

CONFERENCE OF INGOs OF THE COUNCIL OF EUROPE

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CODE OF GOOD PRACTICE FOR CIVIL PARTICIPATION IN THE DECISION-MAKING PROCESS

Adopted by the Conference of INGOs at its meeting on 1st October 2009

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I. Introduction

One of the major concerns of modern democracies is the alienation of citizens from the political processes. In this context, as in many others, civil society constitutes an important element of the democratic process. It provides citizens with an alternative way, alongside those of political parties and lobbies, of channelling different views and securing a variety of interests in the decision-making process.

The Committee of Ministers of the Council of Europe has recognised – in CM/Recommendation(2007)14 of October 2007 – "the essential contribution made by NGOs to the development and realisation of democracy and human rights, in particular through the promotion of public awareness, participation in public life and securing the transparency and accountability of public authorities".

At the meeting of the Council of Europe Forum for the Future of Democracy held in Sweden in June 2007, participants called on the Conference of INGOs of the Council of Europe to prepare a Code of Good Practice for Civil Participation which would cover subjects such as mechanisms for NGO participation in decision-making processes and civil society involvement in public policy.

Thus, the Conference of INGOs built upon this by taking the responsibility to draft the Code of Good Practice for Civil Participation in the Decision-Making Process. This document lays out the rationale, the framework and the means for enhanced civil participation. It was prepared by experienced civil society representatives, elaborated in a pan-European consultation process, tested and commented by members of national and international non-governmental organisations (NGOs) and is already being used by activists and representatives of authorities.

The Conference of International NGOs of the Council of Europe has produced a userfriendly, structured and pragmatic instrument aimed at decision makers and organised civil society, including NGOs.

The Code offers a repertoire of good practices. It does not have a mandatory character, does not prescribe rules, or require enforcement mechanisms. It offers all actors in the democratic process guidelines stemming from concrete practical experience of dialogue and co-operation between NGOs and public authorities. The final aim is to facilitate their interaction and to enhance citizens' empowerment and participation in the democratic process at local, regional and national levels.

The Conference sought advice and input from other Council of Europe institutions. Both the Congress of Local and Regional Authorities of Europe and the Parliamentary Assembly of the Council of Europe welcomed the Code of Good Practice: the Congress stands ready to contribute to its promotion and to use it in its work, and the Parliamentary Assembly, for its part, highlighted the particular importance of e-tools in participation.

This instrument should have and will have political repercussions. It will give impetus and backing to the current trend among local, regional and national authorities to consult and cooperate with civil society in bringing modern tools in democratic governance and at the same time deepening citizen participation in public life.

II. Objectives and targets

The principal objective of this Code of Good Practice for Civil Participation is to contribute to the creation of an enabling environment for NGOs in Council of Europe member States and Belarus by defining at European level a set of general principles, guidelines, tools and mechanisms for civil participation in the political decision-making process. The intent is that the Code of Good Practice will be implemented at local, regional and national level. The Code of Good Practice is based on actual experiences from NGOs across Europe sharing their good practices and valid methods for engaging with public authorities.

An additional objective for the Code of Good Practice is to be a relevant and effective tool for NGOs from local to international level in their dialogue with parliament, government and public authorities. It aims to be an interactive instrument and to be action-oriented so that it is useful for NGOs as well as public authorities across Europe. As a way of supporting the application of this Code of Good Practice, there will also be a bank of case studies and an additional set of practical tools.

The Code of Good Practice is aimed at national NGOs including regional and local organisations in Council of Europe member States and Belarus, as well as organisations at European and international level.

It also targets public authorities, which includes parliament, government and public administration at local, regional and national level. The target is wide, but it is intended that there are segments of the Code of Good Practice that can be used at all levels of public administration.

III. General Framework for Civil Participation

III.i Parameters of Civil Society

NGOs and organised civil society are essential contributors to the development and realisation of democracy and human rights. A Council of Europe definition of NGOs can be found in the Committee of Ministers Recommendation (2007) 14, which states that 'NGOs are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members.' In relation to this Code of Good Practice for Civil Participation the term is taken to refer to organised civil society including voluntary groups, non-profit organisations, associations, foundations, charities, as well as geographic or interest-based community and advocacy groups. The core activities of NGOs are focused on values of social justice, human rights, democracy and the rule of law. In these areas the purpose of NGOs is to promote causes and improve the lives of people.

