

Public participation in EIA process of small hydro power plants (HES) in Turkey

Emine Behiye Karakitapoglu



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Supervisor: Kaisa Raitio, Swedish University of Agricultural Sciences
Department of Urban and Rural Development, Division of Environmental Communication

Examiner: Helena Nordström Källström, Swedish University of Agricultural Sciences,
Department of Urban and Rural Development, Division of Environmental Communication

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Keywords: Hydro, HES, Public Participation, Environmental Impact Assessment, Democracy, Turkey

Sveriges lantbruksuniversitet
Swedish University of Agricultural Sciences

Faculty of Natural Resources and Agricultural Sciences
Department of Urban and Rural Development

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Abstract

Over the past few decades, participation in environmental decision-making has become a topic of considerable debate. Since there are different values and worldviews, pluralist democracy provides a relevant basis for planning participative natural resource management and implementing an inclusive environmental decision-making process. For about 15 years, widespread demonstrations to oppose construction of small hydro power plants (called „HES“ in Turkey) and countless lawsuits seeking for a fair, rational and inclusive construction process, brought the issue of „public participation“(PP) into the Turkish political discussion. As a major occasion for the citizens to be effective in environmental decision-making in Turkey, the Environmental Impact Assessment (EIA) process is the focus of the study. In addition to the EIA legislation, perceptions of actors are analyzed to display the current state of the public participation issue in Turkey. Detecting existing shortcomings in the design of the PP process and implementation of three different HES project, made it possible to acquire recommendations for improvement of the system.

Keywords: Hydro HES, Public Participation, Environmental Impact Assessment, Democracy, Turkey

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1. INTRODUCTION

The purpose of this study is to determine the state of public participation (PP) in the process of small Hydro Power Plant (HPP) constructions in Turkey (commonly known as “Hidro Elektrik Santrali” or “HES” in Turkish, henceforth abbreviated accordingly) The study analyses perceptions and experiences of stakeholders with regards to the effectiveness of the existing participation process. Furthermore, in light of the Turkish Environmental Impact Assessment Regulation review, potential barriers for effective PP in environmental decision-making will be emphasized.

To understand the level of PP in HES construction processes; the institutional framework, access, possibility to information, justice, and power relations were crucial dimensions to the investigation. The state of the public’s expectations is also included in the study. In the light of the experiences, observations, recommendations, opinions and critiques by the public, a guideline is presented for policy makers and practitioners to improve the institutional structure and implementation.

The term “public participation” as it is applied in this study, includes “organized processes adopted by elected officials, government agencies, or other public -or private-sector organizations to engage the public in environmental assessment, planning, decision-making, management, monitoring, and evaluation. These processes supplement traditional forms of public participation such as voting, forming interest groups, demonstrating, lobbying, by directly involving the public in executive functions that, when they are conducted in government, are traditionally delegated to administrative agencies. The goal of participation is to improve the quality, legitimacy, and capacity of environmental assessments and decisions” (Dietz T., et al., 2008). Within the context of the study, the concepts „democratic participation“, “citizen participation” and „community participation“ will be used interchangeably to refer to the term “public participation”.

Participation in environmental decision-making has been a part of the national agenda since the 1969 National Environment Policy Act (NEPA) in the United States (Depoe S., et al., 2004). The movement to involve citizens in environmental policy has spread to other countries as well as through international forums such as the United Nations and the World Bank. At the same time, controversies over a wide variety of environmental issues, including facility siting permit granting, natural resources management, land use, environmental justice, brown fields revitalization, smart growth, and international trade agreements, have led to an increasing focus on matters of public participation (Depoe S., et. Al., 2004).

As it is written in the Turkish Constitution (Clause 2): “Turkey is a democratic, secular and social state with the rule of law” and all major laws; including Environmental Law (2872), enacted November 8, 1983, are designed to achieve participative system in the country. Nevertheless, there is a growing concern in the society that, policy makers are ignoring the rights of the people to participate in decision-making process, especially on environmental issues. Wide spread demonstrations and hundreds of judicial cases are striving for a fair and participative decision-making. This is a dilemma needs to be recognized in a democratic country as purpose of these activities is to achieve equal and sound participation. The motivation behind the study has been to understand the failing parts of the participation process and the reasons as to why widespread demonstrations and conflicts arise in the country.

In Turkey, there has been a growing recognition within the government and indeed the whole of society that the future of Turkish environmental protection will depend—on a more effective participation of multiple stakeholders. Along with growing appreciation of the potential benefits has come a more systematic understanding of the factors that currently inhibit a wider and more effective use of participatory techniques in Turkey. Over the last decade, there has been a succession of studies pointing to the conclusion that current environmental practices, entrenched institutional arrangements and attitudes, and poorly adapted laws, are major constraints on participatory approaches (Coskun & Gunes 2005).

Turkey developed its National Action Plan in 1998 in accordance with the requirements of United Nations Rio Declaration on Environment and Development (Rio de Janeiro) in 1992, which underlines that: "[...] environmental issues are best handled with participation of all concerned citizens, at the relevant level."

Among other environmentally destructive projects, such as widespread mining activities in Turkey, small HES have become a major source of contention. HES is a streaming hydro power program that uses a diversion to channel some of the water from a stream into a pipe that supplies the water turbine, rather than that of a reservoir design where water is channeled by a very small dam called „(water) regulator“. The rest of the stream water continues passing the diversion down its natural path (Photo 1 and photo 2.)

Since HES constructions first began in Firtina Valley in 1998, strong resistance of locals against HES projects and their persistent applications to the courts for legal redress of their grievances has been displayed¹. People complain mainly about adverse effect of HES on their lifestyle, livelihood and visible environmental destruction² to the lands around them. Since most of the HES projects were under 25 Mega Watt MW installed capacity, and existing Environmental Impact Assessment (EIA) regulation excludes citizens participation on HES projects smaller than 25 MW; there was no opportunity for locals to express their opinions on such projects. Local's endless effort to be effective in the decision-making process through judicial ways made it necessary to question the participation issue in environmental conflicts in Turkey.

Public participation is most effective when it is based upon mutual trust, improved communication and cooperation among all people involved in the process (Atmis et al. 2007). The EIA regulation has been changed several times during the past 15 years, especially as the earlier versions have resulted in hundreds of projects being excluded from the EIA process. This has hindered public inclusion in the decision-making processes; eliminating the possibility for collaboration and thus destroyed the trust-relations between the decision makers and the rest of society.

Within the context of this research, three separate HES –cases are reviewed, namely: The Alakir Valley, Ahmetler and Kargi HES projects. The purpose of these reviews is to generate an understanding of the following questions:

1. Is the EIA Regulation adequate for effective participation?
2. What are the constraints in EIA implementation process that hinders PP?
3. Is access to information and justice adequate for citizens in HES construction process?
4. What is the condition of the law enforcement in the country in terms of HES constructions?

¹http://derelerinkardesligi.org/web/index.php?option=com_content&task=view&id=20&Itemid=9

²<https://www.facebook.com/video.php?v=10203321550058685>



Photo 1.



Photo 2.

Photo 1 shows the water regulator of Alakir Kurce HES. Photo 2 shows the remaining amount of water in Alakir River, after the water has been collected into pipes for energy production in lower altitudes. (Photographs: Emine Karakitapoglu)

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

Theory of Participation

Effective participation is essential in a democratic system: “Before a policy is adopted by the association, all the members must have equal and effective opportunities for making their views known to the other members as to what the policy should be” (Dahl 2000). Dahl (*ibid*) defines 4 more standards in order to satisfy the requirement that all of the members are equally entitled to participate in the associations’ decision about its own policies. These are: Equality in voting, gaining enlightened understanding, exercising final control over the agenda and inclusion of adults.

Within the public participation literature, much recent theoretical work focus on discrete phenomena. These works may be useful in a limited context, but for the moment, they remain somewhat scattered. Theories in the field of public participation have also benefited from this recent theoretical work and they have been intertwined with theoretical work from other fields as well. Other strands of these theories await further development and synthesis.

Participation in development is here defined as the process through which people with a legitimate interest (stakeholders) influence and share control over development plans and the decisions and resources that affect them. Giving responsibilities for natural resource management to those closest to the resource and, consequently those with the greatest incentive to manage the resource aptly, was one of the main objective of the United Nations Conference on Environment and Development (UNCED) (Bond et al. 2006).

There are three main reasons why environmental and social impact assessments include opportunities for public participation. Firstly: The competence of the final decision is higher when local knowledge is included and when expert knowledge is publicly examined. Secondly: The legitimacy of the outcome is higher when potentially affected parties can state their own case before their peers and have equal chances to influence the outcome (i.e. the process is perceived as fair by all involved). Thirdly: Public participation is identified with proper conduct of democratic government in public decision-making activities (Webler et al. 1995).

The trend in public participation is toward practices that are more consistent with pluralism. A survey of participation practitioners by the International Association of Public Participation identified the core values of participation. The general practices are as follows:

- People should have a say in decisions about an action that affects their lives.
- Public participation includes the promise that the public's contribution will influence the decision.
- The public participation process communicates the interests and meets the process needs of all participants.
- The public participation process seeks out and facilitates the involvement of those potentially affected.
- The public participation process involves participants in defining how they participate.
- The public participation process communicates to participants how their input was, or was not, used
- The public participation process provides participants with the information they need to participate in a meaningful way.

In recent years, the promotion of more direct forms of participation has gained prominence, with a consensus based stakeholder approach being identified as the solution to participation. This is essential because it has features of public participation mechanisms that are grounded in a more democratic approach (Depoe et al., 2004). Some of these features include:

- Encourage direct involvement of citizens who represent diverse perspectives, -
- Provide for adequate access to information channels and resources, -
- Provide for frequent face to face discussions among stakeholders over time, -
- Institute an equitable distribution of power in collective decision-making. -

Lauber and Knuth (2000) argues: “The acceptance of citizen participation in the management of natural resources and in the decision-making process implies a participatory approach”. They think that, participation articulates a philosophy of government and consistent with this philosophy is that citizen participation should aim for the development of a communal vision of the public good and collective action to try to achieve this outcome. Within this framework, they indicate various approaches to citizen participation, characterized by varying degrees of citizen authority and responsibility.

According to Lauber and Knuth, each approach may be appropriate under different circumstances. These approaches are:

- i. Expert Authority Approach – Agencies retain full responsibility for decision-making and do not consider citizen input during the decision-making process
- ii. Passive-Receptive Approach – Agencies consider citizen input, but do not actively seek it out
- iii. Inquisitive Approach – Agencies make systematic attempts to gather citizen input. However, the agencies retain authority for deciding how to weigh this information
- iv. Transactional Approach – Agencies facilitate a process in which citizens work together to try to reach agreement on the best management decision

- v. Co-management – Stakeholders are involved not just in decision-making but throughout the management process. Agencies work with other stakeholders in partnership.

