (1995) guaranteed citizen's right to the healthy environment, sustainable development and access to environmental information:

Article 37 (3)

“every person shall have the right to receive complete, objective and timely information as to the state of his/her working and living environment”

Article 37(4) (as translated by Gachechiladze and Antypas 2009)

With the view of ensuring safe environment, in accordance with ecological and economic interests of society, with due regard to the interests of the current and future generations the state shall guarantee the protection of environment and the rational use of nature.

Also Georgian Law on Environment (1996) states that:

Article 6:

(G) Any person has the right to receive complete, objective and timely information as to the state of his/ her working and living environment.

Article 6

(F) Any person has the right to participate in discussions and decision-making process on important decisions related to the environmental protection.

After the Constitution comprehensive legislative package was prepared and adopted. The laws best relevant for the public participation were: the law on Environmental Protection (1996), the law on State Ecological Expertise and Environmental Impact Permit (1997).

However the research argues that the established procedures are far from the principles of the participatory democracy. Like other CITs, in Georgia legal changes were not followed by proper implementation bodies that would facilitate effective implementation of the legislation (Antypas 2003).

However the late 1990s- early 2000s was the period when the economic revival and new infrastructural projects gave new strength to the environmental movement (Arabidze 2009). Specifically development of new large scale infrastructural projects emerged and construction of the new Supsa and Kulevi Oil terminals, later Baku -Tbilis-Cheihan (BTC) and South-Caucasus pipelines (CSP) got headlines , mobilized NGOs first and due to their activities the local affected communities later. However though the projects argued to be harmful for environment, oil development was the key priority of the former government in order to maximally utilize country's potential to serve as transitional country transporting the oil resources from east to west (Arabidze 2009). Since the western countries and international companies had prioritized the oil reserves in Caspian Sea, Georgia found itself in a quite good position to acquire a new role of transportation oil and gas from Azerbaijan to Europe. However exactly the BTC and SCP projects caused the biggest resonance and attracted civil society. Those projects formed second wave of Georgian environmental movement (Arabidze 2009). NGOs fulfilled the role of watchdogs, monitoring the activities undertaken by pipeline companies. Also it should be pointed out that pipelines construction was the first case when the NGOs conducted systematic meetings with affected communities with intention to raise environmental awareness, educate them about their rights and support to organize number of

protesting actions to better defend their interests. Such civil campaigns promoting public participation, human right and environmental justice increased ordinary people's awareness about the obligations both the developing companies and government had before them. The projects were the first start to change the soviet mentality to obey to all decisions made by central government. Also due to NGOs activities, the affected communities became aware how protect themselves from the problems emerging from the large infrastructural projects (GoldmanPrize 2004).

However after 2005 no projects of the similar scale have been implemented in Georgia. Therefore the educational or awareness rising campaigns with population, especially with those leaving in the rural areas were rare. Moreover after Rose Revolution (2003) the priority of the new government was so called 'fast economic modernization practice' that brought number of reforms which included liberalization and deregulation of sectors, where 'through minimizations of its control functions the government risked to the health and safety of its own population and the environment ' (CEE Bankwatch Network and Green Alternative 2007). Approximately 85 percent of the licensing regulations has been abolished, including those concerning with the environmental field. The best example of this is the legislative changes in the licensing law, when A category projects, such as oil and gold extraction no longer required to carry out Environmental Impact Assessment (CEE Bankwatch Network and Green Alternative 2007). Moreover in 2011, Ministry of Environment lost control over natural resources, which transferred to the Ministry of Energy. Ministry of Environment lost all instruments of control, such as issuing licenses on natural resources and preserve ecosystems (Kharadze 2011).

Finally, the recent positive changes should be pointed out. After the 2012 October election the new government publicized environmental protection being its priority and in March

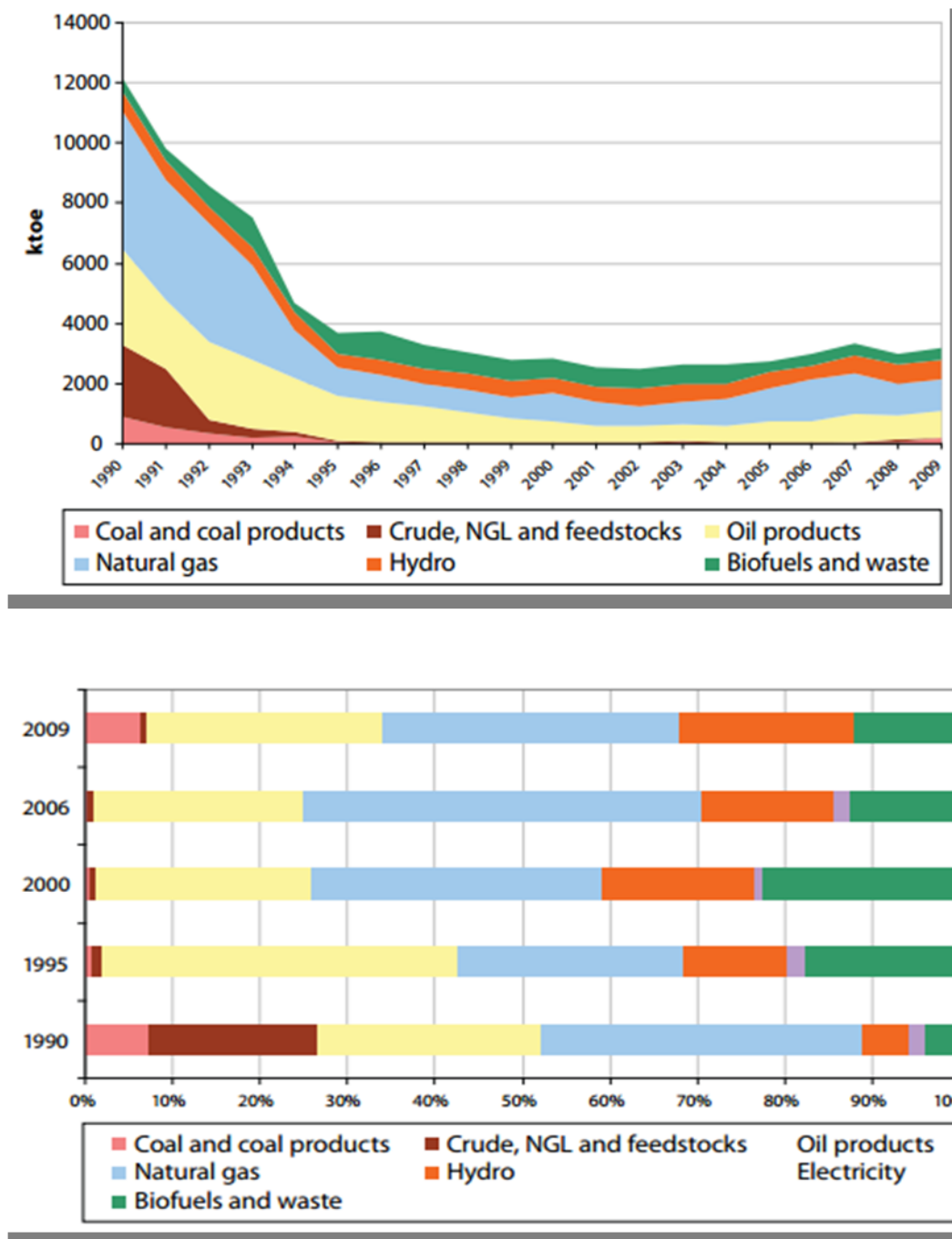
2013 Ministry of Environment got back the control over the natural resources. New Ministry of Environment and Natural Resources Protection currently is working on strengthening both the regulation and institutional capacity.

Chapter 3. Development of Hydropower Sector and its implications in Georgia

As mentioned above the development of the various size hydropower plants is the most acute issue in Georgia currently. Government of the country pushes the HPP development due to the energy security and the potential economic benefits, while the civil society actively stress on the negative environmental and social impacts of the projects. Therefore the current processes around the issue defined researchers choice to select hydropower plants as the case study and examine how public participation mechanisms work on the specific projects level. Before presenting the research findings, the brief description of the hydropower sector and its implications in Georgia will be provided in the sections below.

3.1. Brief Review of the Georgian Energy Sector

Georgian does not have its own oil and gas resources and imports 98% of the primary energy products, which together meet approximately two thirds of the primary energy supply (figure 2). Georgia has the important geo-strategic location and major transmission lines and oil and gas pipelined go through the country. Therefore the energy transport routes generate the transit revenues and own energy (ME, 2011) Currently about 60% of the country's domestic gas demand is provided from the transit fees from South Caucasus Pipeline (SCP) and North South gas pipelines (ME, 2011).

Figure 2: Total Primary Energy Supply

Source: IEA Statistics, electronic database 2011

However country is rich with its water resources. According to the Ministry of Energy of Georgia (2013) about 300 rivers have the considerable hydro power potential with the estimated installed capacity 15 000 MW and only 18% of the available resources are exploited nowadays (ME 2013).

Due to the seasonality of hydropower production and the electricity demand patterns in the country, Georgia exports its electricity in summer, while is net importer in winter. Arising from the rehabilitated and newly constructed HPPs, country's electricity generation has increased considerably during the recent decade (ECON 2010). From 2007 to 2011 power production have exceeded to the demand and Georgia became the key electricity exporter to the South Caucasus region, particularly by 2010 Georgia has exported 1,5 billion KWh of electricity (15% of the country's total generation) (Energy Charter Secretariat, 2012) (Figure 3).

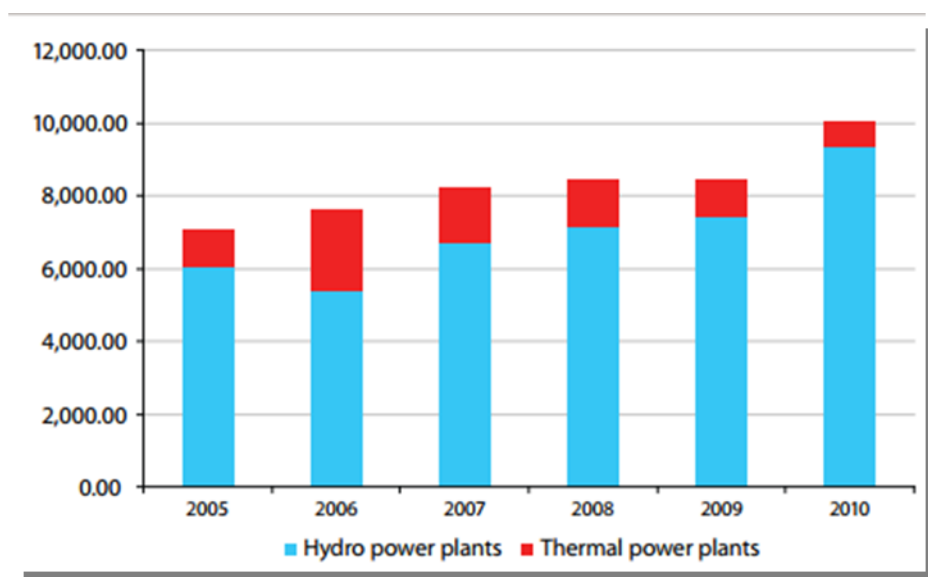
Figure 3: Electricity Statistics 2007-2012

Year		2007	2008	2009	2010	2011	2012
Total Generation	GWh	8218.4	8,441.00	8,402.30	10,046.30	10,104.51	9,694.72
HPPs	GWh	6746.3	716.1	7411.62	9367.7	7.892.46	7,222.62
Thermal Power Plants	GWh	1472.1	1,280.00	990.68	678.60	2221.05	2,472.10
Losses	GWh	333.8	343.3	273.01	315.3	192.38	225.70
Electricity Import	GWh	433.5	649.1	254.98	222.1	470.98	614.59
Electricity Export	GWh	633.94	679.4	749.36	1,524.30	930.595	528.15
Electricity Consumption	GWh	—	—	7,907.90	8,744.20	9,256.57	9,379.38

Source: ESCO, 2013

However it should be highlighted that most of the exports are carried out during the summer period when the hydropower generation increases and makes room to fully cover the domestic demand and export the surplus electricity to neighboring countries (Energy Charter Secretariat 2012). The peak demand comes in winter when the hydro resources are not enough to satisfy the electricity demand and thermal power generation, which relies on expensive natural gas imports and imported energy comes in place (figure 4).

