

Case Study of Transboundary Dispute Resolution: The Environmental program for the Danube River

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1. Case summary

<i>River basin:</i>	Danube (figure 1 and table 1)
<i>Dates of negotiation:</i>	1985 to 1994
<i>Relevant parties:</i>	All riparian states of the Danube: Hungary, Romania, Austria, Slovenia, Croatia, Slovakia, Bulgaria, Germany, the Czech Republic, Moldova, and Ukraine, Serbia, Bosnia and Herzegovina, Italy, Switzerland, Albania, Poland. Convention is the first designed through the process of public participation, including NGOs, journalists, and local authorities
<i>Flashpoint:</i>	None—good example of "conflict preclusion"
<i>Issues:</i>	Stated objectives: to provide an integrated, basin-wide framework for protecting Danube water quality
<i>Additional issues:</i>	Water-related: encourage communication between water-related agencies, NGOs, and individuals; Non-water: none
<i>Excluded issues:</i>	Strong enforcement mechanism
<i>Criteria for water allocations:</i>	None determined
<i>Incentives/linkage:</i>	World Bank/donor help with quality control
<i>Breakthroughs:</i>	No untoward barriers to overcome; creation of the Danube River Basin Strategy on Public Participation
<i>Status:</i>	Convention signed in 1994. Cooperation has continued to be fruitful and well managed.

2. Background

The Danube River basin is the heart of central Europe and is Europe's second longest river, at a length of 2,857 km. The drainage basin drains 817,000 km² including all of Hungary, most of Romania, Austria, Slovenia, Croatia, and Slovakia; and significant parts of Bulgaria, Germany, the Czech Republic, Moldova, Serbia, and Ukraine. Bosnia and Herzegovina, and small parts of Italy, Switzerland, Albania and Poland are also included in the basin. The Danube River discharges into the Black Sea through a delta, which is the second largest wetland area in Europe.

The river is shared by a large and ever-growing number of riparian states that for decades were allied with hostile political blocs; some of which are currently locked in intense national disputes. As a consequence, conflicts in the basin tended to be both frequent and intricate, and their resolution especially formidable.

Nevertheless, in recent years, the riparian states of the Danube River have established an integrated program for the basin-wide control of water quality which, if not the first such program, has claims to probably being the most active and the most successful of its scale. The Environmental Program for the Danube River is also the first basin-wide international body that actively encourages public and NGO participation throughout the planning process, which, by diffusing the confrontational setting common in planning, may help preclude future conflicts both within countries and internationally.

As an example of international basin-wide watershed management, the process that led to the development of the Environmental Program for the Danube River merits a detailed description.

Table 1: Features of the Danube watershed

Name	Riparian states (With % of national available water being utilized) b ^a	Riparian relations (with dates of most recent agreements)	Watershed features ^a			
			Average annual flow (km ³ /yr.) ^c	Size (km ²)	Climate	Special features
Danube	Albania (1.6), Austria (6.1), Bulgaria (7.1), Bosnia and Herzegovia (n/a), Croatia (n/a), Czech Republic (n/a), Germany (43.8), Hungary (35.5), Italy (26.6), Moldava (n/a), Poland (42.9), Romania (22.0), Slovakia (n/a), Slovenia (n/a), Switzerland (9.8), Ukraine (n/a), Serbia and Montenegro (14.4)	Cold to warm (1994 Danube River Protection Convention)	206	790,100	Dry to humid	1994 Convention is first treaty developed through process of public participation

a Values for lakes under "Annual Flow" are for storage volumes.

b Source: Kulshreshtha (1993)

c Sources: Gleick ed. (1993); UN Register of International Rivers (1978)

The remaining data in this table is from the TFDD (2007).



Figure 1: Map of the Danube River Basin (TFDD, 2007).