Institutional Framework for public participation in the world

Since the Rio declaration in 1992, there has been a globally accepted institutional framework to guarantee citizen participation in decision-making in environmental issues. UN 1992 it is stated: “Environmental issues are best handled with participation of all concerned citizens, at the relevant level”. The declaration emphasize that, at the national level, each individual should have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. In this process, governments must facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy must also be provided.

In addition to the Rio Declaration, the Aarhus Convention is another binding international treaty for democratic participation considered in this study. The United Nations Economic Commission for Europe (UNECE) on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters was adopted on 25th June 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference in the “Environment for Europe” process. The Aarhus Convention and its Protocol on Pollutant Release and Transfer Registers (PRTRs) are the only legally binding international instruments on environmental democracy that put principle 10 of the Rio Declaration on Environment and Development (see UN 1992) in practice; and they are open for global accession.

The emphasis of the Aarhus Convention is on the provision of a new kind of environmental agreement. The Convention:

- Links environmental rights and human rights
- Acknowledges that we owe an obligation to future generations
- Establishes that sustainable development can be achieved only through the involvement of all stakeholders
- Links government accountability and environmental protection
- Focuses on interactions between the public and public authorities in a democratic context.

“The convention is not only an environmental agreement it is also a Convention about government accountability, transparency and responsiveness. The Aarhus Convention grants the public rights and imposes on parties and public authorities” obligations regarding access to information and public participation and access to justice”.³Aarhus Convention is also forging a new process for PP in the negotiation and implementation of international agreements. Although Turkey is not a party to the Aarhus Convention, it has an influence on the Turkish system due to the membership negotiations with the European Union, which is a party to the convention.

3. METHOD AND DATA COLLECTION

A qualitative research methodology has been used in this study. According to Bryman (2004), qualitative research seeks for an in-depth understanding of issues of concern. “A basic principle underlying qualitative research of viewing social life as resulting from processes and changes in people’s interaction makes it to be constructionistic” (Bryman 2004).

³<http://www.unece.org/env/pp/introduction.html>

This methodology has been employed as it allowed for the unfolding of changes in citizen participation in environmental decision-making over time, making interconnections to the actions of stakeholders during participatory meetings. Additionally, it was a flexible approach enabled a combination of various participatory research methods in collection of data and analysis. Moreover, it fostered deeper understanding of the impact of public participation in the decision-making process.

“[Since] the quality of public involvement processes varies widely from case to case and from agency to agency” (McKinney & Harmon, 2002), three HES cases were chosen with different characteristics. This made it possible to look at the situation from a broader perspective and get a more comprehensive, realistic and reliable insights into the state of participation issues in the HES process.

This study has been approach through a phenomenological method. For a better understanding of the perceptions of the public and other stakeholders, I visited the HES construction sites in person. Semi-structured interview questions assisted in the understanding of cultural frames, contexts and situations from which participation issues emerge.

As Silverman (2011) states: “Interviews reveal evidence of the nature of the phenomena under investigation, including the contexts and situations in which it emerges, as well as insights into the cultural frames people use to make sense of these experiences and their social world. In-depth interviewing is a particularly effective method for examining the social world from the points-of view of research participants”.

To be able to give free space for the interviewee to explain his/her experiences and his/her social world, 12 semi-structured interviews with the stakeholders has been conducted and included in the research. A focus group interview has been included as well. Additionally two participant observations have been conducted, which made it possible to understand people’s approaches to the participation process under different occasions and circumstances.

The limitations and barriers of the data collection

It was necessary to choose more than one case to understand the PP issue, because the level and quality of PP varies between cases. However, choosing 3-three different HES projects with different characteristics made the research difficult. This required extensive literature research. After gaining an understanding of the general characteristics of HES projects, I focused on three specific cases that can be considered to represent other HES projects as well on the basis of shared characteristics.

This paper does not content that the presented cases is representative of HES projects in general. Because, every single HES project has its own characteristics in terms of geographical conditions, education level in the region, size of the HES, different approach by the project implementer, ecological diversity, income source of the locals, citizens’ levels of awareness, strength of NGOs and several other technical differences. These variables affect the participation process in different ways.

Except investor company representatives, it was easy to reach stakeholders for the interview. Despite my several attempts, company representatives did not respond to the calls. Since they have their offices in faraway cities, it was not possible to create a spontaneous meeting occasion by making unannounced visits. This is the reason why perceptions of companies lacking in the study. Locals perceive the companies as very strong, „profit oriented allies of the state” and dedicated to do everything to realize the projects, including threat, corruption etc. In the fights between locals and company staff in Ahmetler Canyon, private security forces applied violence and used guns against

people. This is not only incidence in HES protests and can be an indication of tension between companies and people. For dam project in Kargi, it is expressed that the construction process is much slower and the problems can be solved in a calm atmosphere. Nevertheless, HES projects with dam are not investigated with all its aspects in this study and only one case is not enough to make any kind of generalizations.

Another difficulty was the hesitations of decision makers to answer the questions in an honest way. As they work under the existing government, they are likely to avoid scrutiny from their superiors. Despite having assured that their names would not be mentioned in the study, they sometimes did not want to answer questions.

Accessibility of the remote Alakir Valley's forest area was a problem for me. There are several villages in the valley, but roads are in bad condition and hired drivers did not want to drive there. For this reason, I requested one villager to call me when he comes to the town and I went to town to meet him. Eventually, I was able to visit one of the active HES and its two neighboring villages. People were eager to speak in private interviews, but did not want to talk much when the village administrator was present in the hall where I carried out a focus group interview.

For the Kargi dam and its HES project, I participated at a strategic stage of the EIA process. All stakeholders were present and I was able to observe their attitudes towards the construction process during a 10-hour consultation and investigation program. I participated in the capacity as a guest of EIA consultancy company with no assigned responsibilities. It was a good opportunity for me to carry out participant observation. Nevertheless, all the stakeholders were very busy with several short evaluation meetings; which did not allow for any interviews to be made with them.

This paper focused only on the PP aspect of all HES projects and does hence not indicate proper technical details or any other complementary aspects of the process unless they affected the participation process directly.

Cases and their characteristics

Alakir Valley: 8 HES projects on a single river

Alakir is a typical case for understanding the participation issue in HES constructions in Turkey. This is because this case involves several characteristics of HES projects in Turkey. There are eight hydropower plants along a 70 km river valley stretch; seven of them HES, one of them is a hydropower plant with a dam. Since four of the power plants were already conducted and functioning, this location provided a valuable data set for understanding previous citizen involvement levels.

In addition to four constructed hydropower plants, two planned HES are at the preconstruction stage and their EIA's are pending. One of the preconstruction HES is suspended due to a court decision after locals objected to the construction that had no environmental assessment reports. The other preconstruction HES was also decided by the local administrative court to be suspended due to inappropriate EIA reporting. However, the government by-passed the decision by approving a new EIA and the construction process commenced accordingly. Locals went to court again and a judicial process is still ongoing. The diversity of processes observed from this valley made it possible to grasp the issue in a more comprehensive way.



Figure 1, Alakir valley with eight HES projects. The figure is created by a local person called **Birhan Erkutlu** with the heading of “Ecocide map of Alakir Valley”. (Published in Alakir Magazine, No 9, June 2014, page 58). (It is published with the permission of the owner)

Ahmetler Canyon Regulator and small HES project

The second case called „Ahmetler Canyon Regulator“ is a single HES project. The location is a touristic canyon; 12 km in length and 400 meter in depth. The significance of this project for my study is that it is a type of HES automatically excluded from the EIA and PP process. Ahmetler Canyon HES project has very rich data in terms of understanding long lasting judicial processes involving effective local opposition.

The Canyon’s HES project had been decided by the local administrators as “excluded from EIA” on 31 December 2009, but local people only became aware of the project in 2012 when construction machines came to the HES site. Villagers first led to the suspension of the project physically by camping on the construction site until the company gave up construction efforts. Then they applied to the court but their application was rejected due to timeout, which resulted in 30 days of suing deadline was missed. The judicial process has recommenced and the regional administrative court published its decision on 25 September 2014, declaring that: “EIA must be carried out because of the heavy destruction probability in the canyon,” (CNNTURK, 25.09.2014)⁴.

Ahmetler HES is one of the most popular cases in the country and closely observed by the public. Villager resistance received plenty of media coverage and Ahmetler Canyon has become one of the symbols of HES resistance in the county. I have added this case during my research in Alakir valley because most of the interviewees indicated that it was difficult for the public voice to be heard, and the intentional exclusion of the citizens from the decision-making through hiding information was common in HES regions as it was seen in Ahmetler Canyon HES. Another complaint was the position of the state; that is, decision makers backing companies to continue the projects and preventing the public from pursuing legal action by means of time out and other artificial legislative interventions. Ahmetler was one of the best examples to investigate such allegations. The Ahmetler Canyon case was important for my research to understand public involvement issues with its common characteristics with the majority of HES projects.

⁴<http://www.cnnturk.com/haber/turkiye/mahkeme-ahmetler-kanyonunda-hesi-durdurdu>

Kargi HES with dam



Figure 2, Kargi Dam and HES (Project info document used at public hearings by the EIA company)(The map is published with the permission of the owner)

Kargi HES is a Dam Project of 214.20 MW installed capacity, situated on the Sakarya River. The EIA process is going on for the Project. I participated during the public hearings, which were held in the dam's two closest villages to utilize participant observation. Sakarya is the third longest river in Turkey and is also the biggest stream in the Northwestern territory. I have chosen this case because, according to my literature review, HESs with dams and small HES's have very different features and their impacts to the construction regions and people's life vary significantly. Without data from HES Project with dam, the study could be inadequate. As McKinney, Harmon (2002) emphasized, "the quality of public involvement processes varies widely from case to case and from agency to agency" and it was necessary to understand the participation issue in HES projects with dam as well.

On the Sakaryariver there are already 3 dams:

Gökcekaya dam and HES; constructed in 1972 with a 278 MW installed capacity.⁵

Sriyar dam and HES; constructed in 1956 with a 160 MW installed capacity.⁶

Yenice dam and HES; Constructed in 1999with a 38 MW installed capacity (See footnote 6).