Figure 4 Electricity Generation by power plant type



Source: Energy Charter Secretariat, 2012

3.2. Energy Policy of Georgia

In June 2006 Georgian Parliament based on the Georgian Law on the Electricity and Natural Gas (1997), adopted Resolution on the energy policy of the state and defined the main directions of the energy policy and the ways they shall be implemented (ME 2011, ME 2013). Specifically, economic independence of the energy sector and energy security shall be

ensured through meeting the local electricity demand via utilization of hydro power resources of Georgia and diversification of the existing resources (ME 2011). Apart from the electricity security the main objective of the exploiting the Hydropower capacity is to export the surplus electricity to the neighboring countries (mostly in Turkey) (GNIA, 2013).

Currently there are about 57 memorandums of understanding (MoU) signed between the government and the local or foreign investor companies and 30 projects are already under the construction phase, while 27 are on the research or negotiation period (ME 2013). Total installed capacity of the planned projects amounts to 2,213 MW, thus by implementing the projects existing electricity generation will be increased by 70% by 2018 (GNIA,2013). Among the potential projects are 5 large and 28 medium size HPPs.

Figure 5 Map of Georgia with Potential Hydropower Sites in Georgia



Source: Ministry of Energy of Georgia (2013)

There are different types of technical variations for the utilization of water for power generation. Hydropower projects are distinguished by storage capacity, in particular

run-of river (RoR) (also referred as derivation type HPPs), storage (reservoir) and pumped storage (Kumar et al 2011). Also HPPs vary in scale, depending the hydrology and topography of watershed (Kumar et al 2011); generally, small plants generate less up to 10 MW, medium 10-100MW and large plants have capacity to generate more than 100MW. Currently only storage and RoR HPPs are developed in Georgia (Kumar et al 2011).

Reservoir-type hydropower Plants

Reservoir projects accumulate the water behind a dam to ensure the regulation of flow throughout the year and also provide the opportunity for the energy reservation in order to satisfy the electricity demand during the peak hours (Egre&Milewski 2002). Reservoirs are considered to have considerable advantage in terms of potential energy benefits over any other type of installations, since the electricity production can be adjusted to the fluctuations of power demand.

The size of the reservoir is depended on the area, height of the dam and the amount of the electricity expected. Areas occupied by reservoirs vary from a few square kilometers to 5000 km² or more. The principle is simple-the bigger the storage area is the larger is the volume and better contributes to the energy security (Egre &Milewski 2002)

Run-of-river projects

This type of hydropower does not significantly alter the natural water flow. In case of the run-of-river (RoR) HPPs reservoirs either are not constructed or its size is relatively small. They are constructed with small head if the river is large enough and has gentle gradients or on the smaller rivers with the steep gradients the head is high (Egre & Milewski 2002).

Run-of-river HPPs may need to use all the river flow to meet the targets or the significant portion of it. RoR projects generate electricity based on the amount of the water that flows in the plant, therefore they are largely depended on seasonality of the rivers (Kumar et al 2011). Thus as far as in most cases the peak demand and higher flows doesn't take place at the same time, this type of HPPs cannot be regarded as cost-effective and reliable source in terms of electricity security and stability. The pure run-of-river hydropower can satisfy only the base electricity demand (Egre&Milewski, 2002).

As mentioned above RoR HPPs are acknowledged to have relatively lower environmental impact than similar size HPP with reservoir. Unfortunately current practice in Georgia leaves only 10% of the annual water flow in the natural river bed and the rest is assigned through the derivative pipe to the turbines (Gamma and Stuki Caucasus 2011; Gamma 2011). Thus the existing practice has the devastating effect on the local ecosystems and biodiversity of Georgia.

3.3. Government Institutions Responsible for HPPs Development

At present, there are the following government agencies responsible on development of the hydropower sectors: Ministry of Energy of Georgia (ME), Ministry of Environment and Natural Resources Protection (MENRP) and the Ministry of Economy and Sustainable Development (MESD).

The brief outline of their responsibilities with regard to the Hydropower Sector Planning and Development are as follows (figure 6) Ministry of Energy develops and implements national energy policy and strategy for all energy sectors including hydro powers. Also on behalf of

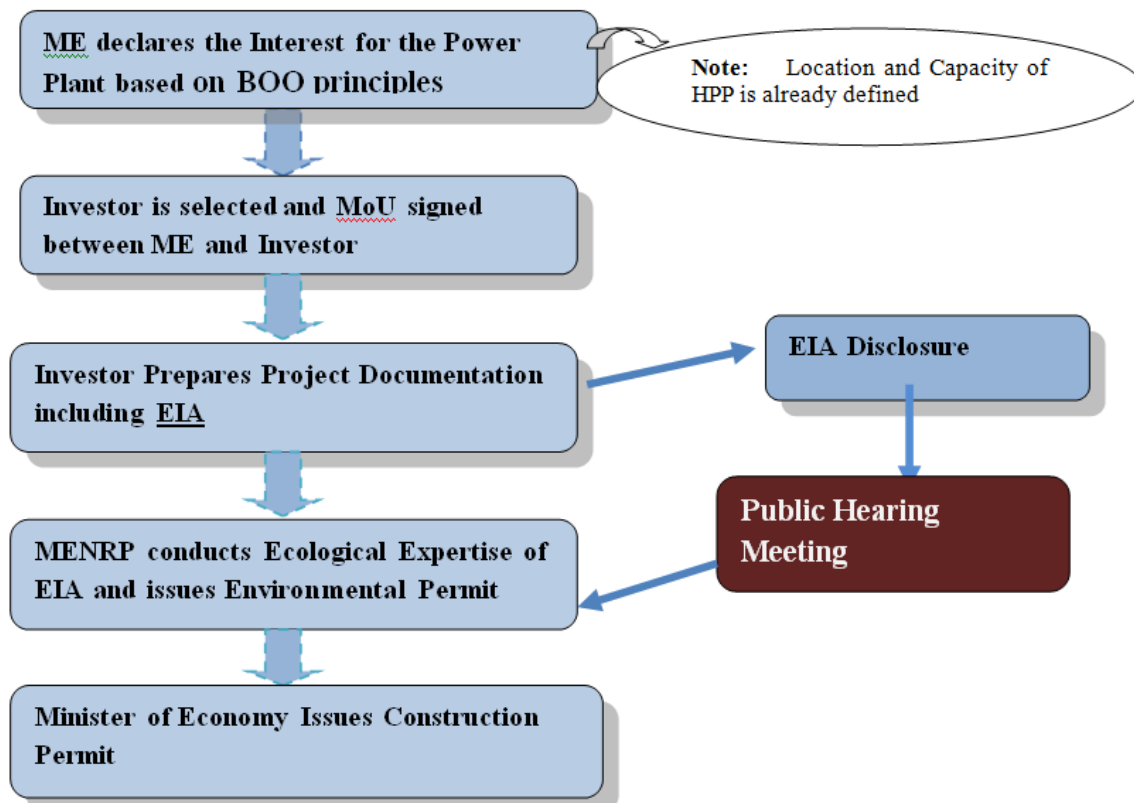
the Government of Georgia, MOE has authority to sign the agreements and memorandum of understanding with investors (Keen and Paresashvili, 2009).

Ministry of Environment and Natural Resources Protection is responsible for overall environmental sector governance and environmental policy making activities. In addition the MENRP carries out the state ecological assessment and issues Environmental Impact permits.

The Ministry of Economy and Sustainable Development reviews technical documentation related to every single infrastructural projects, including hydro powers. Also the same agency is responsible for construction permit issuance based on the state ecological expertise conducted by MENRP.

Figure 6 Presentation of the sequence of HPP development

Source: Prepared by author based on (ME 2011)



3.4. Impacts of the Business as Usual Scenario

Hydropower sector development in Georgia is highly depended on the mountain ecosystems services and on the watershed services in particular. Erosion controls together with the water flow regulation are the most important factors defining both the quality and quantity of water needed for hydropower generation (WCD 2000). Due to the land erosion the sedimentation of the rivers will increase the reductions in the water storage capacity of dams and deterioration of turbines (Greens Movement of Georgia et al 2012).

Furthermore, the hydropower plants will have drastic impact on the forest ecosystems. The construction activities directly effect on the natural ecosystems due to damming, changes of the natural water flow (not only direction but flow rates as well) and building new infrastructure (road, transmission lines) (Greens Movement of Georgia et al 2012; Gamma & Stucky Caucasus 2011; Gamma 2011). Moreover approximately 47% of the Georgian population lives in the rural area and are fully depended on the ecosystems services, such as water purification, erosion prevention, fuel wood provisioning, etc. Since dams construction directly reduce those services, the negative economic impact on the local communities are significant, for instance they need to purchase the timber or/and non-timber products (CEE Bankwatch Network, 2012).

The issue is complex since the problems generally are not associated with the design, construction or exploitation of the dams, but to their environmental and social effects that always become subject of important political decisions on which human well-being is depended (WCD 2000). Benefits dams provide can be diverse, including electricity generation, irrigation, water supply, flood control and recreational tourism. Today hydropower generate approximately 25% of the worlds electricity and there are number of countries whose electricity system are fully depended on the water resources

(Scudder 2005). However hydropower plants greatly vary in the size and design type and exactly that variety defines what kind of hydropower can be considered as clean and sustainable energy source. For instance McCully (2001) argues that greenhouse gases from the hydropower reservoirs are significant and considering it as green industry is highly debatable. Thus hydropower, in particular the large dams, have both significant negative as well as positive environmental and socio-economic effects that put the generalized argument on the renewability and sustainability of hydropower industry under question.

The World Commission of Dams (2000) concluded that although the dams provide the significant benefits, the price society pay for it is often too high due to their social and environmental impacts. One more important point the WCD highlight in the report (2000) is frequent cases of the dams failure to provide the initial financial benefits and drastically changed ecosystems instead. The report promotes the “core values”: equity, sustainability, efficiency, public participation, and responsibility (WCD 2000) and key strategies for the sustainable development of water and energy resources.

However there are the certain well acknowledged tools that well regulate economic, environmental and social interests. Strategic Environmental Assessment (SEA) and adequate Environmental Impact Assessment shall mitigate the negative impacts of every development projects (IHA 2010). However to date no SEA for energy sector, and in particular Hydropower development, has been conducted by Georgian Government. Therefore there are not any studies about cumulative impact on the ecosystems, communities and economy (Gogaladze pers. comm.). Though the EIA is prepared for each project there is number of legal deficiencies for producing proper EIA report and

organizing public debates and public participation in decision-making process (Aarhus Center Georgia 2009).