NGOs form a crucial component of participation in an open, democratic society through engaging large numbers of individuals. The fact that many of these individuals also are *voters* underlines the complementary relationship with representative democracy.

NGOs can bring benefits of knowledge and independent expertise to the process of decision making. This has led governments at all levels, from local and regional to national, as well as international institutions, to draw on the relevant experience and competence of NGOs to assist in policy development and implementation. NGOs enjoy a unique trust from their members and society to voice concerns, to represent their interests and to gain involvement in causes, thereby providing crucial input into policy development.

This text highlights the contribution of *organised civil society* in the democratic process and is not focused on the related question of civic participation, i.e. *individuals*. In this case it is understood that the act of developing associations and community organisations constitutes an act of independent social organisation and is not purely centred on individual action. It is understood that organised groups exist to further the needs of their members and for the benefit of wider society; therefore they act as a key channel of participation and multiplier for the engagement of citizens.

III.ii Principles for Civil Participation

To foster a constructive relationship, NGOs and the public authorities at different levels, should act on the following common principles:

Participation

NGOs collect and channel views of their members, user groups and concerned citizens. This input provides crucial value to the political decision-making process, enhancing the quality, understanding and longer term applicability of the policy initiative. A pre-condition for this principle is that the processes for participation are open and accessible, based on agreed parameters for participation.

Trust

An open and democratic society is based on honest interaction between actors and sectors. Although NGOs and public authorities have different roles to play, the shared goal of improving the lives of people can only be satisfactorily reached if based on trust, implying transparency, respect and mutual reliability.

Accountability and transparency

Acting in the public interest requires openness, responsibility, clarity and accountability from both the NGOs and public authorities, with transparency at all stages.

Independence

NGOs must be recognised as free and independent bodies in respect to their aims, decisions and activities. They have the right to act independently and advocate positions different from the authorities with whom they may otherwise cooperate.

III.iii Conditions for Civil Participation

The conditions to enable associational life are well documented. In accordance with the European Convention on Human Rights and Fundamental Freedoms (ECHR), these require freedom of expression (Article 10 ECHR) and freedom of assembly and association (Article 11 ECHR) and the relevant case law of the European Court for Human Rights.

To ensure that the essential contributions of NGOs are enshrined in the political decisionmaking process without discrimination, an enabling environment is required. Conditions of an enabling environment include the rule of law, adherence to fundamental democratic principles, political will, favourable legislation, clear procedures, long-term support and resources for a sustainable civil society and shared spaces for dialogue and cooperation. These conditions allow for a constructive relationship between NGOs and public authorities built on reciprocal trust and mutual understanding for *participatory democracy*.

IV. How to Engage

To meet the principal policy objective of the Code of Good Practice for Civil Participation as well as to ensure its relevance and practical applicability for NGOs in their involvement in the political decision-making process, this section outlines how civil society may participate.

There are two interconnected dimensions to this process. Firstly levels of participation are described in section III.i, sorted in the order of increasing intensity, from simple provision of information to consultation, dialogue and finally partnership between NGOs and public authorities. Secondly the steps in the political decision-making process are outlined in section III.ii, namely the six steps taken by public authorities from agenda setting through implementation to monitoring and reformulation.

A separate section (III.iii) offers tools that may apply at any stage and that provide crosscutting support to the process of participation.

These elements are then combined to form a matrix of civil participation (IV) that provides a visual presentation of the inter-related nature of the process.

IV.i The different levels of participation

The involvement of NGOs in the different steps of the political decision-making process varies based on the intensity of participation. There are four gradual levels of participation, from least to most participative. These are: information; consultation; dialogue; and partnership. They may be applied at any step in the decision-making process but they are often particularly relevant at certain points in the process.



1. Information

Access to information is the basis for all subsequent steps in the involvement of NGOs in the political decision-making process. This is a relatively low level of participation which usually consists of a one-way provision of information from the public authorities and no interaction or involvement with NGOs is required or expected.

Information is relevant for all steps in the decision-making process.

2. Consultation

This is a form of initiative where the public authorities ask NGOs for their opinion on a specific policy topic or development. Consultation usually includes the authorities informing NGOs of current policy developments and asking for comments, views and feed-back. The initiative and themes originate with the public authorities, not with the NGOs.

