

# Beyond the Agora

## Participatory Policymaking Challenges and Lessons for CEE



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# **Beyond the Agora**

**Participatory Policymaking Challenges and  
Lessons for Central and Eastern Europe**

**REPORT**

## Acknowledgements

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## 1. Introduction

Since its inception back in Athens, democracy — and, essentially, democratic participation — has had in its root, as etymologically its name suggests, the act of governing of the peoples. Whether directly or indirectly, a government itself was not but the act of representation of the voice, needs, urges, priorities and such of the citizens conforming a geopolitical formation. Most certainly, what democracy used to entail and how it currently operates, including citizen participation, has dramatically changed. Today, as Holum (2022) well synthesises it, “*citizen participation is defined as citizen involvement in government decision making and service delivery.*” Theories of participatory democracy, deliberative democracy and social capital assert, according to Michels and De Graaf (2017), that **citizen involvement** has positive effects on democracy: it allows for **inclusion**, it encourages **civic skills and civic virtues**, it opens space for **deliberation** — within an ideal setting where rational approaches lead to rational decisions — and it, therefore, **legitimises** — or increases the legitimacy — of the policymaking processes and their outcomes. There are, most certainly, further positive outcomes coming from citizen involvement that relate to the degree of citizen influence, transparency and efficiency, and innovation (Michels and De Graaf 2017).

Nevertheless, direct democracy, while representing a means towards something — whether it is a policy or a law, or an infrastructural need at the local or national or regional level, among so many others — is not envisioned to be solely that, but its implementation an objective in itself, especially when considering its importance of being when addressing in a direct manner specific (local) needs (de Vries and Sobis 2022).

In that line, while at the European Union (EU) level, the Council of Europe has underscored the importance of citizen participation in local public life, decision-making and development (Sobis and de Vries 2021), the Spring 2022 Eurobarometer found that just 53% of respondents believed their voice counts in the EU. Needless to say, the implementation of all steps — beyond verbal or written statements — to achieve citizen participation throughout the Union has its different stages of development. In CEE countries, for instance, local politicians and administrators are already inclined to have



more public involvement in their decision-making processes. Nevertheless, this also means that public involvement is, therefore, incipient, to say the least. Part of the first needs to be addressed to make it happen, beyond the political 'willingness,' relates to the fact that public participation is a costly process in need of support from EU funds so to make it effective (Sobis and de Vries 2021).

Thus, the following paper aims to address how participatory policymaking is generally understood and carried out — what are its types, its general pros and cons. It then follows to showcase how the EU approaches the process of participatory policymaking — and, as such, define the options for its Member States on how to follow. The study later analyses general considerations and challenges related to participatory policymaking before addressing the case of CEE. Three specific short case studies are presented to see both the e-democracy realm within the region (i.e. cases in Estonia and Slovakia), as well as how Civil Society Organisations (CSOs) navigate in participatory processes (i.e. Slovenia). Finally, the paper shows conclusions and lessons learned on the challenges related to the participatory policymaking for CEE countries.



## 2. Participatory Policymaking: Beyond the Agora

How participatory policymaking is currently understood can take many forms on its approximation. Whether it is related to whom are the stakeholders to intervene — to participate — whether it relates to the method within which a participation process is set or whether it related to specific tools used to make those methods take place. In other words, “*involvement can take many different forms, such as public hearings, citizen focus groups, citizen surveys, and interaction on social media*” (Holum 2022). Moreover, as Michels and De Graaf (2017) put it, interactive participatory policymaking forms — and their evolution thereof — can include, deliberative forms, e-governance, and citizens taking initiative — including bottom-up initiatives (with local governments setting rules and providing support, including financial resources for those initiatives to happen).

Generally speaking, the European Commission (EC), through its Better Regulation Toolbox (EC 2023), presents a wide array of potential consultation methods to be considered whenever aiming to conduct a consultation or participatory process (see Table 1).

**Table 1.** Types of potential consultation methods. *Source: Adapted from the Better Regulation Toolbox (EC 2023) to showcase non-exclusive EU level public participation methods.*

Method	Used for
Conferences, public hearings and events	Gathering input from a larger number of targeted stakeholders through direct interaction.
Focus groups	Gathering information through group discussion of citizens/stakeholders with similar features.
Interviews	Collecting information via in-depth, more or less structured conversations with individuals.



Public consultations	Gathering inputs from a broad range of stakeholders through different instruments.
Consultations targeting small and medium-sized enterprises (SMEs)	Gathering information directly from SMEs
Social partners' consultations	For social policies and labour markets, gathering joint positions by employers and workers organisations at cross-industry or sectoral level; or individual contributions by the relevant organisations
Workshops, meetings, and seminars	Collecting specific information from targeted stakeholders through direct interaction.

Considering the aforementioned, Michels and De Graaf (2017) conducted a study of 120 cases in Western countries which showcased that “*deliberative forums and surveys appear to be better at promoting the exchange of arguments, whereas referendums and participatory policymaking projects are better at giving citizens influence on policymaking and involving more people.*” Moreover, when addressing the ongoing innovation of participatory policymaking in the current era, e-Law-making, within the realm of e-democracy, “*constitutes interactive platforms where stakeholders purposefully search for information and deliberation and provide input and, in this way, influence regulations and policy making*” (Sloboda, Staroňová and Poláková Suchalová 2022).