3. The problem

Prior to World War II, the European Commission of the Danube—with roots dating back to the 1856 Treaty of Paris and made up of representatives from each of the riparian countries—was responsible for administration of the Danube River. The primary consideration at the time was navigation, and the Commission was successful at establishing free navigation along the Danube for all European countries. World War II resulted in new political alliances for the riparians, resulting in a new management approach. At a 1948 conference in Belgrade, the East Bloc riparians—a majority of the delegates—shifted control over navigation to the exclusive control of each riparian. This Belgrade Convention also gave the Commission semi-legislative powers, but only regarding navigation and inspection.

The main task of the Danube Commission has historically been to assure navigation conditions along the river. In addition, the Commission has developed regional plans for river projects, dissemination of country proposals to all the riparians for comment, and developing unified systems for regulations, channel marking, and data collection. The Commission meets once a year or in special session and, though a majority vote is sufficient to pass a proposal, in practice unanimity is solicited. The Commission has no sovereign powers and its decisions take the form of recommendations to the governments of its members.

By the mid-1980s, it becomes clear that issues other than navigation were gaining in importance within the Danube basin, notably problems with water quality. The Danube passes by numerous large cities, including four national capitals (Vienna, Bratislava, Budapest, and Belgrade), receiving the attendant waste of millions of individuals and their agriculture and industry. In addition, thirty significant tributaries have been identified as "highly polluted." The breakup of the USSR has also contributed to water quality deterioration, with nascent economies finding few resources for environmental problems, and national management issues being internationalized with re-drawn borders. Recognizing the increasing degradation of water quality, the eight (at that time) riparians of the Danube signed the "Declaration of the Danube Countries to Cooperate on Questions Concerning the Water Management of the Danube," commonly called the Bucharest Declaration, in 1985. This would lead, in turn, to the 1994 Danube River Protection Convention.

4. Attempts at conflict management

World War II resulted in new political alliances for the riparians, resulting in a new management approach. At a 1948 conference in Belgrade, the East Bloc riparians—a majority of the delegates—shifted control over navigation to the exclusive control of each riparian. By the 1980s, though, quality considerations brought the Bucharest Declaration, which reinforced the principle that the environmental quality of the river depends on the environment of the basin as a whole, and committed the riparians to a regional and integrated approach to water basin management, beginning with the establishment of a basin-wide unified monitoring network.

Basin-wide coordination was strengthened at meetings in Sofia in September 1991, in which the riparians elaborated on a plan for protecting the water quality of the Danube. At that meeting, the countries and interested international institutions met to draw up an initiative to support and reinforce national action for the restoration and protection of the Danube River. With this initiative, named the Environmental Program for the Danube River Basin, the participants agreed that each riparian would

- adopt the same monitoring systems and methods of assessing environmental impact;
- address the issue of liability for cross-border pollution;
- define rules for the protection of wetland habitats, and;
- define guidelines for development so that areas of ecological importance or aesthetic value are conserved.

The meeting also agreed to create an interim Task Force to coordinate efforts, while a convention to steer the program was being negotiated. Members of the Task Force include the Danube countries of Austria, Bulgaria, Croatia, Czech Republic, Germany, Hungary, Moldova, Romania, Slovakia, Slovenia, and Ukraine; the European Commission (EC), European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), Nordic Investment Bank, the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the World Bank, Austria, The Netherlands, the United States; and NGOs: World Conservation Union (WCU), World Wide Fund for Nature (WWF), the Regional Environmental Centre, and the Barbara Guntlett Foundation.

The interim Task Force first met in Brussels in February 1992. At that meeting, a Program Work Plan was adopted which listed a series of actions and activities necessary to strengthen coordination between the governments and NGO's involved. While the Commission of European Communities (G-24 Coordinator) has overall responsibility for coordinating the plan, a Program Coordination Unit was established and given the task of supporting the Task Force, monitoring and coordinating Program Work Plan action, and providing support to the financing partners to implement funds made available. Two "expert sub-groups" were also established—one responsible for establishing an early warning system for environmental accidents, and one for data management.