As the fourth dam, Kargi will be constructed on the river near Ankara and Eskisehir. I visited the dam region together with all stakeholders at the day of public hearings. The participants of the construction site visit were Representative of Environmental and Urbanization Ministry, EIA implementer company staff, investor company representatives, people from Prime Ministry Catastrophe and Emergency Administration, Department of Natural Reserve and Parks as well as staff from the ministry's regional office. Two public hearings were held in accordance with the requirements of EIA regulation in a peaceful atmosphere. Total about 150 people participated in two meetings held in two different villages.

⁵www.gokcekayahes.com

⁶www.enerjiatlasi.com

Opposite of other small size HES projects, there is no judicial process against Kargi dam and HES project. The dam is seen as a valuable water source and also as an employment opportunity for the locals, especially during the construction process. Locals see the dam project relatively „environmental friendly“ as compared to the coal power plant, which is under construction in the same region.

Data Collection

Based on the related literature and the consultations with my supervisor, I developed some basic questions for my semi-structured interviews. The aim of the questions were to allow citizens, public officials and environmental consultancy and investor companies to evaluate the effectiveness of public participation based on their own perspectives. In addition to common questions, I asked questions specific to the field in which they are active. Targeted interviewees were citizens, decision makers, environmental consultancy company representatives, NGO representatives, investor company representatives and journalists. Questions were designed to understand the following basic issues, which indicate the quality of the participation:

- The state of participation practices and perceptions of stakeholders on EIA regulation and implementations in regard to public involvement
- The state of access to information
- The state of access to justice
- The state of effectiveness of public inputs in decision-making process
- The state of public expectations in light of observations, recommendations, opinions and critics about the mechanisms and processes.

CASES AND EMPIRICAL MATERIAL

	Interviews	Focus group interviews	Participants observation	Field visits	Written material (media clips, planning documents)
Case1-Alakir Valley	*4 Citizens C1, C2, C3, C4 (one female) *1 national environmental news writer journalist (He was asked question about the Ahmetler Canyon as well) J1 *1 local journalist J2 *2 decision maker D1, D2 *1 national NGO representative	15 locals (no female)	A street protest for Alakir in Antalya after Antalya Environmental and Urbanization Department did not approve the Higher Administrative Court decision declaring that "Alakir Valley is a natural protected area".	YES KURCE HES	*Public hearing video records for Alakir 1 and 2 HES, showing that the public hearing could not be done and the document is provided to the public after long lasting protests. ⁷ *Street Protest video. ⁸ *Alakir River before and after Kurce HES which I visited. ⁹ *Court decisions
Case 2-Kargi HES and dam	*2 EIA implementer company representative, E1, E2 *Informal conversation with 4 locals *1 Decision maker D2	-	*2 Participant observation: one with about 80 people (Male and female almost equal); one with 40 people (no female)	YES Kargi dam construction region on Sakarya river together with 18 people (10 female)	*The presentation paper of the project used in public hearings.
Case 3 Ahmetler Canyon	*1 Local NGO representative, N2 *1 National NGO representative and lawyer N1	-	-	-	*Media news, *A scientific report, *Court decisions *videos.

⁷ <http://www.youtube.com/watch?v=Maxhwb8sl9s>

⁸ <http://www.youtube.com/watch?v=IRNl54pT3oM>

⁹ <http://www.youtube.com/user/alakirmehtri>

	*1 Environmental news journalist J1				
TOTAL	13 semi structured Interviews	1 Focus group interview	2 Participant Observation	2 field visits	Ministry documents, reports, media news, videos, court decisions, planning documents, NGO reports, Scientific reports etc.

Table 1. Details of empirical material

4. HES PROJECTS, STATE OF REGULATIONS ON PARTICIPATION AND EIA REGULATION

What is HES and why it is so controversial?

Turkey is in a stage of rapid and dynamic change. The country is confronted with the challenge of harmonizing environmental conservation and unprecedented development. The population growth is very high with largely uncontrolled urban growth (Okumus 2002). Most likely, Turkey will see the fastest medium-to-long term growth in energy demand among IEA (International Energy Agency) countries. Therefore, ensuring sufficient energy supply to a growing economy remains the government’s main energy policy concern (IEA, Report on Energy policies of countries 2009).

Renewable energy resources provide a large share of the total energy consumption of many developing countries. Turkey’s renewable sources are the second largest source of energy production after coal. About two-thirds of the renewable energy produced are obtained from biomass, while the rest is mainly obtained from hydroelectric energy. Hydropower is currently the most important kind of renewable and sustainable energy. In Turkey, most of the large-scale water power plants have been developed. Hence, only a modest increase in the hydroelectric generating capability can be anticipated within the next two decades (Balat 2006). The country is planning to make use of the exploitable hydropower potentials (HPPs) of 122.322 GW/year by 2023 (Bakis & Demirbas 2004).

The Turkish government’s renewable energy policy was revised in accordance with the country’s energy needs in 2010. The energy report of The General Directorate of State Hydraulic Works (DSI) of the 2010 declared that, in addition to the existing 267 active Hydro Power Plants, 210 were under construction. The government also had planned to construct more an additional1000 by the year 2023, to use all potential renewable energy capacity from the rivers (DSI report 2010). Having said that, the total number of HES projects are not clear because these numbers are updated continuously. As of this paper is being written, 5 HES construction schedules of DSI indicate that a total number of HES projects will be 2319. The country had enacted the „Water Usage Regulation“ allows DSI to sign water usage agreements with the companies on 26.06.2003 (Official gazette 25150). Since several hundred agreements have already been signed as of 2010, HESs constructions accelerated all over the country after 2010.

In spite of demonstrations, NGO objections, and ongoing lawsuits in the country against HES projects, the government’s reiteration to the approach of HES policy created tension in the public sphere. In May 2013, the tension over environmentally destructive projects in the country resulted in nationwide demonstrations where activists camped out in Gezi Park in Istanbul to prevent a shopping mall construction. Police brutalities ensued which spurred a 10 million person march on streets all over the country. Demonstrations then turned into a political reaction against destructive policies of the government as a “spiral of unmanaged conflict” (Carpenter and Kennedy, 1988) like in almost all public disputes.

As briefly stated earlier, HES projects are different from dam projects. “In HES projects the diverted water flows down a pipeline (known as a penstock), passing through a turbine to generate electricity and then reconnects with the original stream. This pipeline is used to contain the water to build high pressure at the bottom where it enters the turbine. In effect, Streaming Hydro systems “borrow” a portion of the stream’s water to produce power, returning it to the stream after the energy is extracted. Unlike the Reservoir system, Streaming Hydro does not change the natural course of the stream or store water for future use.”¹⁰

The issue of contention in Turkey is in regards to the HES’s EIA processes and their effects on the amount on natural water flow in streams. Since most HES project specifications are smaller than 10 MW and they are excluded from the EIA process, neither the environmental effects of projects are assessed, nor are water related calculations done in accordance with a scientific approach. Streams and rivers have dried up resulting in loss of aquatic life as well as causing a detriment to people and other wildlife utilizing the rivers for their livelihood near these project areas.

Furthermore, with these HES projects being excluded from the EIA process and regulation, locals are not given the opportunity to participate in the process which might otherwise have resulted in proper management of natural resources for wildlife and people. There was no room for PP and further decision-making, projects experienced negative socio-economic effects and environmental degradation resulted in a harsh reaction from people living in the countryside.

In Turkey, rapid constructions and exclusion of the locals from the decision-making process result in reactions and protests in all regions. It has even become a “phenomenon to increase public awareness on environmental problems” as some interviewees pointed out. HES demonstrations in rural areas have become a part of daily life and media coverage in the country. Several dozens of anti HES associations founded in the country and eventually on 17 January 2010, all opposition bodies have come together and created The Turkish Water Assembly.¹¹

In İkizdere Valley where the first local reactions began against HES projects, 300 NGO representatives attended the two days meeting in northeast Turkey from all the 81 provinces of the country. The goal of Water Assembly is to influence government to create a „Water Usage Convention“; to revise Electricity Marketing Law and to change the task of The General Directorate of State Hydraulic Works (DSİ). Their short term goal is to stop all HES and other water related projects which are planned and applied without a Base Impact Assessment and a without scientific ecological EIA.

Participation in Environmental Decision-making in Turkish Administrative System

The foundations of the Turkish Legislation for environmental management were laid with the Five Year Development Plan (1973-1977) and the main features of this system were cast in the 1982 Constitution, the 1983 Environment Act (Act no. 2872) and related regulations on water Pollution Control, Solid Waste, Environmental Impact Assessment, Climate Change, etc. (Coskun & Turker 2010). The Turkish Constitution code 56 states, “Everyone has the right to live in a healthy and balanced environment. The duty of the state and the citizens is to improve the state of the environment, protect environmental health, and prevent environmental pollution (Constitution, 1982).

¹⁰ www.whyhydropower.com

¹¹ <http://www.dogadernegi.org/turkiye-su-meclisi-kuruldu.aspx>

Article 3 of the Turkish Environmental Law stresses the essence of the law in clause 'E' as, "participation is fundamental to environmental policy making. The ministry and the local administrations are responsible to create participative occasions for NGOs, professional organizations, cooperation and citizens for utilizing their participation rights."

The citizens can utilize their participation rights in environmental decision-making mainly in the Environmental Impact Assessment (EIA) process. The Higher Environmental Board of the Prime Ministry is also a potential occasion for NGO (Non-Governmental Organization) participation, as stated in the board's task. This body meets under the presidency of the Prime Minister at least once a year, or whenever necessary. Related ministries, state organizations and NGO representatives can participate in the meetings. This provides an important opportunity to NGOs to be effective in macro level environmental policies in the country. In the regulation that lays out the task of the Prime Ministry Higher Environmental Board, the possibility of the NGO's participation in the board meetings is mentioned in (Clause 7 and 11/b. – The regulation was put into force in 3 August 2013, Official journal no 28727) . Further activity of the Board is not available on existing public sources.

The EIA is generally defined as a formal process for evaluating the likely environmental consequences of a proposed project or development, taking into account inter-related socio-economic, cultural and human-health impacts both beneficial and adverse. If necessary, it proposes measures to adjust impacts to acceptable levels or to investigate new technological solutions.

The EIA system, which embodies the "prevention principle" of environmental law, is an important tool for environmental protection. This tool offers a private importance for Turkey since it is a developing country (Coskun & Turker 2010). Public participation in environmental decision-making is a relatively new phenomenon in Turkey (Coskun 2005), and institutional arrangements are still going on.