Most certainly, participatory processes and their methods do have perceivable pros and difficulties. For instance, while “*the increased participation from community in government decision-making produces important benefits in terms of visioning and foresight*” (Fitzgerald *et al.* 2016) and “*increased opportunities for citizens to engage with policymakers can lend legitimacy and accountability to traditionally ‘opaque’ policymaking processes*” (Alemanno, Davenport and Batalla 2023), not everything related to participatory processes navigate on calm waters. For de Vries and Sobis



(2022), direct citizen involvement is costly and hard to implement, as well as requiring time and interest from citizens themselves. This is where intermediate representation (e.g. NGOs, Civil Organisations) becomes necessary.

Moreover, there comes the aspect of organisation, for there is a distinction between actual participation by own citizen initiative and participation organisation set up by a governing body. In other words, “*actual participation unrelated to participation initiatives made by a local government is likely to be protest-related and related to distrust*” (Holum 2022). But even in the case where participation is organised by a governing body, mediation in itself as part of the organisation — disregarding the participatory method conducted for the process — has several considerations to be addressed. For instance, “*if public participation at the local level is to be regulated, [...] attention for the positive as well as negative effects of including professional mediation in the process as well as using ICT [information and communications technology] has to be thought through*” (Sobis and de Vries 2021). In that line, as an example, “*the method of a ‘facilitated workshop’ is considered to be very rich for acquiring various citizens’ input, but there is a challenge to massage that input towards consensus without imposing a facilitator view and respecting all the voices around the table, not just the most heard*” (Fitzgerald *et al.* 2016).



### 3. Participatory Policymaking as defined by the EU

From the Lisbon Treaty of 2009 to Recommendation CM/Rec(2018)4, the EU evolved towards an approach which obliged Member States to have direct citizens participation at the local level. Adopted by the Committee of the Ministers, the Recommendation (Council of Europe 2018) states that direct democracy complements representative democracy, thus enabling to “*rendering democratic institutions more responsive, hence contributing to inclusive and stable societies.*”

Following Sobis’ and de Vries’ (2021) summary of the 14 principles of local democratic participation policy, the document expresses a

*“need for municipalities to be transparent and exchange information; to encourage citizens to take responsibility for their life and communities and to encourage local authorities to give emphasis to the citizens’ participation and be responsive to their expectations and demands; to make such approaches comprehensive; to experiment with citizens’ empowerment; to establish benchmarks, monitoring systems and best practices; to identify the causes of any positive or negative trends in the participation of citizens and gauge the impact of the mechanisms adopted; and, to include also the marginalized citizens, ensuring the inclusion of everyone irrespective of gender and age, preferably together with the authorities and local associations.”*

Under such setting, the EU, through the Commission, has been paving its way towards meeting its commitment to “*giving Europeans a stronger role in decision-making,*” as per its sixth political priority, ‘A new push for European democracy,’ hence setting priorities and levels of ambition (EC 2023). Following that line,

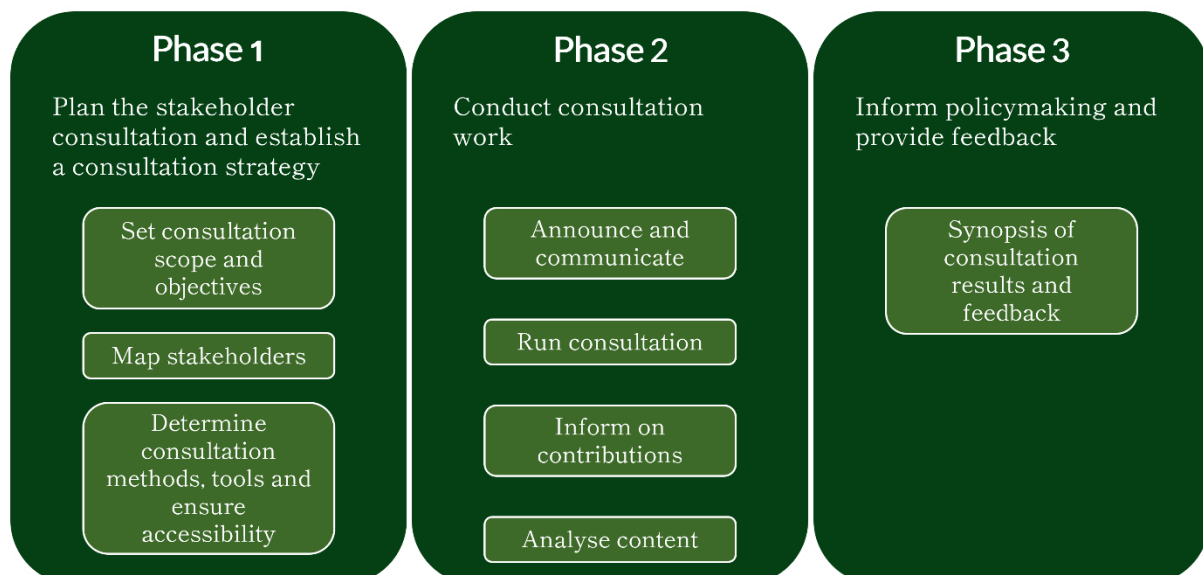
*“Consulting stakeholders is an important means to collect information for evidence-based policymaking. Their views based on insights from practical experience as well as quantitative data at their disposal can help deliver higher quality and more credible policy initiatives, by feeding into impact assessments, evaluations, and fitness checks” (EC 2023).*

The setting clearly defined, the EC has envisioned a full set of guidelines and considerations to guide participatory policymaking processes through its Better



Regulation Toolbox. Of compulsory use at the EC level, it does set a wide array of considerations and approaches for participatory processes that can be, if not strictly followed upon by Member States at the national and local levels, at least taken as an important guide to keep in consideration.