Chapter 4. Methodology

4.1. Research Design

The chapter describes and at the same time justifies the research design and the key methods used to achieve the aim and objectives of the thesis. The main intention of the research is to examine how public participate in environmental decision-making in Georgia, specifically to scrutinize legal provisions and how they are executed in reality. However from the beginning of the research, it became obvious that there is no strictly predefined design that could be addressed in this particular study.

The qualitative research method was favored for the present research since it gives the possibility to gain the holistic and in-depth view of the study through the direct contact with people and events in their natural settings (Punch 1998). Moreover, some authors suggests the qualitative research method gives researcher the possibility both to focus on the particular research problem and not to be detached from the complex picture, which was essential for the presented study (Strauss and Corbin 1998).

As for the research design, the researcher divided the work into the following stages: 1. Choosing a problem and stating the research aim and objectives; 2. Choosing the qualitative research methodology 3. Background literature review, 3. Data Collection, 4. Data analysis.

4.2. Data Collection

4.2.1. Interviews

The primary data collection tool selected for the research was interviews with all key stakeholders, since it is believed that the data obtained from the persons directly involved in the processes, sometimes are more valuable for the researcher than many documented sources. Fontana and Frey (1994) identify three main types of interviews: structured, semi-structured and unstructured. The research relies on semi-structured interviews, since they are more flexible but at the same time provides the researcher with the information under her specific interest (Marshall and Rossman 1989). However there is often the risk that the information the interviewee provides to the researcher may be absolutely subjective or unilateral due to his current job title or other similar reasons. Therefore meeting all key stakeholders and getting the different perspectives towards the same issues was essential for providing the objective and the balanced outcome. Additionally supporting the key arguments with the published data was attempted wherever possible.

Overall 20 semi-structured interviews were conducted in Georgia. The respondents were representatives of the government sector, national and local NGOs, academia, the scientific community, the consulting company and individual experts. The interview questions were prepared in advance taking into consideration the experience, expertise and relevance of the respondents. The full list of the interviewees and interview questions are provided hereto appendices 1 and 2. All the interviews took place in the capital city, Tbilisi and were arranged through calling the respondents in advance and giving the purpose of the meeting.

Most of the interviews were tape-recorded only after gaining the full approval of the respondent. When there was no opportunity of electronic recording or was objection from the interviewee, note taking was applied. The normal duration of the interviews varied from 30 minutes to 1 hour, largely depending on the respondent's availability or willingness to contribute to the research. The interviews were conducted and recorded in the Georgian language and later translated into English.

After the case studies were selected the research trip to the Khudoni and Dariali dams construction sites and meetings with representatives of affected communities were arranged. However since the time for the field visit was limited, conducting the quantitative research or the in-depth interviews were impossible. The aim of the trips were to get locals view with regards to projects and examine their knowledge about public participation procedures. Therefore unstructured interviews were favored as a tool to achieve the aim. In Stepantsminda (the inhabited area near to the Dariali HPP) 7 individual and 5 group interviews were conducted. In case of the village Khaishi (the area affected by Khudoni HPP) 9 individual and 1 group interviews were organized during. Those interviews were also tape recorded and interpreted later. However as requested by the interviewees from both communities, the names of the locals are not provided in the thesis.

4.2.2. Case Studies and Participant Observation

One of the main tools to meet the aim and objectives selected by the researcher was *case-study* method. The scholars advise to use the case-studies when the researcher wants to “*investigate contemporary phenomena within its real life context, especially when the boundaries between phenomenon and context are not clearly evident*” (Yin 2003). Therefore two case-studies on HPPs were applied for the research to describe

how public participation happens in the real life context (Yin 2003). Two case studies were selected, since it is suggested that the multiple case studies give opportunity to researcher to identify similarities and differences between cases; Furthermore data obtained from more than single case is more reliable to generalize the findings. It is important to emphasize the reason for selecting the hydro power sector and two specific HPPs: firstly both development of the sector and the HPPs are the most debated issues currently in Georgia; Secondly, they have direct impact on the livelihood of thousands of people and consequently public interest and concerns with regard to the HPPs are extremely high. Finally HPPs are the biggest infrastructural projects going on or upcoming in the country, therefore they were the most relevant for the study currently.

Additionally, the research trip coincided with the Kirnati HPP EIA public hearing meeting being held in Georgia. The public hearing meetings are one of the few possibilities for the public to participate in the decisions associated with specific projects in Georgia, therefore attendance at the meeting was crucial for the researcher. As Bernard (1994) puts it, participant observation opens the doors for collecting various type of data and observe certain sorts of the events, that without the privileges of being in site would be impossible to acquire.

4.2.3. Secondary Data

The long and intense desk-based research was conducted to obtain the secondary data needed to supplement the arguments and outcomes of the thesis. It should be emphasized that besides the library and on-line resources, several interviewees contributed to the research through providing the valuable data, including some unpublished reports and scientific studies conducted during the Soviet period. The

nature of the data analyzed for the research varied greatly and can be grouped as follows:

- Published material , including scientific articles, books, reports,
- Relevant legislation acts and government orders ,
- Environmental and Social impact Assessments of the planned hydropower plants in Georgia,
- Public consultation/ Public hearing protocols,
- National and local newspapers and the video recordings existing in internet.

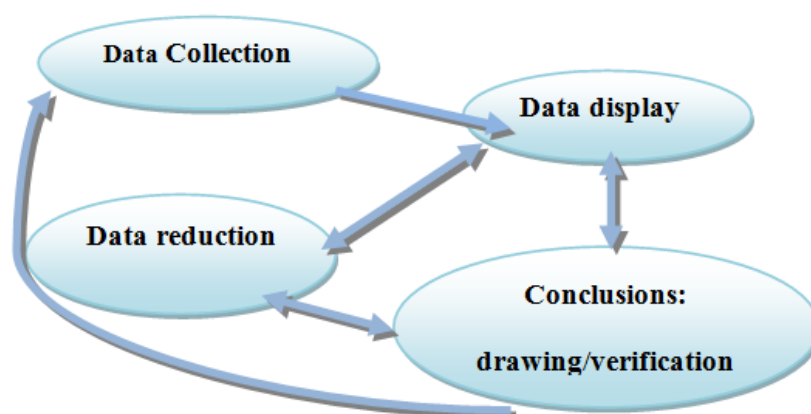
However in order to ensure that the issue was reviewed from more than one angles MacDonald and Tipton (1996) highlighted applying the triangulation technique during the research. Therefore triangulation was used as a method to cross-check the data from different sources in order to give more confidence to the arguments of the research findings. Specifically the data obtained from interviews were often compared with the documented data and vice versa as suggested by various authors (O'Donoghue and Punch 2003).

4.3 Analysis of the Research Data

There is no single methodological framework and way to analyze qualitative data (Punch 1998). Therefore the research aim and objectives and the complexity of the issue both at the global and local levels favored the method for data analysis that is systematic and disciplined at the same time. Miles and Huberman's (1994) approach to qualitative data analysis was regarded to be the most relevant for the thesis. In particular, research goes through three main components: *data reduction* and *data*

display components mostly based on the coding and memoing techniques and *drawing conclusions and later verifying them* (see Figure 7).

Figure 7 Components of data analysis: interactive model



Source: Miles and Huberman, 1994

4.4. Limitations

The main limitation was the time available for the field research. Four weeks were not fully enough to talk with all actors involved in the environmental processes in Georgia and spend longer time with the projects affected communities. Therefore only two communities were selected based on the case studies.

Another limitation may be that the research period coincided with the active reforms ongoing in the Ministry of Environment and Natural Resources Protection. The government change occurred in October, 2012 and legislative changes have been taking place since April 2013. Therefore all information and official data about the legal documents or institutional structures is valid at the time writing this thesis.

Chapter 5. Public Participation and its implications in Georgia: Current Situation, Key Mechanism and Their Application in Practice

The chapter explores the current legislation and practice of public participation in decision-making process. Scrutinizing legislation was important to emphasize the system's strengths and deficiencies. As touched upon in Chapter 3, development of the hydropower sector, in particular construction of the different types and scales of dams in nearly all region of the country is the most problematic issue highly debated in Georgia nowadays. Therefore the current processes triggered researcher's interest to examine how legislation works in practice through two case studies on HPP projects. The chapter will start with analysing legislation and practice of PP in adoption of policy, programmes and strategies and will continue with empirical findings of PP in decisions related to specific project activities.

5.1. Participation in Adopting Policies, Programs and the Specific Regulations: Legal Provisions

As emphasized in Chapter 2, Aarhus convention defines different domains of participation, including: 1. Participation in decisions on specific activities 2. Participation in adopting policies and programs with regard to the environment and 3. Participation in preparation of the specific regulation or any legally binding normative mechanisms.

Georgian legislation ensures public participation in decisions on specific activities. At more strategic levels, such as preparation of the policy and programmes, drafting legislation, etc., participation is extremely limited and practically not established according to the existing regulations. Law on Environmental Impact Permit (2007) briefly mentions government's responsibility to include stakeholders in preparation of Strategic Environmental Assessment (SEA). However SEA is not institutionalized in Georgia until now.

As for the legally binding documents, there are not any provisions to include public in the process of preparing normative documents. However public participation is guaranteed later, when the draft bill is already submitted to the parliament. According to the Rules of Parliamentary Procedures (2004) as soon as the bill enters to the parliamentary committee, it is published online and any interested party can request involvement in the formal procedures of discussing the draft law. More precisely, they can attend the hearing sessions or/and submit documented comments. Also Parliament committees use advisory councils consisting of scientific communities, experts and NGOs. For instance, representative of Green Alternative and CENN are the members of the environmental committee's advisory council. Additionally as Ms. Pikria Robakidze (leading specialist at parliament's environmental committee) mentioned, as soon as the committee receives the bill they contact and distribute it with environmental NGOs (ENGOS) which may be potentially interested in the proposed draft law (Robakidze pers. comm.). She emphasized that ENGOS are active and provide lots of comments, especially if there is some important law (or changes in the law) being adopted (Robakidze pers. comm.). Ms. Robakidze could hardly remember a case when the individual not representing any organization expressed interest or submitted the comments on the proposed draft law. Finally the new law is always followed by the appendix with the list of comments received during the committee discussion, with information which of them was considered. If any comment is not considered, reasons justifying the refusal are provided.

Thus, there are not any legal provisions regulating the public participation in decisions on strategies, policy and programs. However public participation is well regulated when a new law is being adopted, though civil society is not involved in drafting those laws or normative documents.

5.1.1. What Happens in Reality? Key Stakeholders in Georgia, Their Role and Participation in Adopting Policies, Programs and the Regulation

Previous research on implementation of Aarhus Convention in Georgia revealed that although consultations with stakeholders within the frameworks of environmental decision-making was common practice, outcomes of those consultations were rarely considered when making the final decisions (Gachechiladze&Antypas 2009). Currently, though the participation takes place in reality, it is not viewed as the necessary tool for making legitimate and effective decisions in Georgia. Rather interviewees underline that it is formality government entities undertake due to the donor organizations' pressure and Aarhus Convention that obliges authorities to fulfill the basic requirements. However some interviewees stressed that the situation have been improved considerably after the government changes.

During the interviews the representatives of ENGOs mentioned that though there have been a long history of close collaboration between MENRP and NGOs, such consultation meetings and public hearings have become rare recently (Burjanadze pers. comm.). One of the main reasons is that MENRP became extremely weak. As touched upon, in 2011 Ministry of Environment lost control over the natural resources management, which transferred to the Ministry of Energy. "Meetings with the stakeholders took place only when a new, extremely important policy or piece of legislation was being adopted and government could not avoid organizing such meetings"-said Mr. Kote Burjanadze, representative of 'Greens Movement of Georgia'.