EIA is not regulated by means of law in Turkey, but through a "decree" put into force on the basis of the relevant provision of the Environmental Law. The „Turkish EIA Regulation“ was first enacted in 1993 and modified in 1997, 2002, and 2003. In 2008 and 2013, the regulation amended in accordance with EU membership requirements.

During this research, 2013 version of the regulation was valid, but it was amended once more and put into force on 24.11.2014. Newest version is not included in this study. (The size of the EIA compulsory HES projects decided to be 10 MW and bigger in the newest regulation. Other than that, there are no major differences between 2013 and 2014 version. Only some proposed clauses of 2014 version shown in the Table 3). In addition to those amendments, a temporary third clause is also changed in 16 December 2004, 14 April 2011 and lastly 05 April 2013. These changes led to the exclusion of a remarkable number of projects from the application of the existing EIA procedures automatically. The Turkish system has no Strategic Environmental Assessment Regulation, but it is being prepared as a part of EU membership negotiations.

EIA regulation lays out the participation issue in clause 9 with the heading „Citizen Involvement Meeting“. The clause states that „Institutions authorized by Ministry of Environment organize the citizen involvement meeting, in order to inform citizens or local people about the investment; to get their opinion and advice on related projects. The owner of the project also ought to participate in the meeting.

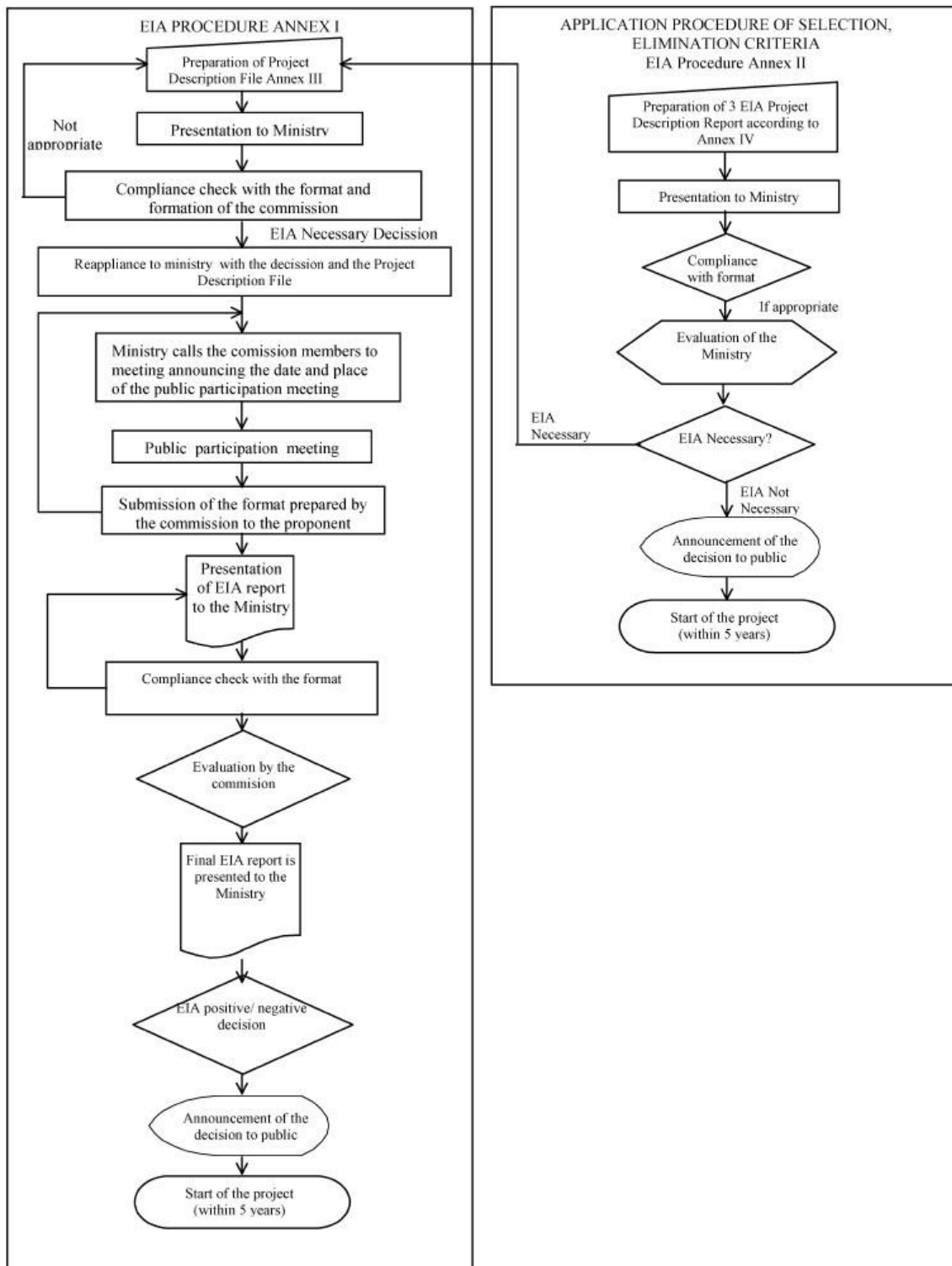


Figure 3. EIA process flow charts for EIA process for the projects in Appendix 1 and Appendix 2 (Coskun2005)

As the table shows above, in Turkish EIA Regulation, there are two types of impact assessment depending on the size of the projects. One is compulsory for big projects and the other one is just a EIA preliminary report to promote general characteristics of a project. After the submission of the preliminary report, if the ministry or local governor's office decides that, EIA is not necessary, the project can start without EIA process and without public hearing. As the figure indicates above, the

public is not included in the decision-making process of HES under 25 MW and the process in second annex is applied. It is enough for authorities just to announce the construction decision to the locals (*Figure 3*).

5. RESULTS

Analysis of administrative structure of Turkey in relation with the international framework

As it is explained in previous sections, public participation in HES construction process has several aspects. The empirical material and the analysis of structural framework of the issue in Turkish administrative system show that, PP is one of the severe problems in environmental decision-making in Turkey. „The overall decision-making process, both nationally and locally, should involve more structured and systematic consultation of civil society“ (European Council Progress Report of Turkey, 2014).

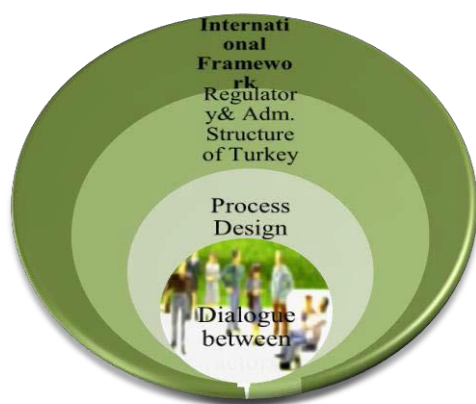


Figure 4. The Institutional framework of public participation in environmental decision-making

With specific reference to the legal framework, there is a growing consensus that Turkish legislation falls short in comparison to those in most developed countries, and acts as a constraint on participation, because of its command and control approach in which most decisions are made by the state and the principal role of law is to ensure compliance and penalize non-compliance with those decisions. (Coskun & Gunes 2005)

Turkey's laws and regulations are enacted in accordance with the international treaties approved by the country. As a member of United Nations and several other international organizations, Turkey is bound to adopt her institutional framework to the international system as a part of her global burdens besides her national interests and needs. Since the aim of the study is not to reveal all those international relationships and details, only framework treaties and participation related Turkish laws

and regulations are taken into consideration. Turkey is a party to around 20 environmental treaties, which might directly or indirectly affect public participation on environmental issues.¹²

Turkey is one of the parties of UN Rio Declaration on Environment and Development. As a follow up step to fulfill the requirements of the declaration, Turkey created „The National Environmental Action Plan“ (NEPA) and showed her dedication to comply with the declaration.

Another important impact on the Turkish system is the bilateral agreements it made with the EU. As a candidate country to European Union (EU) since 1999, Turkey joined the European Environment Agency and EU Environment Information and Observation Network in 2003 and she is bound by obligations of this network. Since Turkey’s candidacy negotiations with EU were opened in 2005, it has embarked on the creation of necessary environmental laws and regulations in accordance with EU norms. In this sense, European Council’s annual Progress Reports are valuable references to evaluate the developments in the country on economic, environmental, social, political and all other related records.

Turkey is not a party of Aarhus Convention on „Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.“ Staying outside of the convention is a contradiction for the country, because most of the European countries and EU as an organizational body is signatory of the convention. Since Turkey is adopting her institutional framework into EU standards, it is necessary to investigate how Turkey can manage to adopt her system to EU without signing Aarhus Convention.

European Commission’s 2014 Progress Report underlines, “Turkey should align with related „acquis“ („acquis“ is the accumulated legislation, legal acts, and court decisions which constitute the body of EU Law) on access to information, public participation and access to justice in environmental matters (UNECE Aarhus Convention related), which would enhance public participation and provide a clear framework for solving ongoing disputes on investment decisions with substantial impacts on environment and climate change.”

For decades, the water management system worked without an up to date law in the country. Inevitably, the decisions are not consistent with the situation as the EU pointed out as “Turkey has adopted a series of laws allowing investments in wetlands, forests and natural site areas, which is not in line with the acquis” (EC progress Report, 2014). Turkey’s water management has been criticized in several documents and discussions for years. Minister of Forest and Water Management Mr. Veysel Eroglu pointed out the issue in his address at a meeting in June 2014 that, “We have no National Water Framework Law which includes general principles and methods to protect and manage our water resources. The „Law about the Water“ enacted in 1926 is far from meeting the needs of 2014’s Turkey”.¹³ His remark was a kind of confirmation of “the inadequacy of the water management issues” which includes HES and HES constructed rivers.

Analysis of EIA regulation and process design for PP

In HES construction process, the PP starts after the decision of the ministry about the compatibility of a project application dossier with the requirements and EIA process can start. The decision is

¹² <http://izindenetim.cevreorman.gov.tr/izin/AnaSayfa/birimler/uluslarasiKuruluslar/uluslararasiSozlesmeProtokolAnls/TurkiyeninTarafOlduguCevreSozlesmeler.aspx?sflang=tr>

¹³ http://www.ormansu.gov.tr/osb/haberduyuru/guncelhaber/14-08-06/Su_Kanunu_%C4%B0le_Su_Y%C3%B6netiminde_Yeni_Bir_D%C3%B6neme_Ge%C3%A7ilecek.aspx?sflang=tr

announced through “suitable occasions, like on boards, on internet etc. and EIA Application File is published” (code 5). The ministry also send the file (code 6) to the already assigned EIA Commission which composed of representatives of the ministry and related organizations; representatives of investor and other authorized organizations chosen by the Ministry (code 4). “If it is seen as necessary, the Ministry can invite universities, research and expert organizations, trade unions, NGOs or professionals associations at the Commission’s meeting”.