The Better Regulation Tool, thus, sets in Chapter 7 the step-by-step organisation of a participatory process, commencing with the definition of three phases: 1) planning the stakeholder consultation and establishing a consultation strategy; 2) conducting the consultation work itself; and 3) informing policymaking and provide feedback as an outcome. Each phase has a set-up of specificities to consider, as seen in Figure 1.



**Figure 1.** Consultation processes' set-up, as per the Better Regulation Toolbox. *Source: EC 2023.*

For the Commission, this set-up is necessary to abide to their needs for its 'Calls for Evidence,' which are mandatory for any legislative proposal, evaluation, and fitness check. As indicated in the Toolbox (EC 2023), 'calls for evidence' are conducted through the EC's 'Have your say' portal and entails public consultation questionnaires, as well as looking for feedback on proposals, a fitness check, Commission's documents, etc. The portal also allows for contributions on legislative proposals. It, moreover, permits



participation through delegated acts, implementing acts, and regulatory procedures with scrutiny (i.e. RPS/PRAC<sup>1</sup> measures).

After a consultation deadline is reached, the EC must produce a factual summary report highlighting the key elements coming out from the consultation, including the contributions input in the 'Have your say' portal. The EC must finalise this report within eight weeks of the end of the consultation process.

For the policy preparation or evaluation work, the Directorate-General (DG) ought to ensure that all contributions are being taken into consideration. So as to ensure that this step is met, after the initiative or evaluation is finalised, **a synopsis report must be prepared. Within it, all feedback and contributions are to be summarised and, most importantly, the report must explain to what extent they have been considered.**

Finally, for Legislative Proposals, the process for feedback is open for 8 weeks. For implementing and delegated acts, DGs do carry out, during the preparatory phase, **targeted stakeholder consultations**, but they **do not replace the wider participatory process**.

### 3.1. Consultation Strategy

There is no set-in-stone single strategy for issues related to the selection of stakeholders (e.g. citizens, businesses, NGOs) nor specific methods (i.e. public or targeted) or tools to be used (e.g. questionnaire, interviews, workshops, hearings). Thus, the Better Regulation Toolbox indicates that those items are addressed openly and free of choice, according to the circumstance and envisioned needs of the policymaking process. What does exist, however, are guided approaches on how to select the adequate set of stakeholders, methods and tools.

In that line, as to the stakeholders, the guidance of the Toolbox indicates that, mainly, in order to identify which should be the stakeholders consulted for a consultation, it is proper to address the following:

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<sup>1</sup> Both RPS and PRAC are acronyms standing for 'regulatory procedures with scrutiny.'



- Who is directly impacted?
- Who is indirectly impacted?
- Who is potentially impacted?
- Whose help is needed to make it work?
- Who thinks they know about the subject?
- Who will show an interest in the subject?

Subsequently, the Toolbox sets further recommendations regarding the approach towards them:

- there needs to be a mix of public and targeted consultations;
- there needs to be a sequence of consultation activities;
- a degree of interactivity for the various stakeholder groups should be included; and
- there needs to exist a level of effort to stimulate the contribution of stakeholders (this includes considerations like language regime and accessibility participation of persons with disabilities).

For that, a set of stakeholder categories is presented, with a disclaimer as it being a “non-exhaustive” list (see Annex I). As to the method(s) to be used in a consultation process, the Better Regulation Toolbox also leaves it open to the decision of the organising body, while listing a comprehensive set of potential consultation approaches (see Table 1).

Upon implementation of the consultation process itself, data analysis takes place. Reporting including the citizen feedback, as previously indicated, must accompany policymaking and decision-making processes: *“For each consultation activity, it is good practice to publish factual information on the input received from stakeholders to ensure transparency. Apart from the publication of consultation documents and any written contribution, this also includes a factual summary report on the issues raised”* (EC 2023).

Further suggestions, guidance and the overall walkthrough for consultation processes within the Better Regulation Toolbox include aspects such as the publication of responses, data protection, a transparency register, access to documents, and more.



## 4. General Considerations and Challenges

Most certainly, participatory processes do tend to offer complexities that are dependent on distinct factors. Beyond, building on existing literature, this paper intends to pinpoint some general considerations and challenges.

### 4.1. Regarding the organisation of a consultation process

A crucial decision as to the organisation of a consultation relates to the moment, the 'when should it be done' question. It is hence critical, for the body aiming to include a consultation process for any policymaking process to define on whether the most suitable moment to do so comes during the agenda-setting (i.e. what are the priorities we need to address), during the policy development (e.g. what criteria are the ones to focus on), during decision-making (e.g. plebiscite), during policy implementation (i.e. co-production), or during the evaluation (de Vries and Sobis 2022).