Along with the institutional details, the Environmental Program also established several key principles for coordination and participation, which make it unique in integrated planning on this scale. While the Program's work plan describes its overall strategy in terms fairly common in watershed management—"to provide an operational basis for strategic and integrated management of the Danube River Basin environment while focusing initially on priority environmental issues"—specific strategic principles add a new dimension: "The approach should protect and enhance environmental values and promote a mix of actions in the public and private sectors. In addition, the strategy should be integrated, participatory, and coordinated."

In establishing the principles of "integration" and "coordination," the Plan starts along the same approach as the Mekong Committee forty years earlier—that internal issues within each nation are not particularly amenable to international management, and that the most important contribution a unit responsible for integrated planning can make is to coordinate between the national representatives and between nations and donor organizations. The Danube Environmental Program goes one crucial step further, though, by including the principle of "participation." This inclusion explicitly recognizes the vital link

between internal politics among different sectors and political constituents within a nation on the one hand, and the strength and resilience of an agreement reached in the international realm on the other.

5. Outcome

The principle of "participation" has been taken seriously in the work of the Environmental Program and the Coordination Unit. Initially, each riparian country was responsible for identifying two individuals to help coordinate activity within the basin. The first, a "country coordinator," usually a senior official, would act as liaison between the work of the program and the country's political hierarchy. The second, a "country focal point," would coordinate the actual work plan being carried out.

In July 1992, the coordination unit held a workshop in Brussels to help facilitate communication between the coordinators, the focal points, and the donor institutions. Representatives from each of the (by then) eleven riparians and 15 donor and non-governmental organizations attended. An important outcome of the workshop was that the participants themselves designed a plan for each issue covered. One issue, for example, was an agreement to produce National Reviews of data availability and priority issues within each country. The information would be used by prefeasibility teams funded by donors who were to identify priority investments in the basin. During the workshop, participants developed the criteria for the National Reviews and agreed on a schedule for completion.

The principle of participation was carried one level deeper at the third Task Force meeting in October 1993 in Bratislava. At that meeting, the Task Force agreed to prepare a "Strategic Action Plan" (SAP) for the Danube basin, with the provision that, "consultation procedures should be strengthened." In moving from planning to implementation, it was determined, the proposed Strategic Action Plan should include the following concerns, raised during informal consultations between members of the Coordination Unit and riparian countries:

- Measures detailed must be "concrete" and aim to achieve results in the short term.
- Major environmental threats to the basin must be clearly addressed with realistic costed actions and constraints to problem-solving together with proposals for over-coming them.

The SAP should be up-dated regularly to allow amendments and additions as circumstances develop. Wide consultation during preparation of the SAP is desirable, in particular with parties who would be responsible for its implementation.

This last point is particularly noteworthy because it is the first time public participation has been required during the development of an international management plan. This concept rejects the principle that internal politics within nations ought to be treated as a geopolitical "black box," whose workings are of little relevance to international agreements, and instead embraces the vital need for input at all levels in order for a plan to ensure that the plan has the support of the people who will be affected by its implementation.

The 11-member drafting group that was identified to prepare the Strategic Action Plan included representatives of four riparian countries, Austria, Hungary, Bulgaria, and Romania, each of whom were also to represent bordering nations. The World Bank, UNDP, and the Danube Environmental Coordination Unit also provided individuals to work on the drafting group.

During late 1993 and early 1994, another major Danube River activity was being carried out in the basin. At the same time that the Danube Environmental Program was developing the Strategic Action Plan for the Danube River Basin, the riparian countries were developing the Convention on Cooperation for the Protection and Sustainable Use of the River Danube (the Danube River Protection Convention), which is aimed at achieving sustainable and equitable water management in the basin.

When the drafting group for the Strategic Action Plan held its first meeting in Vienna in January 1994, members agreed that the SAP should be designed as a tool to support implementation of the new Danube Convention that the riparian countries were planning to ratify in June 1994. During the first drafting

group meeting, a schedule was drawn up for the drafting and adoption of the Danube Strategic Action Plan. Public consultation was built into the process from the beginning.