However it is a common practice in Georgia when certain groups of ENGOs are participating in drafting some policy document or even laws under the finance of the international organization. The reason is lack of capacity and expertise of the MENRP. For instance Center of Strategic Research and Development of Georgia (CSR DG) assisted Ministry to prepare National Report on the State of Environment, another NGO (CENN) participated in preparation of the draft national Forestry Policy, etc. Obviously there is mutual interest for such cooperation. On the one hand ministry uses the extra resources and on the other hand declares about close cooperation with NGOs and with public respectfully. As for the ENGOs such opportunities are sometimes the only source to obtain the finances from international donor organizations. However a few interviewees pointed out that only certain NGOs are privileged to undertake such activities and the organizations having more critical views never get such funding.

Nevertheless Georgian NGO sector are successful in ‘extinguishing fire’ around the specific activities and hydro power project’s development are the best example of this, though their influence on strategic decisions such as policy and programs are limited (CTC 2005). The experts think that the reason may be lack of leverage to influence the decision-making on that level. The lack of leverage is caused with the fact that ENGOs until now could not create effective mechanisms for involving broader society in the decision-making process over environmental issues. A few experts also noted that the typical mistake ENGOs make is that they concentrate their efforts around the large-scale projects and are struggling against the investor companies. While discussing the current movement around the hydro power sector, Mr. Mamuka Gvilava criticized NGOs approach and stated that the non-governmental organizations should make more pressure on the government entities to strengthen legislations, institutionalize SEA and harmonize environmental regulations with EU to

achieve significant progress. Otherwise the problems will remain the same for each infrastructural problem, since the system will stay unchanged (Gvilava pers.comm.).

Another criticism actively addressed towards ENGOs is that their efforts are not integrated with the activities of the broad civil society in general and compared to other NGOs (for instance those working on the human rights or enforcing democracy standards) they still lack public visibility and support (CTC 2005).

Nowadays there are approximately 200 NGOs registered in Georgia involved in natural resources, public awareness raising, nature conservation and sustainable development issues (REC 2004). Although the number of the officially registered NGOs are impressive considering that Georgia is a small country, they do not have large activist groups and their efforts are mostly concentrated in the capital city. However there are ENGOs (REC and CENN) that operate throughout the South Caucasus region. The largest and the most active Georgian NGOs are fully depended on the financial and technical assistance of donor organizations. Currently the most active national NGOs are Green Alternative, Green Movement of Georgia and CENN.

However from the existing NGOs only Green alternative is acting as the watchdog during the projects/programs planning and implementation. NGOs that are bigger and have better capacity like CENN and REC actively collaborate with the MENRP in drafting policy , and even with the investor companies to prepare Environmental Assessment of specific project (for instance CENN prepared ESIA for Khudoni HPP).

The interesting fact all interviewees noted is that the situation has been positively changing recently. As it was mentioned Ministry of Environment got the natural resources management under its control and new MENRP is more open for collaboration with civil society (Gvilava

pers. Comm., Burjanadze pers. comm., Todua pers. comm.). As Ms Nino Tkhilava, Head of Environmental Policy Department stated during the interview all recent important documents were published and open for public debates and comments. For instance she named draft Waste Management Law and new Forestry Policy (Tkhilava pers. comm.). Interestingly, she pointed out that ‘NGOs are generally reluctant to provide comments, even on the most strategic documents for the sector’-stated Ms. Tkhilava and mentioned only a few organization which regularly provide feedbacks or comments. In contrast to this, NGOs stress the importance to involve public not only when the final draft of such strategic document is ready and the possibility to make important changes is limited, but during the preparation of the documents (Todua pers. comm.).

It should be emphasized that the Ministry of Environment and Natural Resources Protection is the key government entity in Georgia responsible for compliance with Aarhus Convention and therefore for guaranteeing PP in environmental decision-making. In 2005 MENRP with initiative and assistance of OSCE mission to Georgia founded Aarhus Centre in order to facilitate Convention’s implementation in the country, thus to promote access to environmental information, public participation and access to environmental justice. The main achievement of Aarhus Center was the web –site which used to upload all the important environmental information and monitored Environmental Impact Assessment process in Georgia. The web-site used to publish all EIAs and information about public hearings. However due to the scare financial and human resources the centre did not have regional offices. It was more convenient for the environmental organization and interested parties in Tbilisi, since information disseminated through the web page often did not reach to the regions (Gugushvili pers. comm.). A few months before the present research, new government entity-Environmental Information and Education Centre was created on the bases of Aarhus centre. The Centre has the same goals to promote environmental access to

information, public participation and environmental justice and increase environmental awareness and education. All interviewees mentioned that the new government entity is the positive step forward; though since it was being formed during the research trip to Georgia assessing its effectiveness was impossible.

One of the key stakeholders nowadays for Georgia's environmental sector are international organizations operating in the country. Almost all important research projects, sectoral policies, environmental programs were and are financed by them. Nearly all key international organizations (UNEP, UNDP, USAID, OSCE, NATO, WWF, World Bank, EBRD, etc) have their offices in Tbilisi. Moreover the fact that they are the major source of funding both for NGOs and MENRP, often facilitates both government and non-governmental organizations to work on the same project.

Finally, I would add media in the list of the stakeholders, which play key role in increasing environmental awareness and education and promoting PP consequently. Since the environmental issues are not prioritized nowadays, as well as due to existing severe social and economic problems, it cannot be stated that coverage of environmental problems take place with adequate frequency. However journalist Tsira Gvasalia, who has permanently been working on environmental issues, mentioned the positive changes with regard to the frequency the environmental issues have been covered recently and general increase of the quantity of the journalists interested in environmental matters. Mass-media's role in raising awareness about the environmental issues was well demonstrated in case of the HPPs. Due to the strong media support, the awareness about the negative environmental impacts of the hydro power plants are much higher than about environmentally more disastrous matters.

5.2. *Participation in Decisions on Specific Activities*

Public participation in decisions on the specific activities occurs during the Environmental Impact Assessment (EIA) Process, which is regulated by the laws on Ecological Expertise (2007) and on Environmental Impact Permit (2007). In particular, the Law on Environmental Impact Permit (2007) establishes the formal sequence of the procedures (Figure 8), and provides the participation opportunities through allowing any interested party or individual to provide the comments on the draft EIA or participate in the public hearing meetings held in the vicinity of the potential project area.

As pointed out in Chapter 2, according to the public participation theory and Aarhus Convention, the participation shall take place in all stages of the decision-making. The best EIA practice shows that public participation and identification of the public's interests with regard to the project shall start at screening phase and should be followed by scoping activities. Following steps are: EIA research, EIA report, EIA report revision, decision-making, EIA implementation and follow up. However the best international practice envisages public participation during the screening, scoping and decision-making process (Glasson et al. 2005).

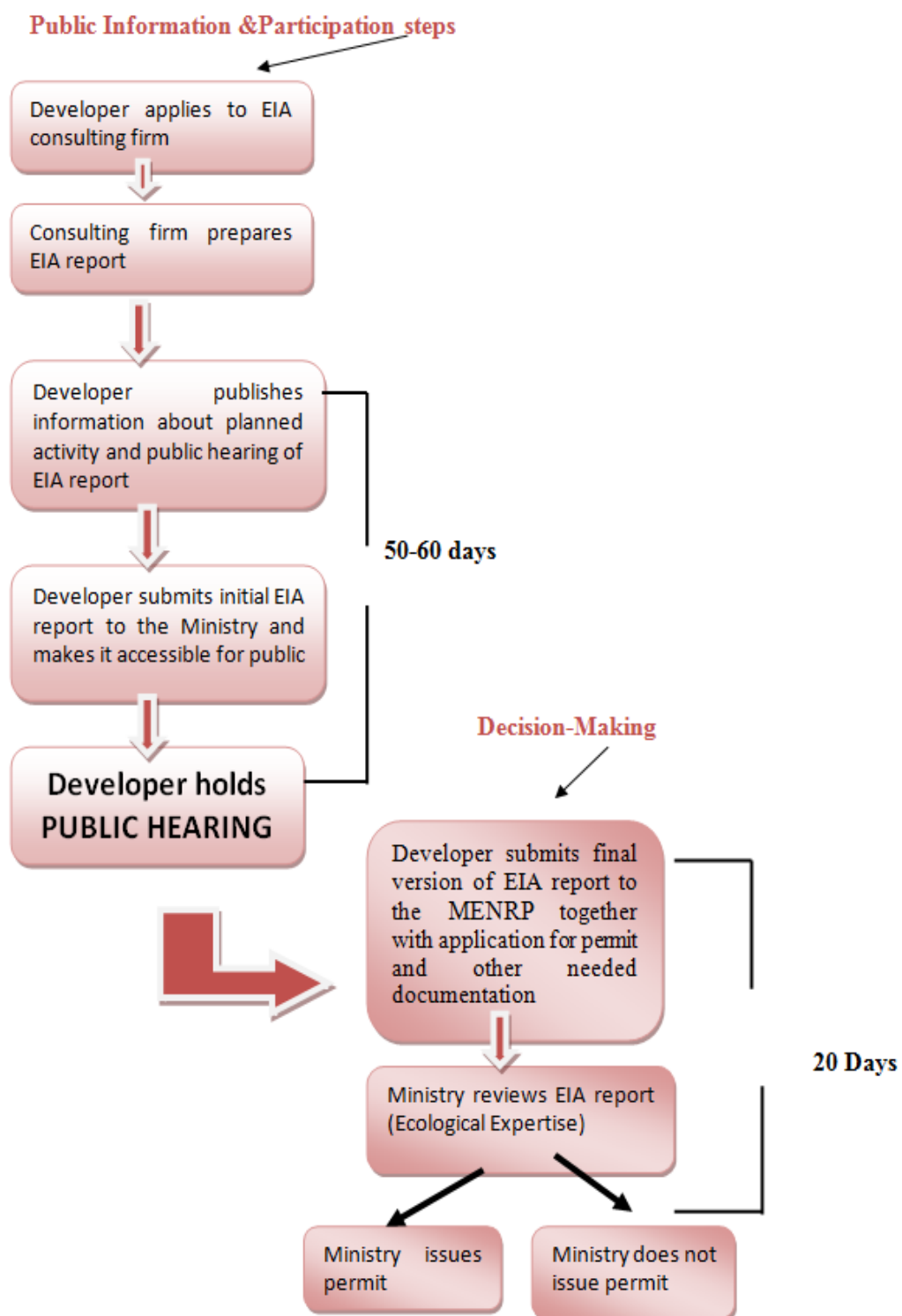
EIA design in Georgia is far from the best international standards. In particular screening and scoping phases are not required and public participation starts when the EIA report is ready and the public hearing meeting of the planned project is appointed (Law on Environmental Impact Permit, 2007).

As seen on the figure 8, project developer publishes announcement about the planned project both in the central and local press. The published information covers the following:

- The name, purpose and location of the planned project
- The address where any individual interested in the project can access the EIA report and other project related material, as well as send the questions or comments.
Deadline of comments` submission should also be indicated
- Time and venue of Public hearing

Figure 8 EIA PP and Decision-Making steps in Georgia

Source: Adapted by Author based on Georgian Law on Environmental Impact Permit (2007)



The next requisition of the Georgian Law on environmental permit (2007) obliges the project developer to disclose the EIA report for the public's review and comments and conduct public hearing. Following to the above mentioned procedures, the project developer submits the final EIA, together with public hearing protocol to the Ministry of Environment and Natural Resources Protection for Environmental Impact Permit and the Ministry starts administrative proceeding that basically implies undertaking ecological expertise. To clarify, the administrative proceeding, more precisely -ecological expertise, is the step when final decision is being made. One important shortcoming is to be observed here: organisation of the public hearing is under full responsibility of project developer and the decision making entity, the Ministry of Environment and Natural Resources Protection, does not have any direct contact with the project affected citizens. Also as seen from the figure 8 there is not any provision for public participation during the decision-making phase.