Beyond that, Michels and De Graaf (2017) share some decisive recommendations as to how to set a participatory policymaking process that is inviting and inclusive:

- 1) Allow criticism.
- 2) Keep communicated with people not yet involved in the topic addressed.
- 3) Open the room for aspects and problems proposed by citizens, and not simply or exclusively to the ones of concern to the decision-making body.
- 4) Allow for citizens to also conduct the process, for this renders a more inclusive process that can be beneficial for future sessions.
- 5) Ensure transparency.
- 6) Consider cases (successful and unsuccessful ones) from other locations.

### 4.2. Regarding the stakeholders

Considering the distinct categories of stakeholders, an important aspect to take into account relates to the potentiality of biases and specific interests a type of stakeholder might have and be willing to push in a consultation process. According to Fitzgerald *et al.* (2016), "*stakeholders are actors — individuals, groups, agencies or organisations —*



*who may lose or gain from the activities of an organisation. As such, they have an interest or 'stake' in the organisation's performance."*

Moreover, when addressing stakeholders at the wider citizenry level, *"well-educated, civically active and politically interested citizens are overrepresented in all forms of citizen participation [...] biases are likely to remain due to self-selection. A systematic failing to include citizens who are less interested in politics, less civically active and more cynical may affect the outcome of participation"* (Michels and De Graaf 2017).

### 4.3. Decentralising towards participation

One aspect which plays in favour of participatory policymaking as a means to ensure addressing not only needs, but even more so the how-to address is the route towards local self-government. When considering a modern Leviathan such as the EU and its European citizen project, the sense of locality, of belongingness, may easily be put under threat. In that line, there is a distance related to proper representation from the Union level to the transnational/regional level, to the national level, and to the local level. Therefore, decentralisation, when considering consultations, may prove fundamental. According to Sobis and de Vries (2021), *"A certain extent of decentralization — understood in terms of legislation in favour of local self-government, and local financial autonomy — is generally seen as beneficial for the economic effectiveness and meaningfulness of public participation."*

### 4.4. e-Democracy

The Organisation for Economic Co-operation and Development (OECD) recognises three levels related to e-participation: information, consultation and active participation. Overall, as within any more 'traditional' consultation approach, there does not seem to be a distinction as to what e-democratic participation must provide (i.e. information), what it aims to achieve (i.e. consultation), and how it wants it (i.e. active participation). What has changed — or, better put, added — is a format, from the physical to the digital. But what needs to be recognised within the digital format — which, indeed, has open new pathways to expand upon the possibility of enlarging participation — is how



universally accessible it truly is. According to Sobis and de Vries (2021), the *“technological revolution is addressed mainly to young people, who have the capacity to participate in local decision-making by using ICT. The use of ICT is widely discussed as a potential but not as the everyday practice for everyone.”*

Furthermore, e-participation through information and communication technologies (ICT) can both include new groups as well as exclude others: while promoting deliberation, it can undoubtedly also negatively affect its objective by, inter alia, only allowing for participation via filling-in surveys or by filtering towards specific criteria prior to the deliberation itself. And as Sloboda, Staroňová and Poláková Suchalová (2022) put it, an *“e-participation platform must be reliable and useful and most importantly allow stakeholders to influence law-making, otherwise e-participation is just an empty shell.”*

#### 4.5. Challenges

Considering the aforementioned items, participatory policymaking does not come without its challenges. To start with, as mentioned in item 4.2., some citizen groups tend to be overrepresented. In terms of Holum (2022), *“although there seems to be a consensus that citizen participation can be beneficial, increasing participation through local government initiatives is a challenge. If only a very small group participates, the positive effects will likely be limited. It is therefore important to consider the connection between participation initiatives and actual participation.”*

Moreover, participating and knowing how to do it do not necessarily come hand-in-hand. For Fitzgerald *et al.* (2016), *“the current challenge of decision-making at the policy level is to best accommodate to the uncertainty and dynamics of patterns to offer the decision-making process ‘a context-determined and temporally limited orientation for action that makes learning through experience possible.’”*

Moreover, contextual regulations for public participation seem to be key, and as indicated in item 4.3., decentralization plays a fundamental role in it. Different cases analysed by Sobis and de Vries (2021) stress that there is a tendency to advocate for contextual regulations within decentralised processes. Another visible tendency,



nevertheless, relates to advocating for a balance between representative and direct participative democracy. In other words, when public participation is limited to the deliberation level, whereas the decision-making level is solely for politicians and improvements in the design of the participative process is left for professionals. This second tendency, needless to say, opens up a debate as to when — if there exists one only fundamental, critical moment at all — should participation take place.

Still, there is not only room for improvement regarding the challenges, but already tested paths to be transited. Some strategies used by the Conference on the Future of Europe (e.g. language accessibility, citizen assemblies, choosing participants randomly and representatively) can, for instance, be expanded, built upon, or institutionalised to create stronger mechanisms and pathways for citizen participation (Alemanno, Davenport and Batalla 2023).



## 5. Participatory Policymaking in CEE

The following chapter aims to present three cases of participatory policymaking within Central and Eastern Europe — namely, from Slovakia, Slovenia, and Estonia. The approach has focused on promoting participatory policymaking by addressing the patterns of participation of Civil Society Organisations as a type of stakeholder (i.e. Slovenia) and participation of the wider citizenry through direct e-democracy (i.e. Slovakia and Estonia).