The public consultation process consisted of two steps:

Each of the nine downstream riparian countries was requested to designate a "country facilitator," whose task would be to facilitate a public consultation meeting. This individual was to ensure that public input was solicited and then fed back to the drafting group for possible incorporation into the SAP.

In order to guarantee a level of uniformity in the process, a "training of trainers" workshop was held in Vienna in February 1994.

The proposed audience to each of these consultation meetings consisted of 30 to 35 people, including representatives from the following institutions (with the ideal number from each in parentheses): government ministries, including environment (3), water (1), forestry (1), tourism (1), agriculture (1), industry (1), finance (1), health (1), transportation/navigation (1); mayors of municipalities and managers of public utilities involved in basin studies (2 from each basin study area); consultants from private sector firms who have worked on basin studies or other Danube-related activities (2); managers of research institutions or organizations responsible for monitoring laboratories and data collection (3); managers of large enterprises that have a stake in the results of the Strategic Action Plan (3); Danube-focused NGO representatives, to be coordinated with the NGO Danube Forum (3); and environmental journalists—representatives of the mass media who have reported on Danube issues in the past (3).

In principle, the individuals who participated in the workshops would form a nucleus which would not only have input in the drafting of a SAP, but would be involved in reviewing future activities which would be implemented as part of the Plan.

By July 1994, two consultation meetings were held in each of the nine countries. The first round of meetings, held in March 1994, described the purpose of the proposed Strategic Action Plan and sought input on major issues facing the basin. The second round, held during June 1994, solicited comments on the first draft of the SAP. A training-of-trainers workshop also preceded the second round of consultation workshops. Following the public consultation meetings, the country facilitators each prepared a workshop report containing recommendations for the drafting group. A number of revisions have been incorporated into the SAP in response to recommendations from the consultation process.

On June 29, 1994, in Sofia, the Danube River basin countries and the European Union signed the Convention on Cooperation for the Protection and Sustainable Use of the Danube River (the Danube River Protection Convention). The Convention notes that the riparians of the Danube, "concerned over the occurrence and threats of adverse effects, in the short or long term, of changes in conditions of watercourses within the Danube River Basin on the environment, economies, and well-being of the Danubian States," agree to a series of actions, including:

- striving to achieve the goals of a sustainable and equitable water management, including the conservation, improvement and the rational use of surface waters and ground water in the catchment area as far as possible;
- cooperating on fundamental water management issues and take all appropriate legal, administrative and technical measures, to at least maintain and improve the current environmental and water quality conditions of Danube River and of the waters in its catchment area and to prevent and reduce as far as possible adverse impacts and changes occurring or likely to be caused;
- setting priorities as appropriate and strengthening, harmonizing, and coordinating measures taken and planned to be taken at the national and international level throughout the Danube Basin aiming at sustainable development and environmental protection of the Danube River.

The Danube Convention was a vital legal continuation of a tradition of regional management along the Danube dating back 140 years. As a political document, it provided a legal framework for integrated

watershed management and environmental protection along a waterway with tremendous potential for conflict.

The Strategic Action Plan of the Environmental Program for the Danube River Basin provided the direction and a framework for achieving the goals of regional integrated water management and riverine environmental management expressed in the Danube River Protection Convention. It also aimed to provide a framework in support of the transition from central management to a decentralized and balanced strategy of regulation and market-based incentives. The SAP laid out strategies for overcoming the water-environment-related problems in the Danube River basin. It set targets to be met within 10 years and defines a series of actions to meet them.

The Action Plan addressed the officials of national, regional, and local levels of government who share responsibility for implementing the Convention and the national environmental action programs under the Lucerne Environmental Action Plan for Central and Eastern Europe. Industry, agriculture, citizen-based organizations, and the public also had important roles to play. The regional strategies set out in the Action Plan were intended to support national decision-making on water management and on the restoration and protection of vulnerable and valuable areas in the Danube River basin. The Action Plan supports the process of cooperation and collaboration set out in the Convention to address transboundary problems. It will be revised and developed to take into account changing environmental, social, and economic conditions in the basin

The Task Force formally adopted the Strategic Action Plan on October 28, 1994, and Ministers of Environment or Water or their designates signed a Ministerial Declaration supporting the Strategic Action Plan in Bucharest on December 6, 1994.