However Georgian legislation and in particular the General Administrative Code (1999/updated in 2004) provides opportunity to include the 'interested parties' in the administrative proceeding if such request exists. Though the interviewees highlight that there are not clear procedural mechanisms how/when the party can involve in the administrative proceeding, and there are cases when NGOs' attempts to participate at this stage failed (Macharashvili pers. comm.). Interviewees emphasize that information when the administrative procedure starts is often not accessible for interested parties and despite a strong desire to get involved in the decision-making process procedural shortcomings makes it difficult to happen. One of the case studies (Dariali HPP) well illustrates shortcomings of the General Administrative Code and its enforcement and will be presented in the forthcoming section.

Finally public never know whether the comments they provided during the public hearing or EIA disclosure period were considered during the decision-making, since the Georgian legislation does not encompass publishing EIA permit and licensing conditions.

Thus the shortcomings of the existing legislation to guarantee the effective public participation are as follows: 1. Participation starts at the late phase of environmental impact assessment, 2. The EIA does not ensures PP in the actual decision-making process and 3. the administrative proceeding is non-effective due to the bureaucratic barriers, 4. There is not any feedback mechanisms to inform public about the final decision, 5. Management of public participation is under full responsibility of the project developer.

5.3. Case Studies: Practical Application of the Public Participation Requirements on HPP Development Projects

Two hydropower projects were selected for the qualitative research with the main intention- to examine how those legislative mechanisms described in the previous sections work in practice.

5.3.1. Case Study 1: Khudoni Hydropower Plant

The proposed Khudoni HPP project is located in the Svaneti mountains (Appendix 3), on the river Enguri, upstream from the existing Enguri HPP and includes construction of the 200 meter arch dam and a 702 MW underground HPP (CENN 2011 a).

As per EIA of the project (2011), the construction of the 345 million cubic meter water reservoir will cause flooding of a 528 ha territory (figure 9). The project proponents estimate that Khudoni HPP will generate more than 10% of the county's annual consumption and contribute approximately 20% of existing electricity resources (CENN 2011 b).



Figure 9: Khudoni HPP Project

Source: CENN 2011, ESIA

Khudoni dam has long and interesting history. The construction began in 1979, though the fierce protest of the civil society and local population that later were joined by the pro-independence movement, made government to halt the construction works in 1989. However the activities that had already started (buildings, river diversion tunnel, other tunnels, cofferdams, underground powerhouse, left abutment) were left unfinished and currently are in a bad state (Chitanava pers. Comm). Furthermore there had not been any site conservation or reinstatement activities undertaken. However after the Rose Revolution (2003) the construction of the Khudoni dam came into agenda again and in 2009 government of Georgia

signed memorandum of understanding (MoU) with Trans Electrica Limited Ltd, for the construction of the Khudoni HPP on Build, Own and Operate (BOO) bases. According to the agreement the electricity produced during winter months will be sold in Georgian market, while in other period of the year it can be exported (CEE Bankwatch 2013) .

Brief overview of project impacts

Construction of the Khudoni HPP will flood the village Khaishi, the historical village often called “Doors of Svanetia” inhabited by more than 850 families. In addition The HPP construction will result with involuntary resettlement of the communities from the villages in the vicinity of the proposed project. Overall up to 2500 people are expected to be relocated (CEE Bankwatch Network 2013). Considering the fact that the entire population of the Upper Svaneti region consists of 14000 people, relocation will cause fragmentation of this minority Svan ethnic group and pose serious challenges them to maintain the ‘existing forms of cultural expression’ (CEE Bankwatch Network 2013). It should be mentioned that Khaishians have already been resettled in 1970s but majority of the population came back to the village after the breakup of the Soviet Union and project stoppage. The locals argue that they could not adapt with the new location, new conditions and they prefer the land of their ancestors (Khaishians pers comm.). Therefore resettlement of the population second time is the greatest challenge for the project developer.

On behalf of Trans Electrica Limited Ltd., Caucasus Environmental NGO Network (CENN) has prepared Environmental and Social Impact Assessment of the project. As environmentalist point out the Khudoni HPP “will intensify the devastation of forests and wildlife habitat, the loss of river species populations and the degradation of upstream

catchment's areas as a result of the flooding into the reservoir area in one of Georgia's most ecologically-diverse highland regions.” (CEE bankwatch network 2013).

However draft ESIA (2011) prepared for the project was highly criticized both by local and international experts. According to the analyses geological and seismic risks are not adequately assessed (Kereselidze pers. comm., Burjanadze pers. comm.). In April 2013 Ministry of Environment and Natural Resources Protection as a result of the pressure from the local communities , NGOs and civil society invited international experts-the Netherlands Commission for Environmental Assessment (NCEA) to review the ESIA prepared for the Khudoni HPP. The conclusion of the Commission coincided with the critics of the local experts; in particular the final report submitted by the Commission stated that local communities do not have adequate information about their future. The sediment load of the river and geo-hazards in relation to reservoir life was not adequately assessed, and seismic risk was not considered (NCEA 2013). Furthermore the cost-benefit analysis, that would provide the information about costs and benefits of the projects from public perspective, has not been undertaken. Additionally Commission recommended undertaking Strategic Environmental Assessment of the hydropower sector that would on the one hand reveal the cumulative impacts of the projects and on the other hand alternatives for energy supply (NCEA 2013). As a result of the Commission's advice and pressure from the Georgian society the project was suspended for one year and project proponent was requested to prepare new Environmental and Social Impact Assessment of the Khudoni HPP that would incorporate all the comments from different stakeholders . Thus currently the project proponent is working on new ESIA report.

Public Participation in Khudoni HPP Project

As mentioned several times, Khudoni HPP has long and interesting history and is associated with the environmental movement of Georgia. Therefore the project has always been under particular interest of the society.

The public participation meetings after signing the MoU took place as soon as the scoping report was ready. One meeting was conducted in the Khaishi municipality and the other one in the capital city in November 2011. It is remarkable that project proponents claim to implement Khudoni project in compliance with Georgian Legislation, and environmental and social guidelines of World Bank and EBRD (CENN 2011 b). International Financial Organizations have stricter environmental and social impact assessment procedures than Georgian legislation; in particular national EIA regulations do not encompass screening and scoping phases (See Section 5.2). However civil society questions the quality of the procedures company addressed to involve all interested parties in the decision-making process. For instance the information about the planned scoping meeting was not disseminated adequately. The only measures company applied was publishing the announcement and the scoping document through electronic network and spreading the short notices in Khaishi and Mestia municipalities (CEE Bankwatch Network and Green Alternative. 2007). To examine the quality how the information was disseminated within the communities, NGO organized special field trip to the affected villages a day before the public hearing. The result was that only 2 villages (out of 17) had information about the upcoming public hearing (CEE Bankwatch Network and Green Alternative. 2007). Thus it is argued that at the scoping phase, information about the public consultation meeting was not adequately disseminated within the affected communities.

Another problem was the access to the scoping and ESIA documents. Ms Nino Asatiani, Public Relations advisor in Trans Electrica Limited stated that they distribute all documents as per Georgian legislation. More precisely the key environmental and social documents are delivered in the local municipalities and are published on the web-site (Asatiani pers.comm.). Considering the fact that internet is not accessible in the mountainous regions and ordinary person needs to overcome several barriers to access the documents in the government buildings, it may be argued that the content of the environmental assessment is kept from the knowledge or view of the affected communities. Therefore the majority of the public attending the project's scoping or EIA/ESIA public hearing do not have enough information about the project to question experts presented in such meetings.

During the interview journalist Tsira Gvasalia remembered the Khudoni HPP's public hearing meeting in Khaishi village: "though the purpose of such meetings should be the public's involvement in the decision-making process, the company stated from the very beginning that all the decisions had already been made. In particular, they highlighted that the final design of the project was already selected and construction activities would start in April, 2012... How can anybody claim that the meeting running under this format is a "consultation with public?" (Gvasalia pers comm.). Other interviewees also emphasized that running public participation in the pure information provision regime is typical for the public hearings held in Georgia. Obviously such format : first to make all key decisions and hold public hearing just to present those decisions to public, makes PP a formal procedure and practically deprive a citizen from his right to participate in decision-making (Berishvili pers. Comm.).

It should be emphasized that Khudoni HPP has become the most actively debated issue nowadays. Environmental NGOs united around the topic and formed a new wave of the

environmental movement. Resettlement of the unique Upper Svaneti villages and the negative environmental impacts of the Khudoni HPP easily attracted the attention of the wider public. After the scoping meeting the company has prepared draft ESIA report, that as mentioned above was studied in details by number of NGOs, scientific community and various experts in the country and beyond. Also civil society actively involved to form public opinion around the project, initiated debates and informative meetings both at the national and local levels. The team of experts, scientists and activists could justify that the Khudoni HPP project needed further scientific research. “The scientific communities produced a lot of comments about the shortcomings and deficiencies of the project documentation. We have identified significant gaps and requested further research on geological, seismic and hydrological treats of the project. Fortunately the government made decisions to follow the scientifically justified arguments and suspended the project”- stated Mr. David Kereselidze , head of geography department at the Tbilisi State University. As a result of the strong opposition of the civil society and local public the government made decision to suspend the project for at least a year and requested the project developer to conduct the new environmental and social assessment that would comply with the best international standards. ‘The project has suspended as a result of activities of the NGOs, local communities and wider public. I believe this already is a great achievement. Although we could not stop the project, we expect at least the quality of the new environmental assessment will be better than the previous one and the key comments scientific community had will be integrated in the report’ (Burjanadze pers.comm.). The fact once again confirms the importance of the public participation. Due to their activity, the quality of new document submitted by the investor company is supposed to be significantly improved.

Finally, the important factor that emerged from the conversations with the representatives of local communities is that ordinary people don't have knowledge of the EIA procedures and

believe that the only mechanism they can affect on the decision is the protesting actions and manifestations. “More people will come out in the street protesting the project the stronger we may affect on the decision. If we want decision-makers think about the people and their interest, social movement against the project is the best way” (Khaishians pers. comm.). Khudoni HPP project is expected to have potential to outbreak the social movement once again.

In conclusion the case study revealed that dissemination of information about the scoping report and upcoming public participation meeting was not adequately ensured. Moreover it can be argued that the present measures assigned by the legislation- to distribute project's documentation through web-page and local administration buildings are ineffective. Public consultation meeting on the scoping phase did not run in a consultative format, but was pure provision of information about the decided project. Finally Khudoni HPP case demonstrated that very strong unit of NGOs, Scientific community and local population can affect on the decision-maker during the ESIA disclosure phase.

5.3.2. Case Study2: Dariali HPP

Project Background

The Dariali project consists of the construction, operation and maintenance of the 110 MW run of river HPP on the river Tergi in the Dariali Gorge in Kazbegi region, close to the Georgian-Russian Border (Appendix 3). The electricity generated by the HPP will be integrated in the grid through 110 kV high voltages Dariali transmission line connecting Georgia with Russian electricity system (Gamma and Stuki Caucasus 2011).