To adequately delve into the three cases, some contextual aspects need to be addressed in advance. As such, perhaps one of the most distinctive aspects in CEE when compared to Western European countries relates to the degree of how active or passive citizens are in relation to democratic participation. According to the European Values Study (2017-2018), active democratic participation entails being either a part of any voluntary organisation or participating in at least one form of political action. In contrast, **completely passive citizens** — as per democratic participation not considering electoral participation — **are understood as ones not being a part of any voluntary organisation nor having participated in at least one form of political action.**

A total nine CEE countries — including Germany — were a part of the study, showing the following population percentages corresponding to completely passive citizens in their populations:

- Germany: 13.3%
- Slovenia: 17.9%
- Austria: 19.8%
- Croatia: 21.1%
- Czech Republic: 29.2%
- Belarus: 43.2%
- Poland: 47.7%
- Slovakia: 48.2%
- Bulgaria: 67.3%



This context already provides a scenario where inclusion in the participatory process in CEE countries might present its first difficulties. Six out of the nine countries are above the 20% threshold of complete passive citizenry. Moreover, the cases of Belarus, Poland, Slovakia and, especially, Bulgaria, show a reality where democratic citizen participation is rather lacking. And, while *“for a policy perspective, that is making sound decisions, taking varying interests into account, the inclusion or exclusion of the passive citizenry might not be very relevant, as the opinions on actual policies of the passive ones do not significantly differ from the more active citizenry [...] out of the democratic ideal, the exclusion of the passive citizenry is a serious issue”* (de Vries and Sobis 2022).

Concerning CSOs, which are a rather well-defined stakeholder within participatory processes, their role related to participation — and its enactment — which is meant to represent a bridge of citizen needs towards decision-makers, has different ways in which it is done. Novak and Lajh (2018) have defined their participatory action into four types: 1) internalisation (where CSOs are predominantly active at the domestic level); 2) externalisation (where CSOs bypass the national level and are active at the EU level); 3) supra-nationalisation (where CSOs join associations at the EU level to influence EU policies); and 4) trans-nationalisation (where CSOs transform into a global actor).

Most certainly, according to the path taken, CSO-by-CSO action related to “participation” in the policymaking processes substantially differ. For instance, for those CSOs more focused at the domestic level, *“even though national governments no longer have a monopoly on policymaking, they still play a decisive role and have an active role during the policy negotiation stage as part of the Council of the EU”* (Novak and Lajh 2018).

Beyond these aspects, following a review of 30 studies on participatory policymaking processes published between 2005 and 2020, the two main issues arising related to participation in local decision-making in CEE — contemplating cases from Romania, Poland, Czech Republic, Austria and Slovenia — are those concerning multi-governance and decentralisation (Sobis and de Vries 2021).

Having already addressed decentralisation (see item 4.3.), as to multi-level governance, the analysis highlights important issues:



*“to what extent can the supranational level influence the legal regulations for public participation in local decision-making, in order to avoid the emergence of feelings of limitation to state sovereignty or local autonomy at the federal, national, regional and local level of each EU Member State?; and, if so, what kind of legal regulations for local participative process are needed to avoid citizens’ self-organization and political activism?” (Sobis and de Vries 2021)*

Moreover, a recurring issues is highlighted: that in CEE-countries, public participation is a costly process in need of support from EU funds in order to become effective. Still, in CEE-countries multi-level governance is generally perceived as a support for the development of cooperation between authorities and citizens in the decision making on important local issues (Sobis and de Vries 2021).

### 5.1. Slovenia – How CSOs get a say

Novak and Lajh (2018) have made an extended analysis of the Slovenian case related to how participatory policymaking is achieved by the country’s CSOs. Overall, the routes taken are of three types: 1) via direct contact with EU-level institutions; 2) via indirect participation through umbrella organisations that have a presence in Brussels; and 3) via direct contact and lobbying with national (i.e. Slovenian) decisionmakers.

The study by Novak and Lajh (2018) analyses a total 23 Slovenian CSOs which work on energy and environmental issues, on financial and economic issues, or on rights issues.

The legal position of Slovenian CSOs regarding the participatory policymaking is a grim, if not bleak, one: Slovenian legislation excludes CSOs from the formal process related to forming national positions on EU legislative proposals. And while national officials may decide to consult them, not having, legally speaking, a role — a place — in the processes, have pushed CSOs to have different approaches to influence decision-makers, and to become pro-active, in order to participate in the policymaking process. The key decision, that considered, becomes when exactly to intervene.

According to Novak and Lajh (2018), *“actors in the field of energy and environment are more active in the transposition and implementation stages. CSOs from the environment and energy area also take on the role of watchdog during the transposition*



and implementation phases as they turn to and refer to EU legislation when trying to enforce their interests at home.” Table 2 illustrates where Slovenian CSOs tend to engage the process and, thus, achieve participation.

**Table 2.** Engagement of CSOs in different phases of the policy process, as detected by policy officials.  
Source: Novak and Lajh (2018).

	Drafting of an EC proposal	Drafting of a national position	Transposition	Implementation
Energy and environment CSOs	19	39	53	64
Finance and economy CSOs	6	20	7	3
Rights CSOs	6	27	24	17

The three aforementioned routes taken by the Slovenian CSOs — participation via direct contact with EU-level institutions, via umbrella organisations, and via national lobbying — have allowed them to still be present, to participate, to have a say, to represent.