The SAP describes a framework for regional action, which has been implemented through National Action Plans. It contains four goals for the environment of the Danube River basin; strategic directions, including priority sectors and policies; a series of targets within a timeframe; and a phased program of actions to meet these targets. The four goals concern the improvement of aquatic ecosystems and biodiversity in the Danube River Basin and the reduction of pollution loads entering the Black Sea; maintaining and improving the quantity and quality of water in the Danube River Basin; control of damage from accidental spills; and the development of regional cooperation in water management. These goals can only be achieved by means of integrated and sustainable management of the waters of the Danube River basin. A number of short- and medium-term targets have been identified in the National Action Plans to reach the four goals of the SAP. A short-term target should be reached within a three- year period and a medium term target should be reached in a period of ten years.

The public participation and collaborative problem solving approach used in the development of the Strategic Action Plan significantly shortened the time of preparation and approval. The SAP was addressed to the officials of national, regional and local levels of government who share responsibility for implementing the Danube River Protection Convention and the national environmental action programs under the Environmental Action Programme for Central and Eastern Europe. Industry, agriculture, non-government organizations and the public will play important roles. The regional strategies set out in the SAP were intended to support national decision making on water management, and on the restoration and protection of vulnerable and valuable areas in the Danube River Basin.

The degree of cooperation among representatives of participating governments, and the importance given to public participation in developing the SAP, mark significant achievements in promoting regional cooperation in water resources management. Ultimately, the success of this process will be revealed by the degree to which the goals, strategies, and targets set in the agreement are implemented "on the ground." It is one thing to agree to goals and targets in timeframes; it is another thing to, for example, agree to shut down a polluting factory, or to create and enforce industrial wastewater pretreatment standards, or to develop

rigorous monitoring and enforcement regimes. Additionally, because agreement signatories are at the Ministerial level in the water sector (vs. at the level of the Foreign Minister), it is not clear if the agreement has the force of an international treaty behind it.

In the years just before the ratification of the Danube River Convention, the riparian states of the Danube River extended the principle of integrated management, and established a program for the basin-wide control of water quality, which, if not the first such program, has claims to probably being the most active and the most successful of its scale. The Environmental Program for the Danube River was also the first basin-wide international body that actively encouraged public and NGO participation throughout the planning process, which, by diffusing the confrontational setting common in planning, may help preclude future conflicts both within countries and, as a consequence, internationally.

In 1996, the Task Force and the basin countries approved the concept of a Strategic Action Plan Implementation Programme (SIP). The SIP marked the end of SAP activities per se by collecting, evaluating and analyzing information collected by the SAP, and its activities are seen as the implementation of SAP findings. Its activities focused on six fields: Contamination and Human Health, Sustainable Land Use, Wetlands and Nature Conservation, Sustainable Use of Water Resources, Institutional Capacity Building and Basin Wide Projects. It is considered to have exponentially increased the level of international cooperation on the Danube River.

The Danube Pollution Reduction Programme (DPRP) was created in 1997 with the support of the UNDP Global Environmental Fund. The goal of the DPRP was to define transboundary measures and actions and to develop an investment program for national, regional and international co-operation to control and reduce water pollution and nutrient loads in the Danube River and its tributaries with effects to Black Sea ecosystems.

The International Commission for the Protection of the Danube River (ICPDR), mandated by the Danube River Convention, is the over-arching management group for cooperation over the basin. Two of its committees, the International Planning Steering Group (IC/STG) and the International Commission Plenary (IC/PLN), met seven times between 1998, when the Convention entered into force, and 2002 (ICPDR).