As it is seen in the regulation, prior to the public hearings, the ministry announces that the project is approved and the EIA process has begun, and the EIA application dossier is published publicly. Nevertheless, the means of announcement and occasions are unclear, contrary to public meetings’ announcement methods. It is not clearly stated like “on announcement boards in the region affected or on the board of village administrator’s office, or in a mosque, kahve” etc. This kind of ambiguities in the regulation makes the process open for abuses and makes it easier to hide information. As most interviewee complained, meeting announcements and other basic information is commonly announced on the internet or in the big city centers which makes it impossible for villagers to access the information. Furthermore, the Project Promotion Files and EIA dossiers is not published anywhere.

The regulation states that before the hearing, a questionnaire, seminars, etc. can be organized and the results could be made available on the internet. It is not compulsory to make some preparations works, like questionnaires before the hearings to get more realistic input from the citizens and this condition creates room for tendency to collect superficial information from the regions.

According to the regulation, the public hearing is organized just after ministerial approval of the project. That means, Environmental and State Planning Ministry approves the project application so that, the HES is going to be constructed in the decided region, and after this decision a public hearing is organized „to inform locals about the project and to get their opinions“. It is in fact not a „participation in decision-making process“, because the decision was already taken before the public hearing. EIA regulation is clearly state the purpose of the public hearings by saying that „meeting is to provide information to the public.“

Another contradiction related to the timing of the public hearing is that; at a same meeting, citizens are both provided information and asked to express their opinions and objections. This sounds not a logical way of doing an effective participative meeting. Because, at that public hearing, nobody yet knows the real impact of the project on the region and nobody can answer the questions, because environmental impact assessment is not carried out yet. The information given to the locals at such a premature meeting can only be superficial and misleading, as interviewees repeatedly complain it. Locals need detailed information about the impact of the project on their livelihood to be able to ask questions or express concerns.

Another problematic side of the EIA regulation is „amendments“; Turkey’s frequent amendments in the regulations are underlined in the EU report as; “In October 2013, once again, Turkey amended its horizontal legislation on the environment in a way that is not consistent with the requirements of the EIA Directive, by introducing additional exemptions to the EIA. Several large infrastructure projects are excluded from national EIA procedures, such as micro-hydro power plants (HES) third bridge on the Bosphorus”. EU criticizes the frequent regulation changes and stress that “changes to legislation on EIA and nature protection raise serious concerns” (EU Report 20014).

Some basic elements of previous amendments in EIA regulation is shown in the table below. Turkish EIA Regulation has five Annex. Appendix 1 is the list showing the projects for which EIA process is

compulsory. The Appendix 2 is the list of projects, which necessitates only preliminary examination. The other three appendix show the procedural details.

Environmental Impact Assessment Regulation					
AMENDMENTS	2002	2003	2008	2013	2014 (Proposed)
Enforcement Date& Official Journal no	06.06.2002 RG:24777	16.12.2003 RG:25318	17.07.2008 RG:26939	03.10.2013 RG:28784	
EIA compulsory HES SIZE (App.1)	50 MW and bigger	50 MW and bigger	25 MW and bigger	25 MW and bigger	10 MW and bigger
Preliminary examination compulsory HES (App.2)	10-MW and bigger	10 MW and bigger	0.5-25 MW and bigger (Selection criteria applied)	1-25 MW (selection criterias applied)	0-10 MW
EIA Compulsory Energy Transfer Lines (Km.)	> 154 kV >15 km.	> 154 kV >15 km.	>154 kV >15 km.	>154 kV >15 km.	>154 kV >15 km.
Preliminary examination necessary energy lines (km)	>154 kV (excluded from Ap.1)	>154 kV (excluded from Ap.1)	> 154 kV 5-15	> 154 kV 5-15 km	>154 kV 5-15 km.
Competent Authority to decide projects in App.1& 2	Ministry of Env.AndUrb.	Ministry of Env. and Urb.	Ministry of Env. and Urbanization	The Ministry for Ap.1 and Governor for Ap. 2 (Authority were transferred to governors by a circular on 03.10.2013)	Regional governor

Table.2. Changes in EIA regulation after the year 2000

As it is seen in the table, until 2008 only HES projects with 50 MW or bigger are listed, as „EIA is compulsory“ that is they were in appendix 1. For HES between 10 MW and 50 MW, to prepare Project Promotion File was necessary. That means, investor company will create an informative file

explaining the characteristic of the project like employment capacity, the technology to be used and the conditions in investment area and submit this document to the ministry to be decided whether EIA is necessary or not. The promotion reports are just an observation and information document with no scientific approach and therefore they have a tendency to be subjective since the investor prepares them. Furthermore, the criteria, which the ministry will take into consideration to decide whether EIA is necessary or not, is not defined clearly.

Another subject that needs to be pointed out is the exclusion of energy transfer lines from the EIA process. Up to 15 km, transfer lines can be opened up even in forest areas without any environmental impact assessment process.

As it is seen on the table, energy transfer lines is a complementary part of HES projects and their exclusion from HES EIA reports is a big deficiency. “The environmental destruction of the transfer lines until they join to the national distribution lines is huge” (Urker 2012). Only when energy lines are longer than 15 km, EIA is compulsory but this is after HES construction is completed. “After construction ends, not giving approval to EIA report of energy lines is out of possibility and in case it is not approved, such a big investments cost will be wasted and this would affect public willpower” (Urker 2012).

In the „A Review on Evaluation of Turkey’s Environment and Its Stakeholders” report of The European Commission, it is stressed that; “In Turkey there is already a set of legislative measures that fully recognize the principles for environmental management, however, there is a lack of enforcement capability. The enforcement of regulations is effectively carried out when assigned to a specific institution, and when the role does not contradict with any other institution. This not the case in Turkey. Different institutions have the right to interfere in the decision-making process for enforcement of environmental regulations and therefore decrease its efficiency.” The EC 2014 progress reports also stress the necessity of giving more attention to the enforcement of legislation in all areas as well.

At this stage, it is necessary to point out the two-headed ministerial structure of the country on environmental issues: Turkish Environment and Forestry Ministry was divided into two in 2011. Since then there are two separate ministries dealing with the environment related issues. One is the Ministry of Environment and Urbanization and the other is The Ministry of Forest and Water Management. One of the basic difficulties in Turkish environmental administrative system stems from having two different ministries acting in the same area where responsibilities overlap.

Perceptions of stakeholders

The perceptions on HES, EIA and participation practices in the process

The common observation among stakeholders (including decision makers) about the HES construction process and participation practices was that, the process was not carried out, as it should be done. They believe key reasons of the conflicts and widespread demonstrations was the inefficiency of community participation. The interviewees felt that the public would have been ignored either because of EIA regulation and centralized decision-making systems or due to lack of law enforcement. The government considers hydropower as a sustainable source of energy. However, people see them as a big danger to their livelihood and their lifestyles. This difference in perception has created a big conflict in HES regions. People, NGOs and environmentalists are pushing all the possibilities to have their voice be heard all over Turkey. Smith defines this as 'value conflict,' which is at the heart of environmental politics. The central question to answer is how the

political decision-making process might be structured so that they are sensitive to plurality environmental values (Smith G. 2003)

Respondents, which included locals, journalists and NGO representatives saw HES projects as a destructive consequence of rapid development and investment oriented policies of the government that ignore the needs of people. A low number of locals and two NGO representatives also stressed the ecocide aspect of HES projects. They collaborated with each other on protecting biodiversity on behalf of the nature. Decision makers pointed out the energy need of the country. They blamed NGOs for exaggerating the issue and encouraging the locals to oppose the projects. A representative of an EIA implementing company however, emphasized the importance of the public hearings for all projects and pointed out that, demonstrations and protests by local NGOs and community leaders hinders the public participation, so citizens who wanted to learn about proposed projects in their region could not attend participation meetings due to protests.

Three local respondents and J1 and N1-2 underlined that the possible cause ineffective participation by locals was the inadequacy in EIA implementation. Thus, either people chose to demonstrate on the streets and protest against public hearings or they physically try to prevent the constructions. Journalists and NGO representatives pointed out that violent incidents between security forces and the citizens in different parts of the country were among the factors that polarized public participation. They cited Ahmetler Canyon Regulator and HES as examples of some controversial HES projects. J1 reiterated that most of the public hearings of HES's were organized under high-level security precautions due to protests.

The general impression of NGO representatives, citizens and journalist-1 is that the participation process designed to exclude NGOs and locals from the decision-making and implementation process of HES projects to avoid any kind of objection. J2 thinks that political imbalances in construction areas affected the level of participation and the inclusion of the citizens. J2 and citizens emphasized that locals are open to influences by the local political leaders and companies; sometimes in favor, sometimes against the project. According to three citizens, the companies provide some benefits to local authorities to persuade the citizens. Journalists expressed their observations about bribery in the HES EIA process as well.

All interviewees except two of them felt political power was the main determinant of implementations at both local and in central levels, as decisions were taken centrally and institutions which have to go along with the existing government. State organizations and companies were collaborating among each other to realize the process and prevent objections on the projects. An NGO leader indicated that expropriation of lands done by the government agencies on behalf of the companies even before the EIA process ends. According to this person, this was an indication of collaboration between state and investors. Locals pointed out their weak position as compared to state backed companies in getting information and starting a legal process. Some locals expressed their displeasure with their low education level, which prevent them from understanding such complicated process. They think nobody cares and respect them because they were „weak rural people“. Two respondents did not want to give answers to the questions regarding the centralized decision-making and political power issue. They felt regulations in the country were for the benefit of the citizens and people just exaggerate HES constructions. NGOs were also a factor for so many media coverage.

Most citizens interviewed believe that the government does not care about the environment or the people. For example, Alakir valley is an intensive agricultural area and needs water, but there is no irrigation and agricultural planning and water policy for the valley. Instead of creating a macro

irrigation planning for the benefit of the region, the government allowed the river water along drought Mediterranean coasts to be used for energy purposes. The government perceived as a source of the problem with its irrational decisions and collaboration with investors against citizens in the region.

Policy makers, EIA implementers and NGOs considered one public hearing insufficient for meaningful participation. On the contrary, citizens viewed one meeting to be enough if it is done in an honest manner and if their opinions were taken into consideration during the public hearings. However, they believe that public hearings are just a formality to complete and nobody take into consideration their demands. In the Alakir case, none of the public hearings done as it must have been. Either the meetings were not announced or the public hearings were held in an unaffected area and misleading information was given. Even when the public prevented meetings through protests, it was assumed as if the meetings were held (see footnote 7).