*“Although Slovenian CSOs lack the capacity to be permanently present in Brussels, they find different routes to participate in EU policymaking; namely, by contacting institutions containing Slovenian representatives, being active at the stage of formulating the national position, the implementation and transposition stages, directing their activities to the national level and through active membership in EU-level umbrella CSOs.” (Novak and Lajh 2018)*

## 5.2. Slovakia – The Slov-lex case

In Slovakia, e-participation was consolidated in 2016 through the implementation of the Legislative and Information Portal of the Ministry of Justice of the Slovak Republic, more commonly known as Slov-lex. Allowing for e-participation for the wider citizenry,



the Slo-lex platform represents the current stage of development that universalizes direct democratic participation in the country. Considering the history of the country as to the matter of participatory policymaking, it stands as a reasonable evolution.

During the regime of Vladimír Mečiar, drafting legislation was exclusively done by the government and its different bodies. No participatory policymaking was considered, nor transparency, for what is worth. After it, reformation on the matter began. It first included an e-mail approach, while, between 2002 and 2010, two predecessors to Slo-lex were developed: JASPI and the Legal Information Portal. Afterwards, Slo-lex came into existence, aimed to strengthen participation in law-making. According to Sloboda, Staroňová and Poláková Suchalová (2022), the aim of law-making is to prepare legislation with public participation; for that, the legislation proposal is created through the electronic system.

Slo-lex is presented as a system that encompasses two components: e-collection and e-legislation.

- The e-collection module: it allows free access to the legal system of Slovakia, providing information on drafts of legislative and non-legislative materials proposed by the government in order for the citizenry to access total information on the matter.
- The e-legislation module: it provides access to the law-making process at any time, regardless of geographical location. Citizens can submit comments on ongoing law-making processes, thus allowing for active participation, whether via single or collective comments.

Sloboda, Staroňová and Poláková Suchalová (2022) present the Slo-lex case, especially regarding its e-collection module, extensively. Their study presents the advantages of the participatory system when compared with previous platforms, such as the access to an archive with a vast collection of legal acts, as well as search engine capacities for finding all materials on ongoing law-making processes.

According to the study, Slo-lex accomplishes, for citizen e-democratic purposes, e-enabling (which refers to aspects of understanding information, such as a legislation document) and e-engaging (which refers to the provision of support for consultations



and debates; such as inputs to law-making) (Sloboda, Staroňová and Poláková Suchalová 2022). Generally, users have expressed that the information it contains is reliable, accurate and official, while it allows direct participation through comments in a centralised manner. That considered, its usability between 2016 and 2019 is illustrated in Table 3.

**Table 3.** Usage of Slov-lex, 2016-2019. *Source: Sloboda, Staroňová and Poláková Suchalová (2022).*

	2016	2017	2018	2019
Median number of comments per legislation draft	30	24	17	15
Average number of comments per legislation draft	60	62	52	78
Number of collective comments	243	237	266	206
Share of legislation drafts with five or more comments	87.6%	88.4%	86.3%	79.1%
Share of legislation drafts in accelerated legislation procedure	29%	25%	28%	47%

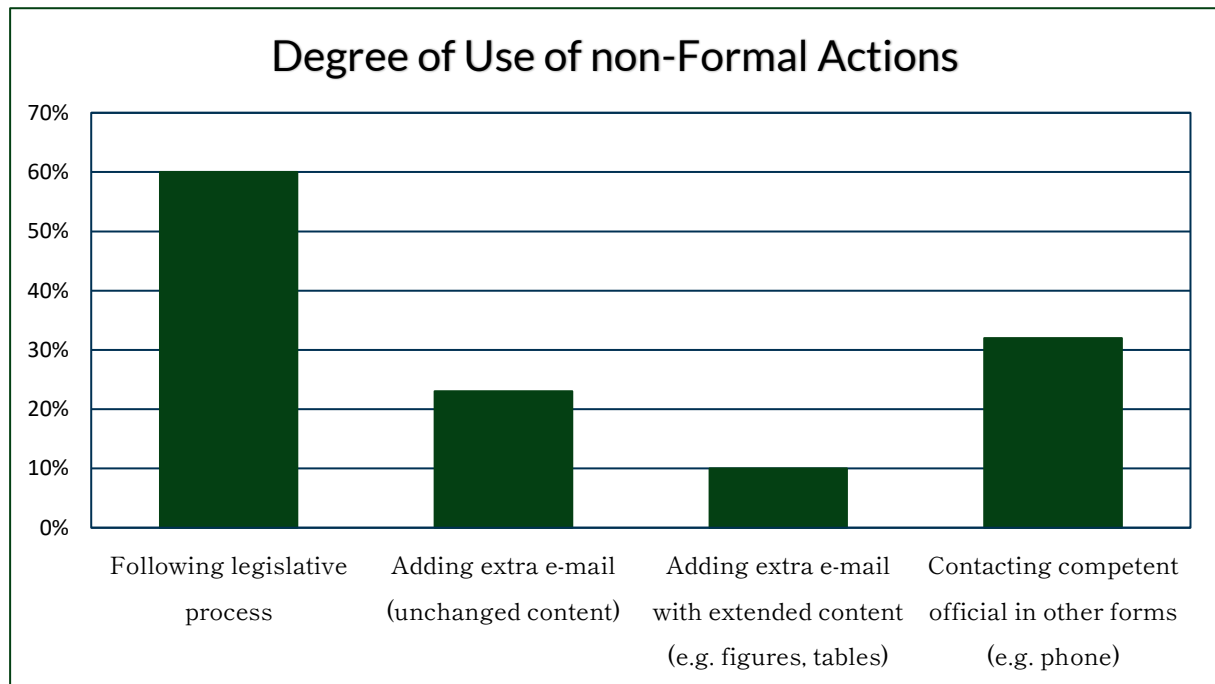
Nevertheless, Slov-lex does not come without its lacks. Without mediation, the platform opens the door to its registered users to submit their comments on any piece of legislative process. This means that users are expected to have some degree, if not significant, legal expertise. While access is open, this requirement restricts real accessibility.