The project is implemented by the Georgian company-“Darial Energy” and the total cost of the project is estimated to be 135 million USD (ME 2013). According to the memorandum of understanding signed between “Darial Energy” and government of Georgia the company has legal responsibility to sell generated electricity foremost in Georgia only during three winter months, as for other seasons electricity can be exported. The construction started in 2011 and is supposed to be finished in 2014 (Gamma and Stuki Caucasus 2011).

Revision of the certain phases (project initiation, planning and development) of Dariali HPP development revealed the interesting details illustrating the priority of the power plant development over environmental interests. For instance, according to the Georgian legislation the planning of the HPPs on the territory of the national park is strictly prohibited. However Dariali HPP project was designed and planned on the territory of Kazbegi National Park.

Figure 10 Dariali HPP Project site

Source: Gamma and Stuki Caucasus 2011



Apparently existing legislation was not the barrier for the government, and the area the HPP needed for the construction was immediately removed from the National Park's territory (Green Alternative's letter to MENRP 2013). Moreover, later government of Georgia initiated an amendment to the law (Georgian Law on the status of Protected

Area, amended in 2012) and 20,3633 ha was removed from the Kazbegi's National Park's territory (Green Alternative's letter to MENRP, 2013).

Overview of the Project's impact

The biggest impact of the project, like other RoR HPPs, is associated with the environmental flow assessment. As discussed in the Chapter 3, there is not any national regulation on the environmental flow assessment though it is critical HPPs “to *provide adequate environmental flow release to meet ecosystems and livelihood objectives*” (WCD 2000). The proposed project involves the diversion of the 90% of the river flow through the channels to the tunnel (Gamma and Stuki Caucasus 2011). “*According to the current project design, the 8 kilometers of the river Tergi remains practically without water*” (Macharashvili Pers. Comm.). Since the Dariali Gorge is totally 11 kilometers; the water diversion changes both the landscape having extremely valuable historical and cultural value and the river ecosystem itself (Buchukuri pers. Comm., Macharashvili pers. Comm.).

Also, the construction of the Dariali Dam has direct impact on the Red List species (such as trout) widely populated in the river Tergi (Gamma and Stuki Caucasus 2011). The environmental NGOs argue that the mitigation measure proposed in the project's EIA - organizing the fishways- will be ineffective. 10 % of the water left in the river will not be enough to ensure the fish habitats' conservation (Macharashvil pers. Comm.).

Public Participation in Dariali HPP Project

Meetings with the local communities before the construction took place twice: during the scoping phase and when the final draft of the EIA was published (Gamma and Stuki Caucasus 2011). The same emphasis shall be made here: though it is not considered in the legislation, Dariali HPP went through the scoping phase. However from the official protocol attached to the final EIA, it can be found that 16 out of the 22 people attending the scoping meeting were employees of the local municipalities and local government (Gamma and Stuki Caucasus 20112011). Only 6 individuals (local NGO and activist groups) represented other stakeholders. Also it shall be noted that the only measure the company applied to disseminate information about public consultation meeting was official notice published in the local administrative building. Thus similar to the Khudoni HPP project, it can be argued that public did not have information about upcoming “public consultation”.

As for the EIA public hearing, information was disseminated through central newspaper and web-page and the notifications were published in the local government offices (Gamma and Stuki Caucasus 2011). Ms. Tamar Gugushvili, who has executed long-time observation on the EIA system in Georgia, noted that often the notice project developers publish are dry and does not give much information about the potential impact or scale of the projects. Such brief notice often cannot attract public’s attention, especially when the developer makes no additional efforts. Thus ‘the problem on the one hand is that the existing mechanisms to disseminate information are poor and on the other hand the quality of the information developers publish does not spark public’s interest to attend the public hearing meeting’- claimed Ms. Gugushvili.

The themes discussed on the meetings were rather related with the social matters (job opportunities for the locals, benefits for population in terms of lower electricity supply tariffs) than the environmental, that later became actively debated issue (Gamma and Stuki Caucasus 2011). The representatives of the consulting company- Gamma explain this with lack of the environmental education and awareness: “often locals don’t understand what may be potential impact of the planned activities until they face it later, when the impact already happens” (Gvakharia pers comm.). “At the beginning of the project, there have not been any comment made with regard to the environmental flow that later, as soon as the derivative pipes appeared in the Dariali Gorge, became the key theme of the public protest” stated Mr. Lasha Iordanishvili, the project manager of the Dariali HPP Project. Though on my question whether it was explained to the public that the company was going to extract 90% of the river’s annual flow he could not give the definite answer.

However communication with the local population in Stepantsminda also revealed that in 2011 they did not have any information about the negative impacts of the project and viewed it as the employment opportunity. The negative environmental impact came on the surface when the construction started and national and local NGOs presented justified arguments against it.

One more significant issue emerged as a result of the final EIA document revision is that EIA public hearing protocol is not attached to the report. As mentioned, submitting the protocol together with final EIA is requested by the legislation, since it is the only measure for the decision-maker to identify stakeholders’ interests and concerns.

Finally, even very poor provision of the Georgian Administrative Code (Articles 75-76, 1999) to get involved in the decision-making process was violated. The organization

“Green Alternative” as per the Georgian legislation, on September 21, 2011, addressed the Ministry of Environment and Natural Resources Protection to ensure the organization’s involvement in administrative proceeding (in other words in ecological expertise) (Green Alternative’s letter to MENRP 2013). On November 28, 2011 Green Alternative got MENRP’s official letter dated by 18th of November, notifying that the Ministry accepted final EIA and official administrative proceeding started on November 17, 2011. However Final EIA and terms of administrative proceedings were not provided, instead Green Alternative was instructed to address Aarhus Center’s web-site. The organization followed the instructions and on 1st of December submitted the comments on EIA to the MENRP and requested their inclusion in conclusions of ecological expertise. It turned out the Ministry had issued the conclusions of ecological expertise on 28th of November, four days earlier than the end of administrative proceeding was advertised by Aarhus web-page (Green Alternative’s letter to MENRP, 2013). The case once again revealed the deficiency of legislation. Even if there is a strong desire to get involved in administrative proceedings such attempts often fail due to the bureaucratic procedures and low willingness of the decision-making body.

The Dariali HPP has become focal point to define local communities’ opinion around the potential projects in the Kazbegi region. It should be noted that the Dariali HPP is one out of the ten HPPs in the region included in the list of the potential hydro power sites approved by the Ministry of Energy in 2008 (ME 2011, ME 2013). “The construction of the HPPs in Kazbegi region are planned in the Gorges having extremely important historical and cultural meanings that make the whole region so unique and mystical....Exactly those Gorges have been attracting the Georgian and foreign tourists for the decades in Kazbegi”-stated Mr Shota Buchukuri, head of local NGO “Stepantsminda”. Therefore one of the arguments against the projects is the loss of the

tourists due to the dam projects. Representatives of local communities complained that while planning the hydro power projects, development of alternative businesses or infrastructure is never considered. Ms Khatuna Gogaladze, Minister of Environmental Protection and Natural Resources, expressed the same view during the interview and stated that approach to exploit whole water resources for development of the single sector without leaving the capacity to use the resources for other purposes, saying nothing to conserve those resources, is far from the sustainable development principles (Gogaladze pers. comm.).

It should be noted that the negative impact on the tourism potential of the region and the fact that the project did not propose any personal benefits to the locals were also the key factors contributing to the public's negative reflection (Magaldadze 2012). However despite the local communities as well as the NGOs started to protest the construction activities, they could not make any progress. The reason was quite simple, when the protest went to its active phase all key decisions had already been made and necessary permits issued. Though as one of the interviewees mentioned the locals' effort and activities positively affected on the government's further decisions with regard to other HPPs that are on the planning phases yet (Buchukuri pers comm.).

5.4. Public Hearing Meeting-The Illusion of Participation

During the field trip, I had opportunity to attend the Kirnati HPP EIA public hearing, conducted in Adjara region, in Georgia. The meeting was organized by the investor company- "Clean Energy" and represented both by the company's management and the Environmental consulting company "Gamma", the latter prepared Environmental Impact Assessment of the project. As discussed above the public hearing is the mandatory procedure before submitting final EIA to the MENRP and obtaining the environmental Permit. The

facilitator of the meeting was the investor company, though the presentation about the planned project activities and their environmental and social impacts was provided by the Gamma representatives.

It is remarkable that the meeting was held at the administrative building of the local government and majority of the attendees were representing local administration. The most active participant of the meeting was the representative of the national NGO (Green Alternative) and several members of the local communities, who later in the personal communications stated that they learned about the planned public hearing through Green Alternative. The meeting was filmed and covered by the local media agency.

The format of the meeting was similar to all EIA hearings held in Georgia: the discussions started with presenting environmental impacts with a complex, technical terminology, that was often general and difficult to understand for the laypeople. *“Interpret this in the simple words”*- was the frequent comment/request from the audience. Second part of the meeting was devoted to the “question and answer” session and the meeting transformed into active debates. The main reason of the acute debates was the number of questions left without responses. Specifically the main interest of the community was the land compensation issues, though the company couldn’t provide any Resettlement Action Plan (RAP) or Compensation plan that would justify the methodology of the compensations calculation. Another issue having significant importance for the communities was the job opportunities, though the project developers couldn’t name exact number of the people that would be employed, moreover they could not guarantee such employment. However the main comment and question were prevailed by the personal interest of the attendees: *“I came here to know how I and my village would benefit from the project but they talked only about the ecological impact. Nobody has the answer to the questions we are the most interested in, that makes me*

think that we will not get any benefits”- told me the old gentlemen attending the public hearing.

The important fact observed is the format of the meeting itself. After the short presentation about environmental and social impacts of HPP project, the project developers addressed the audience and asked to provide the question with regard to the project. Obviously, the fact that public hearing is not only the informative meeting but the actual instrument of decision-making was unclear both for the public and project proponent.

The attendees also emphasized that they didn't know about the opportunity to review the project before. The company followed the legislation and EIA was accessible in the local municipality building and on the web-page during the EIA disclosure period. Out of the 25 people representing affected communities only 1 mentioned that they had reviewed the EIA report before the EIA public hearing.

Moreover one of the main interests of the researcher was to examine whether the communities had knowledge about the EIA procedures, more precisely whether they know that the main purpose of the public hearing was to integrate the opinion of the attendees in the final decision. The observation once again confirmed that awareness about the EIA procedure is low and the only legal mechanism to affect the decision is vogue for the society. Moreover the attendees did not hide their cynicism and skepticism with regard to the motivation of the project developer integrating their views during the decision-making process.

Chapter 6. Barriers to Effective Public Participation in Georgia and Recommendations for Improvement

The present chapter of the thesis overviews the main findings: Bearing in mind one of the main goals, it will provide the list of key barriers to effective public participation in Georgia and will follow with number of practical recommendations.

6.1. Factors Influencing on the Effectiveness of Public Participation

The literature review has emphasized the several levels of the public participation. Georgian legislation ensures low tokenistic level of participation- consultations with public, which provides opportunity to submit written comments and attend public hearing meetings. However case studies showed that the legally established procedures are not enacted properly in practice. As part of the interview meetings, the respondents were asked to express their views about the factors hindering the effective public participation. The factors identified by the interviewees are presented on table 1. However the chapter will also provide barriers identified through the researcher's observation and case studies.