Consultation is relevant for all steps of the decision-making process, especially for drafting, monitoring and reformulation.

3. Dialogue

The initiative for dialogue can be taken by either party and can be either **broad** or **collaborative**.

A broad dialogue is a two-way communication built on mutual interests and potentially shared objectives to ensure a regular exchange of views. It ranges from open public hearings to specialised meetings between NGOs and public authorities. The discussion remains wide ranging and is not explicitly linked to a current policy development process.

A collaborative dialogue is built on mutual interests for a specific policy development. The collaborative dialogue usually leads to a joint recommendation, strategy or legislation. Collaborative dialogue is more empowered than the broad dialogue as it consists of joint, often frequent and regular, meetings to develop core policy strategies and often leads to agreed outcomes.

Dialogue is highly valued at all steps in the political decision-making cycle, but is crucial for agenda setting, drafting and reformulation.

4. Partnership

A partnership implies shared responsibilities in each step of the political decision-making process from agenda setting, drafting, decision and implementation of policy initiatives. It is the highest form of participation.

At this level NGOs and the public authorities come together for a close cooperation while ensuring that the NGOs continue to be independent and have the right to campaign and act irrespective of a partnership situation. Partnership can include activities such as delegation of a specific task to an NGO, for example delivery of services, as well as participatory forums and the establishment of co-decision-making bodies, including for resource allocation.

Partnership may take place at all steps of the political decision-making process and is particularly relevant at the agenda setting or implementation steps.

IV.ii Steps in the political decision-making process

The cycle below defines the six different steps of the political decision-making process agenda setting, drafting of policy, decision-making, implementation of policy, monitoring and reformulation of policy. Each step offers opportunities for NGOs and public authorities to interact.



1. Agenda setting

The political agenda is agreed by the parliament and government but can be shaped by NGOs, or groups of NGOs, through campaigns and lobbying for issues, needs and concerns. New policy initiatives are often the result of influence of the campaigns of NGOs. During this step NGOs aim to influence decision-makers on behalf of a collective interest and act in a way that is complementary to political debate.

Contributions of NGOs:

- Advocating: raise issues, concerns and needs for a specific user group, point of view or a general public interest that is not yet covered by legislation or other policy documents, instruments or measures
- Information and awareness building: share NGO findings with the public authorities, involve and represent members, users and key citizen groups and act as channels to reach citizens; to listen, react and inform
- **Expertise and advice:** experts with knowledge on a specific topic play a key role in setting the political agenda. Their analysis and research identify current and future needs in society and provide crucial perspectives
- **Innovation:** development of new solutions and approaches; demonstrating how these may be brought onto the political agenda
- Service provision: key actor in forming policy and creating alternative or non-existing services for a specific user group

Responsibilities of public authorities:

- **Information sharing:** Provision of up-to-date accurate and timely information in an accessible format for all interested parties
- **Procedures:** Develop and adhere to a transparent decision-making process. Provide clear, open and accessible procedures for participation
- **Resource provision:** Enable the active participation of civil society through for example, budgetary provision, in-kind support or administrative services
- **Responsiveness:** Ensure active involvement of relevant public authority representatives; listen, react and give feedback

Useful tools and mechanisms:

- Information:
 - **Easy and open access** to relevant, accurate and timely **information** on policy process, documents and political decision-makers, e.g. online databases
 - **Research** to understand an issue of concern and develop suggested solutions
 - Campaigning and lobbying by NGOs based on awareness-raising such as policy papers, posters and leaflets, websites, media releases and public demonstrations
 - **Website** with comprehensive access to key documents and announcement of public events
- Consultation:
 - **Petitioning**, can be through online tools, such as e-petition or web-forum
 - **Consultation,** online or other techniques, to collect interests and suggestions from stakeholders
- Dialogue:
 - **Hearings and public forums** with interested stakeholders to identify and interpret the sensitivities and interests of the different groups
 - Citizens' forums and future councils to discuss with citizens and NGOs
 - Key government contact enabling civil society to access information on current policy initiatives
- Partnership:
 - Work group or committee formed as a permanent or ad hoc expert group to advise on policy preferences

2. Drafting

Public authorities usually have well-established processes for policy drafting. Here NGOs are often involved in areas such as identifying problems, proposing solutions and providing evidence for their preferred proposal with, for example, interviews or research. Facilitating opportunities for consultation should be a key element in this step as well as various forms of dialogue to collect input from key stakeholders.