The state of access to information

NGO leaders, citizens and J1 think, the state does not want to inform people about the projects, for fear of people rejecting the projects that were harmful to their lifestyle and livelihood. EIA representatives also feel neither companies nor the ministry is eager to share the project information with society to realize fast construction.

According to the most interviewees, the locals were not informed before or during the project's decision-making process. In most HES projects people learn about the HES construction in their region only when the construction machines came to the region as the case in Ahmetler Canyon Regulator and HES. It was pointed out that neither a questionnaire nor an information meeting was organized in the project regions before or during the EIA process in Alakir region.

The citizens complained about the difficulties to access information. Most commonly expressed complain was the locations of the announcements. Information about the projects either was announced on the Ministry's website and hanged on the announcement board of Governor's building or hanged on a library board in the province. Those occasions were not reachable for them. No announcement in the village was done. Villages in Alakir region neither do not even have a proper road to neighboring villages nor to the cities as it was experienced during the research works. Village administrators are not mentioned as interlocutor in the EIA regulation. NGO representatives, citizens and journalist feel the information was hidden and not reachable. NGO representatives and citizens emphasized there was a „desperate situation“ in the mechanism of information access. They said, “even the lawyers who were assigned by the villagers to defend their rights could not reach information to be able to file lawsuits. Bureaucrats often create simple reasons not to give the project dossier to lawyers necessary for filing a lawsuit and they end up missing the application deadline to oppose the decisions.

Interviewed citizens had experienced being given misleading information during public hearings. Information providers showed that the project was very good and useful for the region. For example, they misled people by saying HES would provide free of charge electricity to the region. Companies made efforts to persuade people by promising corporate social responsibility project like constructing a mosque, creating picnic sites for touristic purposes that locals can get income, etc. State representatives and companies were perceived as „liars“ and „unreliable“ by most of the interviewees. Most of the citizens preferred not to comment on the position of policy and decision-making process when the local administrator was available in the same occasion.

Citizens and NGO representatives underlined that because of such kind of „cheatings“ people do not want to participate in the hearings and they prefer to object meetings whenever they felt that their demands would not be taken into consideration. Hearings that were recorded on cameras were also a „cheat“ because records were done without voice and a kind of psychological pressure was created for local people. It is emphasized that, neither a mechanism specific to the projects set, nor a contact number was given to people to access information about the project. A lot of personal effort was needed to get information. Citizens and NGO representatives think the only way to protect their livelihood was to resist, otherwise it was not possible to stop environmental destruction that has a huge negative social and economic impact on their lives.

The state of the effectiveness of public inputs in the decision-making process

Most of the interviewed citizens and NGO representatives think they were acknowledged as a part of the process, but in fact the aim of the public hearings has been just to inform them about the HES construction, not to include them in the process. NGO organizations are neither invited nor accepted as part of the hearings, a situation different from how it was done 10 years ago. In Alakir and Ahmetler Canyon, NGO's were relatively strong compared to citizens and played an important role in starting a judicial process. They were better organized with more knowledge and influence, and they had a relatively better financial power.

From all interviewees and public hearings in Kargi HES, it was observed that people were encouraged to talk and ask questions. However, citizens, journalist and NGO representatives underlined that (opposite to what it was observed in Kargi case) local's opinions were not noted properly and whatever they said and the minutes organizers took during the meeting indicated that, "people are not against the project". State representatives claim that they do not have to give the public hearing documents and it was very common not to give a copy of the meeting documents to the participants. People had to insist to get the documents and sometimes documents can be obtained after 4 hours effort as in Ahmetler Canyon case¹⁴.

According to interviewees, there is a strong political pressure from the top; even if local representatives of the party in power were against a HES project, they obeyed to their party's decisions, keep their silence, and ignore local's demands. NGO and Journalist representatives pointed out that local administrators and bureaucrats were kept under political pressure by appointment threats to relatively worse places.

Another complain by some citizens is; technocrats were not expert in their works and this was one of the key issues, creating so many problems in the process and hindered good management of public hearing meetings. Citizen interviewed, experienced officials coming to the regions to implement decisions without knowing the characteristics of HES and did whatever they were told. Some administrators confessed the destructive and harmful characteristics of the project in private conversations with NGOs and citizens, but they said that they had to obey commands given them by the ministry. The Minister of Environment and Urbanization Erdogan Bayraktar also confessed in December 2013, that „Small HESs destroyed small rivers“¹⁵

Psychological pressure was applied at public hearings through high security precautions and gendarme escorting with black jeeps, etc. on village people, most of whom were modest and not well

¹⁴ <http://www.acikgazete.com/editorden/2014/05/20/bu-da-halkin-kamu-spotu.htm?aid=55332>

¹⁵ http://www.radikal.com.tr/cevre/cevre_bakani_haklisiniz_hesler_dogayi_mahvediyor-1162231

educated. In addition, people were influenced by giving benefits and corruption was very often mentioned in the processes.

Most interviewees said that EIA process were carried out superficially and lacked scientific approach. The government prioritize investments and approves almost all the EIA reports submitted. As a matter of fact, between 1993-2013, 2800 EIA report were submitted for approval to the ministry, only 38 of them have been rejected.

Journalist and NGO representatives argues that EIA works had no scientific approach and reports were sometimes created by the copy - paste method. In Canyon HES Project, the Proposal Report, for example (water flow rate of Bicki river), which is an unrelated river is added to the Karpuz River to be able to increase the size of the river to construct HES .¹⁶

The state of access to justice

According to citizens, NGOs, journalists and a decision maker, the judicial system is strong in Turkey, but court decisions are not applied. One decision maker however thinks that, judicial system has severe problems and court decisions are debatable in the country. According to this interviewee, administrative courts are not composed of lawyers and their decisions are not lawful. „In those courts judges decide according to their political tendency and their decisions not implementable when technically assessed“. The same respondent also pointed out as an irony that, „the public has no importance in Turkey opposed to Sweden and other western countries where noncompliance with the court decision is a crime. Such a legal provision is not implemented in Turkey. Turkey is on the way to learn democracy and it will take time to develop a better participative process on environmental issues too.“

Some citizens and NGO representatives highlighted some institutional weaknesses, which means, courts have a lot of law suits to deal with and it takes long time for them to take decisions. The public has to struggle with several types of lawsuits to force companies to make a sound EIA report for the HES projects. Meanwhile, HES constructions are completed. In addition, they claim, companies can finish all the procedures and lawsuits in a short time, but it takes longer time for locals and furthermore court decisions are not implemented.

Another barrier preventing access to the judiciary is public institutions“ lack of information sharing. Thus, the public cannot access reports. The formal procedures to get the reports take half a month. In worse situations, the ministry of environment and other state institutions collaborate with investors to eliminate public lawsuits. “Citizens underlined that locals have to wait for a long time to complete simple formalities, while companies have several decisions approved at a night.”

An NGO leader and lawyer stressed that “for about 10 years, Turkey has become a “state of laws enacted just overnight” by the command of Prime Minister. The lawyer also complained about the problem of access to information. According to him, the judicial process cannot be used effectively due to purposeful withholding of necessary documents for filing lawsuits. Decreasing deadline for applying to court from 60 days to 30 days is also very a problematic regulation to prevent public inclusion in the process. Because reading thousands of pages of EIA reports and detect unlawful parts takes a very long time. This regulation indirectly prevents citizens“ rights to go to court.”

¹⁶<http://www.dogankantarci.com/wp-content/uploads/2014/08/3.Ahmetler-HES-yaz%C4%B1s%C4%B1-III-Kantarci%C4%B1-21.5.2014-Hrtrsmtbl%C5%9Fkl.pdf> (Page 6)

An lawyer and NGO leader interviewed pointed out that, environmentalist lawyers are called by the prime minister and ministers as „agents of foreign countries who making efforts to harm the country's development goals“. It can be argued that, bureaucrats are influenced by those expressions. People cannot get information even through „the law of right to access information“. They get responses saying that „the information you demanded is state secrecy“.

Almost all interviewees think that the judicial system of the country is strong to stop the unlawful acts, but implementation of the court decisions was lacking. Bureaucrats are believed to be under pressure and have a tendency to act in accordance with the policies of the government. One decision maker skipped the question related to noncompliance with the court decisions, as it is a „difficult question“. But added that; „Newspapers cover a lot of unimplemented decisions about HES projects. May be it would be true what newspapers write“.

Citizens, journalists and NGO representatives felt that there were obstacles for the villagers and NGO's to carry out judicial process in terms of income inequality: “It is very expensive for citizens and local NGOs living in rural areas with a very limited income. Voluntary lawyers were dealing with their lawsuits. The judiciary is under pressure from the policy makers and government.”

An interviewee expressed an important supportive fact about manipulating laws in the decision-making power of local government in Alakir region, which was eliminated by new regulations. Executive board of four municipalities in the region had taken decision to prevent HESs in Alakir valley between 2004 and 2009; because the river is a drinking water source for them and they did not want HES projects on the river. However, anew regulation was enacted and related municipalities were excluded from being asked their opinion about the projects in their administrative regions.

The state of public expectations, recommendations, critics on EIA process

As a general impression from the interviews and media reports people believe that institutional changes cannot change the situation, unless the government changes its tendency to prioritize investment with no limits. Respondents do not think that Aarhus Convention can change anything, since the government has no will even to implement the countries own laws and regulations.

EIA representatives, NGOs and journalists recommended for at least two public hearings; one in the beginning and the one at the end of the EIA process. Respondents think that, the state and ministry should be neutral and must not act always for the benefit of investors. Most of the citizens interviewed do not trust any of the steps taken by the government. The citizens consider public hearings as a „cheat“. They think that, laws and court decisions that protect citizens are not applied and wild investment policies were superior to everything.

According to an NGO representative, citizens and J1, projects should not be decided in the center, EIA regulation and environmental laws should be revised according to the needs of people. Projects should have „protection“ focus instead of a „profit and investment“ focus.

Decision makers think that public participation is crucial for the success of any project, but, Turkish people have no participation culture. Their environmental awareness is limited, they have words to say only about their livelihoods.

More than half of the interviewees feel that state mechanism should change. There is no good will. More democracy is necessary; government policies should be realistic and scientific with focus on the needs of all creatures in the nature too. Journalists, citizens and NGO think that, people has

culture to respect state investments from their past experiences, but state institutions were abusing this respect by acting as if they are partners with investor companies in HES constructions. Journalist and NGO representatives pointed out that, the environmental awareness has increased in the rural areas in last 10 years, because of wild destruction of livelihoods by HES projects. NGO representatives, journalists and three citizens said that, HES constructions forced people to engage in struggling for protecting their livelihoods.