Table 1 Barriers to effective public participation identified by interviewees

Barriers	NGOs	Experts	Local Communities	Consulting Company	Government
<i>Unclear regulations</i>	☑	☑	☑	☑	☑
<i>EIA disclosure does not ensure public's access</i>	☑	☑	☑		
<i>Low quality of informing public</i>	☑	☑	☑		

<i>Information scarcity about Env. issues</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Illusion of Public Hearing</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>Lack of trust in government entities</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>Lack of trust in investor companies</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>Low environmental awareness of project developer</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Political pressure</i>		<input checked="" type="checkbox"/>		
<i>Late involvement of public</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>Lack of capability</i>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Low environmental awareness of public over Env. Issues</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

A few interviewees emphasized that the participation mechanisms as it is assigned by the current regulations do not have any impact on the decisions. Furthermore Mr. Irakli Macharashvili, representative of the Green Alternative while discussing the hydropower sector development pointed out that not only the public participation, the whole EIA process is ineffective due to **the sequence within the decisions are made** (figure 1). More precisely the location, design and installed capacity of the power plants are already defined by the memorandums of understandings, therefore discussing project alternatives, changing project location or installed capacity as a result of the environmental assessment does not take place. Thus for the investor due to such sequence EIA is just a formal

procedure that does not aim to make any significant changes. By the same token, conducting the public hearings in the vicinity of the proposed project activities obviously has just formal characteristics and does not guarantee public's impact on the final decisions.

The key factor nearly all interviewees mentioned during the meetings is that **participation process is not regulated adequately**. The legislative analysis (see Chapter 5.2.) has proved the same. More precisely, legislation gives more burden of public participation on the project developer, than to the decision-maker. Moreover the latter does not have any direct contact with public during decision-making process. Furthermore there are significant deficiencies associated with EIA legislation, more specifically screening and scoping phases, that all around are acknowledged as best stages to identify public's potential interest and concerns about the project, are not established in Georgia. Thus public participation is limited to the public hearing meeting the developer organizes, when the whole project is already designed and the most important decisions about the project made (Gachechiladze and Antypas 2009). However there is not any legal requirement to inform the public about the outcome of their comments or inquire they submitted with regard to the projects. Moreover actual process of the decision-making is closed for the public and in order the interested stakeholder to get involved in the process it shall go through complicated bureaucratic barriers that often hinder this to happen.

The research traced how the public participation process had worked in cases of the Khudoni and Dariali HPPs and identified number of shortcomings of the PP practice in Georgia. One of the factors influencing effective PP is the **low quality of informing public**. The interviewees emphasized that the information project developer publishes is often incomplete and do not give full idea about the proposed activity. Furthermore Ms. Tamar

Gugushvili who has undertaken long time observation on the EIA process in Georgia, mentioned the cases when the aim and exact location of the upcoming project were not indicated in the announcements. Also she emphasized the cases when there was not an address or deadline for sending the comments indicated (Gugushvili pers. comm.).

Also, **Environmental Impact Assessment's disclosure procedures do not ensure the public's access to it.** As per Georgian EIA legislation, EIA is submitted to the Ministry of Environment and Natural Resources Protection and to the local administrations. However though it is not required by the legislation, Aarhus Centre in Georgia publishes all EIAs on its website. It is necessary to note that in the regions access to internet is rare and therefore the electronic document may be convenient for the stakeholders in the big cities, but not in the rural areas. Thus the only opportunity for the community members to access EIA report is the local administrative buildings. Though since they are government offices, overcoming significant bureaucratic barriers is necessary to get access to the document. It may be concluded that although EIA is disclosed for comments, a great part of the society do not have proper access to it.

However, experts state that content of EIA report is vogue and too technical for the public. Therefore they consider access to **Non-technical summaries (NTS) as vital to inform public about the proposed activity.** However though preparation of NTS is legal requirement, its distribution to the affected communities is not legally established. Obviously printing additional material and making it available for the public needs further finances that are significant barrier for the Georgian companies, especially when there is no such requirement in the law.

The participant observation made it clear, that public still **lacks information** about general environmental issues and their opportunity to participate in the decision-making process.

Society does not have knowledge about the Environmental Impact Assessment and the public hearing procedures. The research found that though the interest towards the hydropower plants construction is high all over the country the number of the people attending the participation meeting is miserable. Once again existing formal measures for the dissemination of the information about the planned public hearing meetings are not effective, especially in the regions where the majority of population do not have access to internet and media sources. The attendees on the Kirnati HPP public hearing mentioned in the personal communication that they did not have advance information about the planned meeting, moreover they learned about their rights of participation in decision-making from the researcher.

Public hearings in Georgia are held in highly superficial level – this was the most frequent criticism expressed by the interviewees. Representatives of EIA consulting company Gamma, that prepares tens of EIAs for different infrastructural projects each year, could hardly remember cases from their recent practice, when the projects were significantly changed after the EIA public hearing. And those changes were more related with the procuring additional services rather than with altering the project design or selecting other alternatives of the project (Gvakharia per comm., Akhvlediani pers comm.). NGOs have emphasized that project proponents hold public hearings to meet with the procedural requirements though the main concerns, comments and questions expressed by the participants in those meetings often remain unanswered and unconsidered (Burjanadze pers comm.).

The communication with the local communities revealed that due to the political and social situation in the country there is **mistrust to government entities**. While meeting the local population in Khaishi several important issues came on the surface. For instance the locals

argue that before the election (October 2012) the new government promised during its election campaign that Khudoni and all big hydro power projects would stop if they were elected “ One of the reason why we elected the new government was the new hope that the project would stop... but the same politics continues.”.

Another important issue that can be mentioned based on the case studies is that **public do not trust the investor companies**. On the other hand **project proponents view local communities and stakeholders as the barrier for the development**. For instance the project proponents mentioned during the interview that the stakeholders who are actively involved in the public hearings are those who want to block the projects that are vital for the energy sector and economic development of the country. ‘If the participants had the direct impact on the decisions, the construction of the hydropower plants, that have strategic value for the country’s energy sector and economy, would stop immediately’-mentioned of Lasha Iordanishvili, representative of “Darial Energy”.

Experts highlight that **environmental awareness of the project developers is very low**. For instance Ms Tamar Gugushvili pointed out: ‘Being ‘Green Company’ and doing ‘Green Business’ that is so prestigious worldwide is a long-term prospective for Georgia. Furthermore, no incentives from the government and low public awareness do not push companies to change their current practice”. In the same light, Mr. Vakhtang Gvakharia , Director of consulting company “Gamma” stated that **the proper environmental management system is not established in the most Georgian companies**. Specifically, when environmental legislation is weak, MENRP does not have enough capacity to undertake adequate monitoring of the projects, of course the developers see the whole environmental procedures as pure formality. ‘The recommendations and management plans we elaborate

during the Environmental Impact Assessment often stay on the papers “-complained Mr. Gvakharia.

Also, when discussing Dariali and Khudoni HPPs many interviewees mentioned that the **decisions about the hydropower plants are largely influenced by the political interest**. Interviewees claimed that high political interest does not create favourable conditions for effective public participation. For instance number of government leaders officially declared through various media sources that the construction of the specific HPPs is already decided. Even the president of Georgia announced publicly that construction of large-scale HPPs was essential for the state. Therefore the stakeholders, especially local communities are sceptical that they may effect on the decisions that are often made on the highest level.

However the interviewees mentioned that generally **public interest towards the environmental issues is not high** in Georgia. Public interest is depended at what extent the proposed project affects on their private interest (Akhvlediani pers.comm). It should be noted that due to the existing socio-economic situation, environmental impacts of the project are not priority for the local communities. On the other hand, the hydropower projects demonstrated that if there is more effort made to disseminate information and spark public`s interest towards the project, environmental issues may even become focal point of public concerns. For instance in case of Dariali HPP the fact that project developer spread the information inadequately, did not trigger public`s interest towards the project initially. Though later, as a result of the national and local NGOs` awareness raising campaigns, the hydro power projects became the most actively discussed issues in Kazbegi region. Therefore it may be argued that if there were adequate measures taken to disseminate information, interest from local communities would be higher. Thus generally environmental issues are not priority over social or economic issues in

Georgia, though very often lack of information does not facilitate the increase of the interest.

Current rapid development of the hydropower plants once again revealed the importance of the inclusion of society **in the early stages of the project planning**. Early PP is important not only for making informed decisions, but for successful implementation of the project itself. For instance, in case of Khudoni HPP, the communication with the project affected community was incomplete and not transparent. The local community who are to be relocated did not have clear information on their fate; the shortcomings in the resettlement procedures resulted in the local population's distrust in the government and investor. The project was delayed due to the local public's and civil society's strong resistance. The better communication with the local public and stakeholders at initial stages (during the screening and scoping) would have revealed the existing social and environmental problems earlier, that would avoid on the one hand the additional costs for the investor to prepare the new Environmental Impact Assessment and on the other hand the mistrust of the local communities (Burjanadze pers comm.).

One of the main barriers to the public participation is the **low environmental awareness**. As touched upon in the Chapter 2, Georgia does not have long environmental and public participation traditions. In Soviet times environmental issues have never been priority and after the breakup of the Soviet Union the conflicts and severe economic and social situation in the country, have not created favourable condition to increase public's awareness and form environmentally-active citizens.

Finally, I would add **lack of capability**, that is lack of knowledge, financial and human resources ,that contribute to the low level of participation to the significant extent. In order to start “managing public participation” it is important to create a focus groups in

the communities and arrange permanent consultation meetings that needs specially trained staff (Asatiani pers. comm.). Also printing bulletins, NTSs, etc. are directly related with the financial resources that is additional pressure on the project developer. While talking about financial and human resources the capacity of the MENRP should also be pointed out. Currently the ministry does not have enough resources to attend public hearings, if it is not large-scale projects having strategic importance for the country.

6.2. Recommendations

The following recommendations and the specific measures are proposed to overcome the existing barriers and improve current public participation practice in Georgia.

Recommendation for the MENRP

1. Defining the priorities of the environmental field occurs when the policy, the programs and the strategic frameworks are being prepared. **Therefore during the whole process of such strategic document's elaboration, involvement of all key stakeholders should be guaranteed.** Moreover it shall be emphasized that in such consultations, not only the NGO sector and civil society should be included, but other government entities and the international institutions operating in the country. Thus , it is recommended that the entity initiating such strategic document, to conduct public consultation meetings during its preparation periodically. This will allow on the one hand the stakeholders to provide their comments on time and on the other hand the initiator to integrate those comments in the new version of the policy document or program.

2. Government shall **renew the existing law of Environmental Impact Permit** and provide strict mechanisms for the public participation from the early phases of project planning. Screening and scoping phases are the levels where the identification of public interest and opinions take place. Therefore it is recommended the government to introduce those phases in Georgian legislation. Strengthened Environmental Impact Assessment system will guarantee on the one hand early public participation and on the other hand better quality of Environmental Assessment process in general.

3. One of the acute problems research revealed is that public does not participate in actual decision-making and currently the government entity makes decision with regard to the specific project based on the documentation the project developer submits to the Ministry of Environment. Therefore it is **suggested, the decision-maker to publish the final EIA report for the public comments and give the stakeholders proper time for providing their comments and feedback on it.** This way the MENRP will receive final decision based not only on the documents submitted by the project developer, which has its private interest, but taking into account public's comments and interests.

4. Once again research revealed that the shortcomings related to public participation in specific project activities are directly connected with current deficiencies of the EIA system. Based on the research findings, **creation of the dedicated entity responsible for coordinating public's information on environmental matters and controlling PP procedures is recommended.** Such entity would undertake all public hearings, publish final decisions and ensure better quality of the public's involvement in the decision-making process. Additionally it would organize a database of the EIA documents, final decisions and make them accessible for interested stakeholders.

Indisputably public participation process managed by the independent entity would be more transparent, flexible and effective, rather than the current practice when the whole PP process is under the control of the project's developer.