Contribution of NGOs:

- Advocating: guaranteeing that consideration is given to the needs and interests of stakeholders affected by the draft policy
- Information and awareness building: NGOs inform members, users and key citizens' groups about the drafting process
- **Expertise and advice:** provide analyses and research on issues under consideration or raise additional priorities to be included in the policy draft
- **Innovation:** provide solutions through the introduction of new approaches, practical solutions and concrete models which bring benefits to specific user groups

- Service provision: input to policy drafting to ensure consideration is given to their specific users' needs and that necessary conditions are met
- **Watchdog function:** Follow the drafting process to make sure stakeholder concerns are considered and that the process is inclusive and transparent

Responsibilities of public authorities:

- Information sharing: Provision of timely and comprehensive information on current consultation processes
- **Procedures:** Develop and adhere to minimum consultation standards, such as clear objectives, rules for participation, timelines, contacts etc. Organise open consultation meetings, including invitation to all potential stakeholders
- **Resource provision:** Provide adequate timelines and means for consultation to ensure participation of different levels of civil society
- **Responsiveness:** Ensure active involvement of relevant public authority representatives; listen, react and give feedback to consultation responses

Useful tools and mechanisms:

- Information:
 - **Open and free access to policy documents**, including single information point for policy drafting, with information available in different formats to reach the public
 - Website with comprehensive access to key documents and announcement of public events
 - **Campaigns** and **lobbying** to shape the draft policy through position documents, letters, manifestos
 - **Web casts** from hearings, meetings and debates allowing people to watch and listen in real time
 - **Research** to provide input to the policy drafting process
- Consultation and dialogue:
 - Hearings and questions & answer panels with stakeholders to identify and interpret the sensitivities and concerns and collect proposals, face-to-face or online
 - **Expert seminars and meetings** involving experts in the development of specialised research or studies that can be used in the drafting
 - **Multi-stakeholder committees and advisory bodies** consisting of or including representatives from the NGO sector; could be permanent or ad-hoc
- Partnership:
 - **Co-drafting:** active involvement in drafting parts of the legislative process

3. Decision

The forms of political decision-taking vary based on national context and legislation. Common characteristics are the establishment of a government policy directive by a ministry; or legislation, such as passing a law by parliamentary vote; or public referendum, which then requires enabling legislation. Draft laws and motions should be open to input and participation of NGOs. The public authorities should evaluate different views and opinions before the decision is taken. At this step consultation is central to informed decision. However the final power of choice lies with the public authorities, unless the decision is taken by a public vote, referendum or a co-decision mechanism. Contribution of NGOs:

- Advocating: influencing the decision makers before a vote
- Information and awareness building: informing membership, users and key citizens' groups about the political decisions and their potential effect
- Expertise and advice: provision of detailed analysis to inform and influence decision makers
- **Watchdog function:** following the decision-making process, making sure it is democratic, transparent and optimally effective

Responsibilities of public authorities:

- Information sharing: Provide information on policies currently in the decision-making process
- **Procedures:** Offer and follow procedures for co-decision mechanisms where applicable
- **Resource provision:** Enable and support the active participation of civil society by associating NGOs in the decision step
- Responsiveness: Listen, take into consideration and respond to civil society input

Useful tools and mechanisms:

- Information:
 - **Campaigning and lobbying** to influence the decision makers, for example using leaflets, websites, media releases and public demonstrations
- Consultation and dialogue:
 - **Open plenary or committee sessions** to ensure open access to debates during the decision-making
- Partnership:
 - Joint decision-making through forums, consensus conferences and other participatory meetings
 - **Co-decision making** such as participative budgeting

4. Implementation

This is the step at which many NGOs are most active, for example in service delivery and project execution. Much of the work done by NGOs in the previous steps includes attempts to influence the implementation of policy. This phase is especially important to ensure that the intended outcome will be fulfilled. Access to clear and transparent information on expectations and opportunities is important at this step, as well as active partnerships.