Moreover, it does not cover the entire law-making process: there is no link to the parliamentary related stage of policy making (i.e. deliberation). Also, stakeholders are requested to comment on the legal text, but not give ideas. Furthermore, the platform has not undergone necessary upgrades since its inception. Thus, the search engine and the platform in general is commonly considered as neither user-friendly nor intuitive.



Also, all inputs are restricted to text — the platform not allowing for a better, more adequate, efficient contribution/participation (e.g. input of figures, tables).

Due to these reasons, many users do not feel that their participation in the process is a secure one, and thus opt for taking further actions to ensure their inputs are considered or, even more, to ensure their inputs reach an actual official (see Figure 2).



**Figure 2.** Additional non-formal actions by users following e-participation in Slov-lex. *Source: Sloboda, Staroňová and Poláková Suchalová (2022).*

### 5.3. Estonia – The Citizen’s Initiative Portal

The case of Estonia is one related to process design, to the organisation and administration of initiatives, and to the success factor in said organisation and administration of e-participation initiatives. Through the Citizen’s Initiative Portal (<https://rahvaalgatus.ee/>), Estonia has conceived a bottom-up platform which follows a highly formalised process cemented in the existing law.

According to Randma-Liiv and Vooglaid (2019), the Citizen’s Initiative Portal is a platform owned by the Estonian Cooperation Assembly — a quasigovernmental organization funded by the Office of the President — and has the parliament as the main



recipient of the initiatives presented by citizens through it. When a proposal is accepted by the parliament, the Speaker of the Parliament defines the committee that will ‘own’ the proposal and forwards it for deliberation. All these actors — namely, Chancellery of Riigikogu, parliamentary committees, Office of the President, Cooperation Assembly and CitizenOS (a philanthropic foundation which provides the platform) — end up being engaged in a complex coordination process in order to manage the maintenance and development of the Citizens’ Initiative platform.

As to the roles, the Cooperation Assembly has to secure the funds for the portal, educate the public how to submit a Collective Address, and deal with day-to-day moderation and technical troubleshooting.

So, how does it work on the citizens’ side? The process, presented by Randma-Liiv and Vooglaid (2019), indicates that the ‘Collective Addresses Act’ stipulates that if a proposal put forth by any individual gathers 1000 or more signatures (collected either online or offline), the Chancellery of Parliament must respond within 30 days and let the author of the initiative know whether the parliament agrees to further handle the proposal. The parliament usually undertakes all proposals that fulfil the legal criteria. When the proposal is undertaken by the parliament, a committee is selected to ‘own’ it. Some of the potential ensuing options include:

- The committee can convene a general assembly when the initiative is thought to address issues of ‘significant national importance.’
- It can hold a public hearing where anyone is welcome to join.
- It can forward the initiative to the competent branches of executive government for resolution.
- The committee may transmit an initiative to the Government to develop a position regarding the proposal — being obliged to notify the committee of their resolution.
- It can reject the proposal if it is incompatible with the Constitution or any international obligations.

As to the process, the author of the initiative must be included in at least one session, while the process must be concluded in three months, with the decision being sent to



the author of the initiative in a timeframe no longer than 6 months from the date the proceedings started. The follow-up phase becomes visible in the portal as a status update, indicating whether the initiative was accepted by the parliament or not. A simplified radiography of the traits of this process can be seen in Table 4.

As such, the Estonian case, according to Randma-Liiv and Vooglaid (2019), is one that includes consultation and involvement: “governments working directly with the citizens to ensure that public concerns and aspirations are consistently understood and considered” and where “the link between citizen input and actual policy output varies, as the content of the final policy decisions is left to the discretion of the decision-makers.”

**Table 4.** Traits of the participatory process in Estonia through the Citizen’s Initiative Portal. *Source: Adapted from Randma-Liiv and Vooglaid (2019).*

Stage of policy cycle	Initiating stakeholder	Level of participation	Governmental consideration	Feedback	Degree of formalisation
Agenda setting, policy formulation	Citizens	Consult and involve	Mandatory	Written feedback, publicly available	High



## 6. Conclusions and Lessons Learned

This report has underscored the overall importance of citizen involvement and participation in policymaking processes as one that has positive effects in democracy. Its case is sustained by the fact that direct democratic participation allows for inclusion, opens spaces for deliberation and legitimises the policymaking processes and their outcomes.