5. It was highlighted many times during the interviews that currently the decision-maker is not obliged to publish its final decision about the project. Thus public never know how their comments were reflected and whether they made any impact on decision. **It is recommended such decisions, mostly conclusions of ecological expertise, to be available for public.** On the one hand this would increase trust of the public to decision-making entity and on the other hand would raise project developers' responsibility to fulfil all the requirements.
6. Government shall organize special forum with the stakeholders and discuss the problems associated with the effectiveness of public participation. Together with stakeholders, a **detailed Strategy** uniting all problems and suggestions identified by the parties shall be prepared. The Strategy should be followed by the Action Plan that would set detailed timelines and procedures to address the issues.
7. Government shall propose some **incentives for the private companies** to raise environmental awareness and make "Doing Green Business" prestigious. Raising project developers' awareness over environmental issues is critical for successful public participation.

Recommendations for ENGOS

1. **Participatory culture should be promoted in the communities.** Environmental NGOs can play a crucial role through implementing informative programs and forming the initiative groups in the regions.

2. NGOs shall play key role in increasing awareness and education over environmental issues. **Planning and Implementation of special programs oriented on increase of awareness and education all over the country is recommended.**
3. **Cooperation with the NGOs working in other sectors is suggested.** More precisely, joint programs with the national NGOs working on human rights issues or democracy enhancement is important in order to increase public's awareness over ENGO's activities. In particular, changing the widespread stereotype of the ENGOs as "the groups protecting the trees and the butterflies" is crucial. ENGOs shall be associated with part of the rest civil society struggling for the sustainable development of the country. Also such cooperation will increase the visibility of ENGOs and society's trust in them.

Recommendation to Project Developer

1. General recommendations to the developer on how to ensure better and successful participation in the project planning and development process are: 1. Start participation process early, 2. Select the key stakeholders and find out their main interests or concerns 3. Choose participation methods according to the identified concerns and define how they will be addressed 4. Keep whole participation process clear and transparent.

Chapter 7. Conclusions

In conclusion, the level of public participation in environmental decision-making in Georgia is not high. Moreover if we take Arnstein's (1969) ladder of public participation as a measurement mechanism, existing public participation provisions in Georgia are on the lowest step of tokenistic participation which does not grant any power to public.

The first objective of the research was to analyze Georgian legislation and emphasize how the existing legislation facilitates the public participation into the decision-making processes. The study revealed that Public Participation in preparing strategic documents, policies and programs is poorly regulated by national legislation. At one glance the Georgian legislation gives impression that public participation in decision making on specific project activities are guaranteed, though the thesis identified number of regulatory gaps making the whole PP system ineffective. Specifically, the Law on Environmental Impact Assessment (2007) that regulates PP in the specific activities has various shortcomings and does not guarantee timely and informed participation. In particular, the participation occurs at final level, when the EIA report is already prepared, main design and alternative selected. Therefore such system grants public with minimal power to affect on the final decision. One more important finding is that there is no direct contact between government entity and public during the decision-making process. Also, there is not any legal requirement to inform the public about the outcome of their comments or inquire they submitted with regard to the projects. Moreover actual process of the decision-making is closed for the public and in order to get involved in the process, individual or organization shall go through complicated bureaucratic barriers, which often hinder this to happen. Additionally, Ministry of Environment and Natural Resources Protection tried to lessen its administrative burden and put all responsibility for ensuring public participation to the project developer. The research showed that such design makes the system ineffective and inflexible in practice.

Second, the research examined the existing practice, in particular how the legislation works in reality. Although there are some positive examples of cooperation stakeholders and MENRP on strategic issues, stronger commitment and political will of the government entities are required to make such cooperation effective.

In order to examine how PP works in practice with regard to the specific activities the case studies on the hydro power sector, on two HPPs in particular, were undertaken. The case studies revealed number of interesting shortcomings and barriers and proved that existing legislation is ineffective in practice. First of all, the quality of informing public about project and upcoming EIA public hearing meetings are very poor. Secondly, awareness about EIA procedures are low and does not ensure informed participation. Additionally, public hearing meetings are held in highly superficial level and are far from consultations. Finally, the poor provisions of the Georgian Administrative Code to involve public in the true decision-making process- in the administrative proceedings, is barely executed in practice.

Third, the study once again proved that environmental awareness and education in Georgia is low. The reasons are directly connected to the country's Soviet past and severe social, economic and political situation after independence. Therefore more effort and dedication of MENRP, NGOs and international donor organizations to plan and implement awareness raising campaigns and educating ordinary people about their environmental rights is highly recommended.

Finally, due to the short timeframes the research examined only the existing situation in Georgia with regard to PP and provided recommendation for its improvement. Further research providing detailed Public Participation Strategy for Georgia would be extremely helpful.

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Official Correspondence:

Green Alternative's official letter to the Ministry of Environment. February 26, 2013. Letter #04/06-89.

Appendix 1. Questions for Interviews

General Questions for representatives of government authorities

- How would you describe the overall general trends of public participation in Georgia?
- What do you consider key gaps in current PP legislation and practice?
- How would you assess the relationship of the Ministry with NGOs and other stakeholders?
- How would you assess stakeholders' involvement in legislative process? Also in process of elaborating policy and programs? What are the positive and negative aspects of this relationship?
- What policy or practical instruments are needed to improve the current situation?
- Is there any plan or strategy to improve the current situation in the nearest future?

General Questions for NGOs and Experts

- How would you describe the overall general trends of public participation in Georgia?
- What do you consider key gaps in current PP legislation?
- How do you think what are the barriers of successful implementation of legislation?
- How do you think what shall be done to fill those gaps and improve the current situation?
- Do you participate in the law-making, programs and policy elaborating process or not? Could you describe the forms of participation?
- Do you feel your comments and input are considered during the final decision-making process?
- Was there any successful case you or your organization participated in?

General Questions for Project Developers/ Investor Companies

- What were the measures you addressed to ensure public participation?
- Do you think the measures were adequate for informing public? Also for identifying main concerns and interests of public?
- Could you name any barrier to effective public participation that your company faced during the project's planning or implementation period?
- Do you have any public participation plan or communication strategy within the company?
- Do you think there is anything vague or incomplete in the current legislation that makes the practice inflexible?

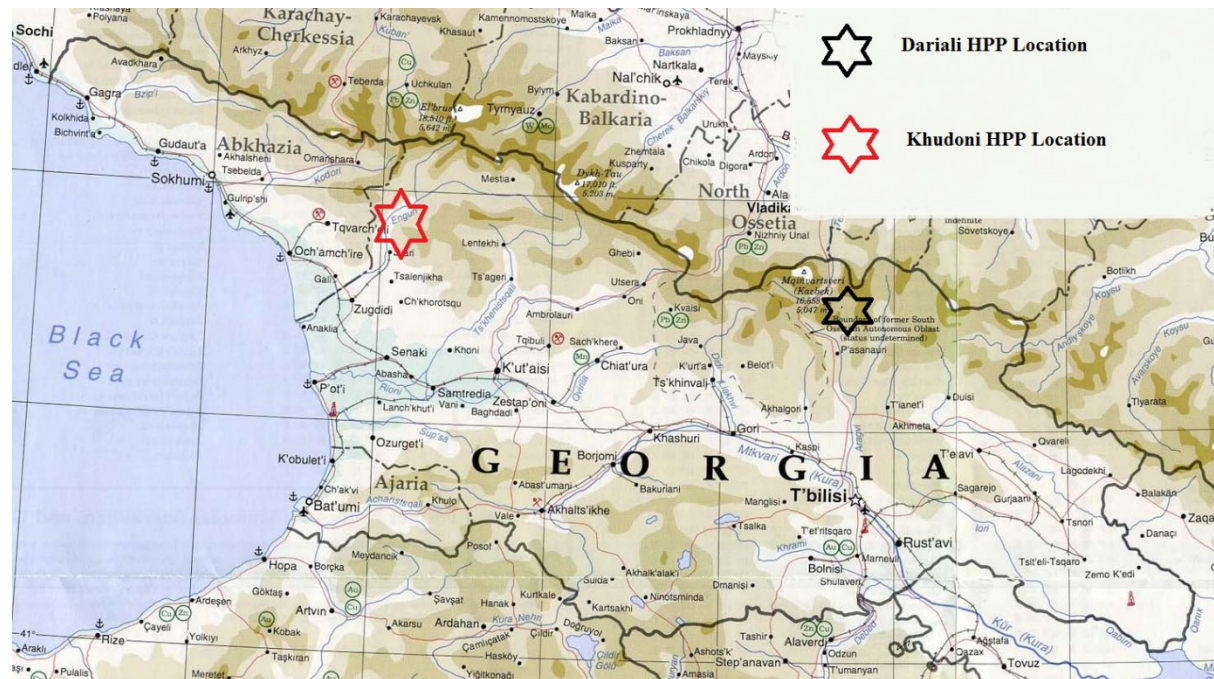
General Questions for representatives of Khaishi and Stepantsminda Communities:

- What is your attitude towards the project?
- Are you aware of EIA procedures?
- Did you have opportunity and interest to access to EIA?
- Did you have access to NTS?
- What do you think about the EIA public hearing meetings held in the municipalities?
- Do you feel your concerns and interests are considered during the decision-making process?
- How shall the existing PP procedures be improved?

Appendix 2. Personal Communications

1. **Asatiani Nino**- Public Relations Manager, Trans Electrica Limited (Developer of Khudoni HPP)
2. **Arveladze Revaz**- President of Energy Academy of Georgia
3. **Akhvlediani Juguli**- Head of Environmental Department, Scientific Research Center “Gamma”
4. **Berishvili Sophie**- EIA expert, Norsk Energy, Independent consultant of the project ‘Gap Assessment in Hydropower Project ESIA in Georgia’.
5. **Buchukuri Shota**- Representative of “Stepantsminda”, NGO
6. **Burjanadze Kote**- Deputy Director of Independent Commission of Environmental Impact Assessment; “Greens Movement of Georgia” of Georgia; NGO
7. **Chitanava Anzor**- Vice President of Energy Academy, Head of Hydroelectricity Department
8. **Gvasalia Tsira**- Environmental Journalist, Organized Crime and Corruption Reporting Project
9. **Gvilava Mamuka**- ESIA Expert, Individual consultant of the project- ‘Gap Assessment in Hydropower Project ESIA in Georgia’.
10. **Gogaladze Khatuna**-Minister of Environmental and Natural Resources Protection of Georgia
11. **Gugushvili Tamar**- Independent Expert, former employ of Aarhus Center of Georgia
12. **Gvakharia Vakhtang**- Director, Scientific Research Center “Gamma”
13. **Gvilava Mamuka**- Independent Environmental Expert
14. **Eloshvili Ilia**-Deputy Minister of Energy of Georgia
15. **Iordanishvili Lasha**- Dariali HPP Project Manager, Darial Energy
16. **Kereselidze David**- Head of Geography Department, Tbilisi State University
17. **Macharashvili Irakli**- “Green Alternative”, NGO
18. **Robakidze Pikria**- Chief Specialist at the Environmental Committee of the Parliament of Georgia
19. **Tkhilava Nino**- Head of Environmental Policy and International Relations Department; Ministry of Environment and Natural Resources Protection of Georgia
20. **Todua Lia** – Environmental Projects Coordinator, Center for Strategic Research and Development of Georgia (CSR DG), NGO

Appendix 3. Map of Georgia with Locations of Khudoni and Dariali HPPs



Source: Adapted by author based on Infokart.ru