NGO representatives and journalists pointed out the number of urgent confiscations of land to prove the government's investment prioritized policies. In Turkey, "urgent confiscation" is applied in extraordinary situations or if there is a security reason to confiscate immovable properties. Between 1956 and 1983, urgent confiscation has been applied for 5 times, and 11 times between 1983-2004. However, between 2004 and 2013 there have been 584 urgent confiscations to fasten investment projects including HESs.¹⁷

EIA representatives pointed out that, in addition to EIA process, Stakeholder Engagement Plan that is compulsory for international projects should be done in all projects and also for HESs in the country. They recommended that instead of EIA, ESIA (Environmental and Social Impact Assessment) should be applied. The EU Water Framework Directive-Integrated River Basin Management for Europe (WFD, 10 Oct.2000) is in force for Turkey since 2005as well. So it can be argued that, Basin Impact Assessment" is needed for HES projects in the valleys like Alakir, which is on drought Mediterranean costs and projects with several HES on a small river. In addition, an inspection body should be established to check how effective public hearings and a follow up process carried out. PR and environmental communication experts should be included in the process in addition to experienced sociologists for efficient communication and for realistic social impacts of the projects.

The concept of „public interest“ is used to implement most of the projects, because in that case people cannot oppose projects and abandon their lands due to HES or dam construction for the benefit of the society. They cannot even go to court for their rights. The regulation that prevents people to file lawsuit against decisions legitimized by saying "public interest" is amended in 24.05. 2013, but this regulation was dissolved by the Constitutional Court in 14.11.2014¹⁸

6. DISCUSSION

This chapter presents the content of empirical research materials based on the theory of participation. Turkish democracy provides an opportunity for citizens to be involved in the EIA process of the projects that have impacts on their lives. However, the overall analysis of the empirical material and the institutional framework shows that there are many shortcomings in the process that need to be revised for an effective PP in HES construction process. The purpose of the participation in HES projects can be identified as; "agencies seeking information from citizens (such as information about their needs, desires, beliefs, value, and behaviors) that can help them make management decisions," (Lauber & Knuth 2000). But the approach preferred is "Expert Authority Approach: where agencies retain full responsibility for decision-making and do not consider citizen input during the decision-making process (ibid.).

"Natural resource conservation is more than just encouraging local participation; it is also acknowledging those local cultural views with regard to environmental protection and acting upon

¹⁷<http://t24.com.tr/haber/yeni-santrallar-icin-alinan-acele-kamulastirma-karari-sayisi-70e-ulasti,276847>

¹⁸<http://www.hurriyet.com.tr/gundem/27580462.asp>

them in ways that protect both biological and cultural integrity on a site-specific basis. When natural resource managers ignore the voices of local people living in or near protected areas, the consequences for conservation could be grave (Kimberly, 1997)".

In the HES construction process, we see several shortcomings hindering the public participation in decision-making. As Depoe et al (2004) define it, a number of shortcomings arise from traditional participation mechanisms. These problems include: a) Public participation often occurs too late in the decision-making process, sometimes even after decisions have already been made. b) Participation typically operates on technocratic models of rationality, which policy makers, administrative officials and experts see their role as one of educating and persuading the public about the legitimacy of their decisions. c) Public participation often follows an adversarial trajectory, especially when public participation processes are conducted in a "decide-announce-defend" mode on the part of officials. d) Public participation often lacks adequate mechanisms and forums for informed dialogue among stakeholders. e) Public participation often lacks adequate provisions to ensure that input gained through public participation makes a real impact on decision outcomes.

Findings of the research showed that, barriers that preventing PP in environmental decision making in Turkey have the similar characteristics with the identified shortcomings by Depoe et al. (2004) :

a) Public participation occurs after the Ministry has already made decisions. b) Public hearings typically operates on technocratic models. Ministry representatives, investors, EIA implementer company and other related administrative officials meet with the people to persuade about the benefits of the already approved project and they try to legitimize their decisions by a superficially organized public hearing. c) Inefficient meeting with no inclusion of public will follows an adversarial trajectory, because public participation processes are conducted in a "decide-announce-defend" mode on the part of officials and does not satisfy public demands. d) In public hearings, there is no adequate mechanism and forums for informed dialogue among stakeholders. There are no mechanisms for face-to-face discussions among stakeholders over time. e) In EIA regulation, there is no provisions describing neither how the public input will affect the decision, nor to ensure that input gained through public hearings makes a real impact on decision outcomes" (ibid). Findings of the research showed that, in addition to those shortcomings, there are other barriers preventing PP in HES construction process. In Turkey, weak law enforcement and „disguised" political pressure is disclosed during the research, as the additional barriers to PP in environmental decision-making.

Timing of public participation

The unique opportunity for PP in Turkey is „Public Hearings" in EIA process. According to Robert Dahl, "before a policy is adopted by the association, all the members must have equal and effective opportunities for making their views known to the other members as to what the policy should be" (Dahl, 1998). In an EIA process, public hearing for HES projects is organized in between the ministerial approval of a project and the EIA process begins. In a PP mechanism that grounded in a more democratic approach, participation institute an equitable distribution of power in collective decision-making (Depoe et al., 2004).

In Turkey however, the decision is taken that, a HES or another project is going to be implemented in indicated region and the public hearing is organized „to inform locals about the project and to get their opinions". It is in fact not a participation in the decision-making process, because the decision was already taken before the public hearing.

Another contradiction related to the timing of the public hearing is that; in a public hearing citizens are provided information and they are expected to express their opinions and objections at the same meeting.

The issue of late decision also seen in the judicial process. Since courts are very occupied, lawsuits against HES projects can at least take one year and by then the construction process would have been completed.

The purpose of the participation and process design

According to Turkish EIA (code 9) the purpose of public hearing is „to inform the citizens about a project; to answer their questions; to take into consideration their considerations and expectations“. Although the purpose is said to realize effective participation, process design and implementation mechanism are falling short to achieve the goal; “participation typically operates on technocratic models of rationality which policy makers, administrative officials and experts see their role as one of educating and persuading the public about the legitimacy of their decisions,” (Depoe et al. 2004)

The PP process seeks out and facilitates the involvement of the potentially affected (Depoe et al., 2004). However, in Turkey, affected groups are not classified according to the degree of how severely they are going to be affected. „Living in the project region“ is the only criteria. In 1-1,5 hour public hearings, state officials, company representatives, the EIA implementing consultancy company explain the characteristics of the project and inform all citizens about „project promotion dossier“ without taking into consideration their residential positions in the project area. Since people are not provided the project dossier in advance, they have no information about the detailed content of the meeting agenda and this creates big power imbalance. Under these unequal conditions technocrats, EIA implementer companies and company representatives find suitable conditions to give misleading information about the project to legitimize it. HES projects are mostly in rural areas and people mostly farmers and they are not well educated. During the „participant observation“ part of the study, it was clearly seen that people were even hesitating to talk. It is not realistic to expect locals immediately to analyze and talk about given information about the projects.

Another important factor that pacifies participants is the „psychological pressure“ during the public hearings. Officials and companies are coming to the meeting site with official smart cars sometimes with escorts and in some occasions accompanied with gendarme.

In the Turkish EIA process, people are not given any active role in participation meetings. Citizens are just expected to listen, ask questions and express their opinions. Locals are not given time to read and understand the project dossier to be able to discuss each other and develop their opinions. According to Carol Pateman (2011), the empirical evidence from mini-publics shows that citizens, both welcome and enjoy the opportunity to take part and to deliberate, and that they take their duties seriously. “The findings show that ordinary citizens, given some information and time for discussion in groups of diverse opinions, are quite capable of understanding complex, and sometimes technical, issues and reaching pertinent conclusions about significant public matters (Pateman 2011)”.

The trajectory of the PP process

Outcomes of the research show that, public participation mechanism does not satisfy the society and inefficient public hearing with no inclusion of public will follows an adversarial trajectory in HES constructions. As it is described by UNECE, “PP links government accountability and environmental protection and also focuses on interactions between the public and public authorities in a democratic context.” However, in Turkey, democracy practices, in terms of environmental decision-making

needs to be questioned. Dialog and collaborative learning opportunity are not taken into consideration when EIA regulation is created. There is no permanent interaction possibility between people and government to realize sound and democratic environmental protection. This can be observed at every stage of the PP mechanism.

EIA is not regulated by means of law, but through a decree put into force on the basis of the relevant provision of the Environmental Law. A decree is not a law and can be created or amended easily by the prime minister and ministries. The „equality“ and „accountability“ principle of democratic participation disappear even at this stage of environmental decision-making. This is mainly because a decree creation does not require an approval in the parliament; it represents only the preferences of the institution that creates the EIA regulation.

This characteristic of Turkish EIA regulation makes it open to frequent changes and interventions. As a matter of fact, governments have been utilizing this characteristic since it was enacted in 1993. It has been amended six times (1997, 2002, 2003, 2008, 2013, 2014) and its clauses changed several times according to political preferences. The temporary third clause has been changed three times and several HES and large-scale projects are excluded from EIA obligation.

Changes in temporal code realized on 16 December 2004, 14 April 2011 and lastly 05 April 2013. These changes excluded remarkable numbers of projects from the application of the existing EIA procedures automatically. Also in October 2013, The Environment and Urbanization Ministry has authorized regional governors to decide on whether an EIA is necessary for a HES Project or not. Authorization decision was taken by the minister and announced by a „circular“ on the same day the new EIA regulation was put into force.¹⁹ Since it is not published in the newspapers, the public became aware of the authorization transfer five months later, only when an opposition party senator submitted a question to the government. (National newspaper, Radikal)²⁰. Since there is no mechanism for progressive interaction between citizens and government in a democratic context, the authority transfer decision is not discussed like many other environmental related issues and people had to obey central authority. Inadequate public hearing mechanism and inefficient public inclusion in HES constructions resulted in nationwide contention in the country. One of the important deficiency of the PP mechanism in Turkey is the absence of mechanisms for people to follow the project implementation and to inspect whether their demands are taken into consideration

For 2-3 years people have been rejecting to be a part of an ineffective participation process and trying to prevent public hearings by protests.²¹ Since public participation processes are conducted in a “decide-announce-defend” mode on the part of officials”, people are not satisfied and public participation often follows an adversarial trajectory (Depoe et al., 2004). Like many other HES projects in Alakir and Ahmetler Canyon, tension was at peak at all stages of the participation process and security forces were involved in public hearings.²²

Mechanisms for informed dialogue between stakeholders and provisions to ensure the real impact of PP process

As it is a general tendency, “PP lacks often adequate provisions to ensure that input gained through public participation makes a real impact on decision outcomes,” (Depoe et al., 2004). The Turkish EIA regulation has no detailed information about the mechanisms to achieve effective PP. Methods

¹⁹<http://www.csb.gov.tr/db/ced/haberler/haberler10231.pdf>

²⁰http://www.radikal.com.tr/turkiye/valiliklere_ced_devri_meclis_gundeminde-1180552

²¹<https://www.youtube.com/watch?v=Maxhwb8sl9s>

²²http://akdenizgolge.web.tv/video/ahmetler-koyunde-olayli-hes-sorunu_bgaqp_64_pu

to organize public hearings are superficially explained. There are neither sanction nor a monitoring body to check compatibility of the PP process.