This has been understood by the European Union, which has highlighted, through the Council of Europe, the importance of citizen participation in local public life, decision-making and development. The EU has thus made it mandatory for Member States to include participatory processes at the national level and has, moreover, developed a comprehensive guidelines for consultation and participatory processes to be mandatorily followed at the Commission's working level. The **Better Regulation Toolbox is a wide-ranging guide that could be easily adopted and adapted** to the context of each Member State. For Member States with a citizenry not entirely accustomed to participatory processes and with high percentages of passive citizenry, as in the case of CEE, the **implementation of these guidelines could prove to be a positive way to strengthen the potential and interest of participation, that may allow for an increase of opportunities for the citizens to engage with policymakers, thus providing legitimacy and accountability to the policymaking processes.**

At the CEE level, moreover, it has been perceived that one of the **main constraints** related to adequately addressing a direct democracy approach is that **public participation is a costly process in need of support from EU funds so to make it effective.** Moreover, it requires time and interest from citizens themselves.

Nevertheless, a way to address the lack of interest is by focusing on topics that are of importance to their citizens; in CEE, multi-level governance and decentralisation.

What the specific cases presented from Slovakia, Slovenia and Estonia have shown represent both difficulties to solve and examples to follow.

In **Slovenia**, upon the **legislative wall not allowing for direct participation of CSOs in the EU related legislation processes, organisations have adopted a pro-active, threefold**



**approach to circumvent the wall.** Whether it is through direct national lobbying with decisionmakers, whether it is through direct contacts within EU level institutions, or whether it is through conveying their specific points of view to be represented by umbrella organisations headquartered or with presence in Brussels, Slovenian CSOs do show that there are effective paths for this category of stakeholders to be able to participate despite legislative blocks.

In **Slovakia**, via an **e-democracy approach**, citizens are allowed to make their inputs in any and all law-making processes. The **Slov-lex platform is considered formal, reliable, informative and, all considered, democratic.** Still, it already presents one of the many issues when addressing governance through digitalisation: the ever-present need to **adapt the tool** (i.e. in this case, the Slov-lex platform) **to the constantly evolving digital world and**, in the same manner, **to the adapting nature of users** to every new moment of digitalisation. Constant modernisation of the digital tools, in other words, with an emphasis on user-friendliness, so to be able to also address user related gaps (i.e. young v. older users).

Finally, **Estonia** showcases an example of a **properly legislated participatory approach.** If a citizen can abide to specific requirements (e.g. amount of signatures supporting their initiative, that the initiative does not go against the Constitution or international agreements signed by Estonia), the Parliament is obliged to pay attention and devote time to analyse the proposal, including inviting the citizen who proposed the initiative to at least one of the sessions of discussion. The system is **properly organised via a digital platform to present initiatives and has defined steps to be followed by all parties until the very end of the process.**



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## Annex I

**Table 5.** Stakeholder categories. *Source: EC 2023.*

Stakeholder Category	Types
Citizens	<ul style="list-style-type: none"> <li>• The general public: individual non-expert citizens</li> <li>• Individual expert citizens responding on their own behalf</li> </ul>
Businesses	<ul style="list-style-type: none"> <li>• Large-sized enterprises</li> <li>• SMEs</li> <li>• Microenterprises</li> <li>• Self-employed</li> </ul>
Social partners and representatives of professions and crafts	<ul style="list-style-type: none"> <li>• Chambers of commerce</li> <li>• Employers' organisations</li> <li>• Business organisations</li> <li>• Trade union organisations</li> <li>• Representatives of professions or crafts</li> </ul>
Non-governmental organisations	<ul style="list-style-type: none"> <li>• Non-governmental organisations</li> <li>• Platforms</li> <li>• Networks</li> <li>• Similar associations</li> </ul>
Consultancy	<ul style="list-style-type: none"> <li>• Professional consultancies</li> <li>• Law firms</li> <li>• Self-employed consultants</li> </ul>
Research and academia	<ul style="list-style-type: none"> <li>• Think-tanks</li> <li>• Research institutions</li> <li>• Academic institutions</li> </ul>
Organisations representing regional, local, and municipal authorities, other public	<ul style="list-style-type: none"> <li>• Regional, local, or municipal structures</li> <li>• Other sub-national public authorities</li> <li>• Transnational associations and networks of public subnational authorities</li> </ul>



or mixed sub-national entities	<ul style="list-style-type: none"> <li>• Other public or mixed entities, created by law whose purpose is to act in the public interest</li> </ul>
National public authorities, EU decentralised agencies and other bodies (EU agencies) and international public authorities.	<ul style="list-style-type: none"> <li>• National and regional/local governments</li> <li>• National and regional/local Parliaments</li> <li>• National and regional/local public authorities or agencies</li> <li>• EU institutions, EU decentralised agencies and other bodies (EU agencies)</li> <li>• Intergovernmental organisations</li> </ul>



Direct democratic participation allows for inclusion, opens spaces for deliberation and legitimises the policymaking processes and their outcomes. Following that premise, the European Union has made it mandatory for its Member States to include participatory processes at the national level.

The case of Central and Eastern European countries, though, present a scenario where high percentages of passive citizenry contrast with the ideal of effective participatory policymaking. Moreover, surpassing that wall requires costly processes, as well as the time and interest from citizens themselves.

This report aims to unveil the general contextual difficulties CEE countries are to face within the bigger picture of participatory policymaking, while rendering three cases from the region that provide lessons to start improving the participatory approach.