Contribution of NGOs:

- Information and awareness building: primarily focused on public awareness raising, explanation of benefits or disadvantages and impact of policy
- **Service provision:** one key actor in implementing policy initiatives, often carrying the main responsibility for delivery
- **Watchdog function:** to assess and ensure that the policy is implemented as intended without harmful side-effects

Responsibilities of public authorities:

- Information sharing: Provide information on implementation strategies, public tendering procedures and project guidelines
- **Procedures:** Follow established rules and regulations for policy implementation

- **Resource provision:** Enable the active participation of civil society in the implementation step through for example, budgetary provision, in-kind support or administrative services
- **Responsiveness:** Be available and react to specific needs arising from circumstances around policy implementation

Useful tools and mechanisms:

- Information:
 - **Open and free access** to public sector documents relating to projects and implementation decisions
 - Website with comprehensive access to key documents and announcement of public events
 - **E-mail alerts** announcing upcoming project and funding opportunities
 - **FAQs** online or other channels to offer information presented as questions and answers, targeted towards providing practical help and guidance
 - **Publicly advertised tender procedure** to provide an open transparent process for service provision
- Consultation:
 - **Events, conferences, forums and seminars** to inform and discuss the implementation of policy with NGOs and the public
- Dialogue:
 - **Capacity building seminars** to increase knowledge and capacity relevant to the implementation
 - **Training seminars** for NGOs and public authorities in specific topics relevant to implementation, such as procurement, project and funding applications
- Partnership:
 - **Strategic partnership** where NGOs and public authorities form a partnership to implement policy; this may range from a small pilot scheme to a full implementation responsibility

5. Monitoring

At this point the role of NGOs is to monitor and assess the outcomes of the implemented policy. It is important to have in place an effective and transparent monitoring system that ensures the policy/programme achieves the intended purpose.

Contribution of NGOs:

- Advocating: monitor and voice whether the policy initiative reached the intended beneficiaries and had the intended outcome for society
- **Expertise and advice:** gather evidence or research on the policy's impact; includes think-tanks and research institutes
- **Service provision:** responsibility to monitor the effects of the programme in terms of quality, sustainability, effectiveness and real case examples
- Watchdog function: a priority role in monitoring effects of the policy, to ensure that the intended objectives are achieved

Responsibilities of public authorities:

- Information sharing: Provide information on current policy status
- **Responsiveness:** Listen, and react to specific points raised by NGOs and civil society

Useful tools and mechanisms:

- Information:
 - Open and free access to information on policy progress
 - Evidence gathering to collect cases and statistics on project delivery
 - Evaluation of policy and its impact through conferences and reporting
 - o Independent research studies to draw out key lessons
- Consultation:
 - **Feedback** mechanisms to follow progress such as polls, web surveys or questionnaires
- Dialogue:
 - **Work group or committee** consisting of NGOs (both users and providers) in charge of the monitoring and evaluation of the policy initiative
- Partnership:
 - **Work group or committee** consisting of the NGO and public authorities coming together in a strategic partnership to monitor and evaluate the policy initiative

6. Reformulation

The knowledge gained from assessing the policy implementation, coupled with evolving needs in society, often require a reformulation of policy. This must be based on access to information and opportunities for dialogue to identify needs and initiatives. This reformulation allows for the initiation of a new cycle of decision-making.

Contributions of NGOs:

- Advocating: lobby for renewal of policy by expressing limitations in or side-effects of the current policy, to meet the needs of users or citizens
- **Expertise and advice:** conduct research and analysis to identify gaps in the current policy initiative and provide rationale for reformulation
- **Innovation:** develop new approaches to tackle the relevant policy issue; this can be a key element in policy renewal
- **Service provision:** identify obstacles and gather evidence to illustrate evolving needs that require a reformulation of policy

Responsibilities of public authorities:

- **Information sharing:** provision of information on possible review of a policy and their perception of changes needed in policy
- **Procedures:** provide clear, open and accessible processes for participation
- **Resource provision:** enable and support the active participation of civil society
- **Responsiveness:** listen and act on input from NGOs

Useful tools and mechanisms:

- Information:
 - **Open and free access to information** providing evaluations, study results and other evidence about the existing policy
- Consultation:
 - o Conference or meeting to set out next steps planned by public authority
 - Online consultation to gather civil society views on how to follow-up policy/project
- Dialogue:

- Seminars and deliberative forums to involve interested stakeholders in developing new directions in policy field e.g. World café, open space, other brainstorming methods
- Partnership:
 - Work group or committee where NGOs form an expert group jointly with other stakeholders and public authorities with the purpose of recommending a revised policy

IV.iii Cross-cutting tools and mechanisms for civil participation

There are certain tools or mechanisms gathered from across Europe during the consultation for the Code of Good Practice for Civil Participation that provide cross-cutting support to participation throughout the whole decision-making process:

1. E-participation

E-tools offer great potential for improving democratic practice and participation of an organised civil society. They can largely contribute to the transparency, accountability and responsiveness of institutions, as well as to the promotion of citizens' engagement and to increasing empowerment and the accessibility and inclusiveness of the democratic process. In order to fully benefit from their potential, e-tools should be integrated by all participants of the decision making, including the authorities at all levels and organised civil society.

2. Capacity-building for participation

It is essential to develop the capacity and skills of local, regional and national NGOs so that they may be actively involved in policy formulation, project development and service provision. Capacity-building can also include training seminars to improve the understanding of the reciprocal roles of NGOs and public authorities in this engagement, as well as exchange programmes to facilitate the understanding of each other's realities.

3. Structures for cooperation between NGOs and public authorities

In order to facilitate the relationship between public authorities and NGOs, a number of countries have developed coordinating bodies. These include: government bodies such as a contact person for civil society in each ministry or a central coordination body as a single interlocutor; joint structures such as multi-stakeholder committees, work groups, expert councils and other advisory bodies (permanent or ad-hoc); or NGO alliances/coalitions which pool resources and develop joint positions.

4. Framework documents on cooperation between NGOs and public authorities

In many European countries framework agreements have been developed to outline undertakings, roles and responsibilities and procedures for cooperation. These documents lay out a clear basis for the relationship and thereby facilitate ongoing dialogue and mutual understanding between NGOs and public authorities. They include bilateral agreements with parliament or government, strategy documents for cooperation and official programmes for cooperation, adopted by public authorities.

V. Matrix of Civil Participation

In order to illustrate and clarify the relationship, the matrix below visualises the steps of the political decision-making process and their connection with levels of participation. It is based on good practices and examples from civil society across Europe and is intended to offer inspiration for action and strengthen interaction between NGOs and public authorities.

At each stage in the decision-making process (from left to right) there are different levels of NGO participation (from bottom to top). It is envisaged that the steps in the political decision-making process can be applied to any context in Europe, local to national. As has been explained, the levels of participation at each point in the decision-making process may vary from low to high and it is intended that the suggested tools are used as ways to implement each type of participation.

This matrix may be used in a wide variety of ways, such as mapping the levels of engagement of civil society in any given policy process; assessing NGO participation at any particular point of a process; or as a practical resource for NGO planning of policy activities. This is not intended as an exhaustive list and it may be adapted to many more uses.

The matrix illustrates the inter-related elements of participation in the decision-making process. This example shows how the useful tools mentioned above may achieve the intended level of participation at each step in the decision-making process.

Partnership	Work group or committee	Co-drafting	Joint decision- making Co-decision making	Strategic partnerships	Work groups or committee	Work groups or committee
Dialogue	Hearings and public forums Citizens' forums and future councils Key government contact	Hearings and Q&A panels Expert seminars Multi-stakeholder committees and advisory bodies	Open plenary or committee sessions	Capacity building seminars Training seminars	Work groups or committee	Seminars and deliberative forums
Consultation	Petitioning Consultation online or other techniques	Hearings and Q&A panels Expert seminars Multi-stakeholder committees and advisory bodies	Open plenary or committee sessions	Events, conferences, forums, seminars	Feedback mechanisms	Conferences or meetings Online consultation
Information	Easy and open information access Research Campaigning and lobbying Website for key documents	Open and free access to policy documents Website for key documents Campaigns and lobbying Web casts Research input	Campaigning and lobbying	Open access to information Website for information access E-mail alerts FAQ Public tendering procedures	Open access to information Evidence gathering Evaluations Research studies	Open access to information
Levels of participation						
Steps in the political decision making process	Agenda setting	Drafting	Decision	Implementation	Monitoring	Reformulation