Locals and other stakeholders come together only once all through the EIA and construction process. There is no follow up meeting or feedback possibility. People are not contacted after the meeting and there is no possibility for them neither to raise concerns and questions, nor to be effective in any kind. Locals can only communicate with very low level and powerless staff of the project implementer in project site. In the regulation, there is no defined path showing how public input will be included in the project and what the criteria is. It is also not known by the locals whether their input made any effect or not. They have not provided any information how they can examine the process, because no mechanism is foreseen in the regulation.

There is no defined mechanism that people can ask questions on possible decisions in their regions and they just wait to be informed by related state authorities. In Ahmetler Canyon HES, construction decision is taken with a license on 06.11.2008 (EÜ/1828-3/1206), but the locals became aware of the Project in June 2012 when the construction machines started to work in the field. The capacity of Ahmetler Canyon HES is kept under 10 MW because when the decision is taken, only preliminary investigation was compulsory for 10 MW and bigger HESs.

The report by Prof. Kantarci from Istanbul University (May 2014) indicates several deficiencies in the EIA process of Ahmetler HES. Among several others, project promotion report includes misleading information. For example, to increase the water flow amount in Karpuz River, neighboring Bicki river water included in the total water amount in the report. According to Prof. Kantarci, the decision of governor's office „EIA is not necessary“ was taken without proper review of Project proposal report. “In the report it is clearly stated that, „the geographical region was not suitable to make detailed investigation.“ That means, no realistic assessment is done about the possible effects of the HES's 3.5 km water tunnel area in the region” (ibid.) He underlines also the insufficient announcement methods of the governor's office.

State of access to information

Democratic participation mechanisms provide for adequate access to information channels and resources (Depoe et al). However Turkish EIA provide limited opportunities for people to reach information. It can even be argued that, information is intentionally kept secret to prevent people to reach information to eliminate objections. Because, according to EIA regulation, announcements of decisions and/or public hearings should be done on a local and national newspaper, also in the governor's office. Village administrators (muhtar) are not mentioned as interlocutor in the EIA regulation. It is a relevant question to ask why it is not announced on the announcement board of muhtars's office or kahve which exists in every village in Turkey as a socializing place for locals. Announcements in such occasions would guaranty the decision/announcements to be heard by the majority of the locals. Project related information are commonly announced on the internet or in the governor's office in province, which makes it almost impossible for villagers to reach information.

The Web page of Environment and Urban Planning Ministry provides the possibility for companies to carry out the procedures through e-statement service. The Ministry also sends SMS messages to all stakeholders to inform on developments of approval process, but citizens or the local administrators are not included in the system. Neither project promotion dossiers, nor the EIA reports are open to the citizens and lawyers.

The state of access to justice

In terms of difficulties in access to justice, Alakir will be provided among others as a case to show:

a) Late decisions; that means the judicial process takes long time and during this period construction is completed, b) court decisions are not applied c) state taking positions against the public will, d) It is claimed that, there are controversies about the task of courts and court decisions are passed by the new executive decisions.

For Dereköy HES and Alakir-1,2 HES projects which are at construction stage in Alakir Valley, local people first went to the court in 2010 and until now judicial process has been going on. The process details are as follows: For those HES projects in Alakir, the local administrative court suspended the construction because the projects commenced without the EIA process. The Department of The Governor's Office in Antalya objected the court decision (which shows the Office was taking a position against the locals) by bringing the case to Council of State –highest administrative court. The Council of State rejected the objection and the suspension decision become final. Just after the suspension decision, the Ministry approved an EIA report prepared by the company in a short time and eliminated court decision by the new executive decision. Locals filed another lawsuit against the „unscientific EIA“ and the local administrative court suspended the project one more time. However, just after sending an expert to the region for investigation, they changed the suspension decision on 18 July 2014. Afterwards, the company got the permit from the Regional Forest Department just in one day after the suspension decision removed, and started the construction process.

At the same time, locals also went to court to object to the decision of the Antalya Regional Protection Committee of Natural Beauties (10 February 2010) which removes the decision of Regional Administrative Court approving that “Alakir is a prioritized natural reserve site”. The Regional Court decided one more time that, the Natural Beauties Committee's decision was taken against the existing laws and removed the decision. This decision was brought to the Council of State by the Ministry and Regional Forest Department together with the investor Company, but The Council of State approved the decision (1 July 2014) and eventually Alakir legally had become a “prioritized protected area” due to its unique nature and biological diversity and cultural values in the region.

A democratic PP mechanism encourage direct involvement of citizens who represent diverse perspectives (Depoe et al.). However, in Turkey, state seems to function to eliminate citizens will to be included in projects. As it is seen Alakir case, state organizations are cooperating with the investors against the citizens and court decisions. Antalya Regional Protection Committee of Natural Beauties held the decision of Council of State in a meeting (27 July 2014) and made an explanation that, „the decision by the Council of State is against the procedures of the Committee's working mechanism“ and decided to observe the region for one year period for the final protection status of Alakir.²³ This is an indication of eliminating the court decisions by other state institutions to continue the project. Before this meeting, 12 000 signature submitted to the Ministry's Regional Office asking for the protection of the earlier decision of the Higher Administration's Court that Alakir should be implemented by the Environment Ministry. In spite of the ongoing judicial process, the ministry has continued confiscating land in the region (National Newspaper 19 August 2014).²⁴ This is a consequence of lack of law enforcement and slow decision-making in judicial process.

²³<http://www.buyukantalya.com/haber/ALAKIR-A-SIT-KARARI-UYGULANMADI/85009>

²⁴<http://www.taraf.com.tr/haber-danistay-dur-bakanlik-devam-dedi-161868/>

Another important shortcoming to access to justice is the difficulty at reaching information. It is almost impossible for citizens and lawyers to reach information to detect the unlawful parts of the projects (EIA) and sue them on time. The state does not provide any financial support to the citizens to defend their rights by using judicial ways. Financial constraints are barrier for people to file lawsuits.

In addition to the obstacles effecting the public inclusion in decision-making, there are three important indirect restrictions in environmental decision-making. The decisions by the Council of Ministers for „fast confiscation“, „public benefit reasons“ and „the exclusion of projects from EIA by Appendix 2“, are severe indirect obstacles that prevents citizens to participate in decision-making and their right to go to court.

7. CONCLUSION

Although the Turkish legislation designed to achieve participative environmental decision-making at macro level, there are no incentive mechanisms to encourage public participation in the decision-making and implementation process. On the contrary, when the institutional framework, process design and implementations of the regulation analyzed as a whole, it is not possible to claim that PP is existing in environmental decision-making in Turkey. The only possibility for citizens to get their voice to be heard is in a single public hearing. However the public hearings conducted to inform citizens on an already decided project. The exclusion of citizens from the decision-making process has destroyed trust relation between the state and citizens and leads to contention and conflicts.

The review of participation in environmental decision-making in this research has identified several shortcomings in participation mechanism; some appear also in the literature.

- 1- Public participation operates on technocratic models of rationality which Ministry, administrative officials and experts see their role as one of informing, educating and persuading the public about the legitimacy of their decisions.
- 2- Public participation occurs too late in the decision-making process in Turkey. Locals are included in the process, long after the Ministry has made the decision.
- 3- Public participation quite often follows an adversarial trajectory, especially when public participation processes are conducted in a “decide-announce-defend” mode on the part of officials.
- 4- Public participation lacks adequate mechanisms and forums for informed dialogue among stakeholders.
- 5- Public participation lacks adequate provisions to ensure that input gained through public participation makes a real impact on decision outcomes.
- 6- Public participation operates under the pressure of central government.
- 7- Public participation operates without the support of law enforcement.

The PP procedure is designed superficially in EIA regulation and does not guarantee effective participation. Furthermore, EIA regulation creates suitable ground to hide information due to ambiguous expressions. It is almost impossible to access information for citizens without combating several bureaucratic obstacles. Irrelevant occasions for announcements and organizing meetings are common all over the country.

Frequent amendments of the EIA regulation and excluding projects from environmental impact assessment leads to environmental degradation and creates ground for ecologic, economic and socio-cultural fatal problems in the short, medium and long terms.

In EIA regulation, there is no binding procedure to obey neither in document creation path, nor in the meeting flow of public participation. The PP procedures applied in all over the country without taking into consideration the demographic differences of the regions.

The Turkish EIA Regulation should therefore change in order for it to realize genuinely participatory environmental decision-making. The methods, purpose and number of public hearings should be designed to ensure that, input gained through public participation makes a real impact on decision outcomes. Trust relation should be established between government and citizens to end the protests and attempts to prevent public hearings, which hinders the PP process in related HES projects.

For a sound EIA process, „Social Impact Assessment“ (SIA), „Basin Impact Assessment“ and Stakeholder Engagement Plan should be included in EIA system to prevent irreversible environmental destruction and socio-economic collapse in related regions. Making the EIA only for HES areas and excluding the energy transfer lines of concerned HES is not a realistic assessment in defining the total environmental impact of the projects. Environmental communication experts should be included in the EIA process to limit the environmental conflict. Sociologists also should be employed to create realistic social impact assessments in EIA process.

The judicial system in the country is slow but strong enough to stop unlawful acts, but the implementation of court decision is lacking. The practice of „urgent confiscation“ without waiting EIA process to complete is an indication of investment-oriented process. “Public benefit” concept is also an obstacle for people to sue unlawful acts and to protect their basic participation rights through judicial way.

This study is not complete in terms of inclusion of all stakeholders in research process. Investors’ perspective to PP issue and their communication process with the other stakeholders, including citizens should be investigated in further studies.

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