Examples of the meetings:

- 1999, 2nd Meeting IC/PLN adopts the Danube Black Sea Memorandum of Understanding.
- 2000, 3rd Meeting IC/PLN approves the Joint Action Programme for the Danube River Basin, January 2001- December 2005; Water Framework Directive becomes highest priority; Danube Watch magazine begins publication.
- 2001, 6th Meeting IC/STG establishes an Expert Sub-Group for “Cartography and GIS.”
- 2001, 4th IC/PLN Meeting agrees to revoke the contributions of Moldova for 1999, 2000 and 2001 due to its very difficult economic situation. Moldova agrees to begin payments in 2002.

In 2003, the ICPDR set out to define the Danube River Basin Strategy for Public Participation in accordance with the 2000 EU Water Framework Directive (WFD). This move is a breakthrough in cooperation over international river basins. The importance of public participation in river basin development decisions is well understood by water resource management bodies, but the ICPDR’s attempt at formulating a detailed strategy is the first of its kind.

The Strategy’s objectives are:

- To ensure public participation (PP) in WFD implementation in the Danube River Basin (DRB), especially in the first instance concerning the development of the Danube River Basin Management Plan (RBMP).
- To facilitate the establishment of effective structures and mechanisms for PP in the DRB that will continue operating beyond the first cycle of RBM planning.
- To provide guidance to national governments on how to comply with their obligations under the WFD by

providing them with practical support and guidance in addressing PP in RBM planning.

- To inform other key stakeholders about appropriate PP activities and structures at the different levels (Danube River Basin Strategy for Public Participation in River Basin management Planning 2003-2009, 12 May 2003, p.3)

The strategy emphasized that public participation must start immediately (2003), so that future management plans could be based on commonly supported initiatives. This meant that it was a work in progress, but a good model on which other large, diverse river basins' management teams could base their own public participation strategies.

It is structured according to the Water Framework Directive requirement of four levels of public participation that are necessary to obtain valuable comprehensive input:

1. International: among the basin countries
2. National Level: deals with the implementation strategies and management plans.
3. Sub-Basin Level: various pilot projects at different parts of the basin
4. Local Level: where the WFD is actually implemented.

Each phase of the strategy contains activities at each level of participation. For example, in the Preparatory Phase (2003-2004), activities at the international level concentrate on cooperation and organizational analysis of ICPDR with regard to public participation. Activities at the national level focus on the establishment of government structures to coordinate public participation. At each level potential stakeholders are defined by sub-basin, village and/or economic group, and trainings on the theory, implementation and responsibility for engaging in public participation will be held for management officials from high level, ministerial conferences to trainings for local water providers.

At the international level, Phase One (2004-onwards) of the strategy emphasizes the dissemination of information about public participation to all stakeholders through the improvement of web pages dealing with the Danube, the organization of hearings for all interested parties and the declaration of June 29 as "Danube Day," as well as the creation of a structure within the ICPDR to facilitate public participation. Activities at the national, regional and local levels in Phase One involve analysis of the local environmental situation, development of action plans and the creation of monitoring and evaluation mechanisms.

Phase Two (2004-onwards) is designed to assess activities in Phase One and make adjustments to the original strategy. Phase Three (2004-onward) activities will focus on implementing the adjustments needed (as defined in Phase Two) such as developing regional frameworks for water councils, the integration of key stakeholders into discussions on program objectives. In Phase Four (2005-onwards), the revision of dissemination materials will continue, evaluations of public participation will be made and feedback mechanisms created.

6. Lessons learned

Public participation within the management of an international river basin can facilitate greater cooperation between nations with regards to its water resources.

The use of public participation within the Strategic Action Plan of the International Commission for the Protection of the Danube River (ICPDR) since its inception in 1994 has permitted the basin states of the Danube to move forward rather quickly with several initiatives.

7. Creative outcomes resulting from resolution process

Public participation included early in the decision-making processes can help facilitate cooperation and prevent conflict over the management of international waters.

8. Timeline

- 1856 Treaty of Paris establishes European Commission of the Danube
- 1948 Belgrade Convention signed giving control of navigation exclusively to each riparian nation. Convention also gives European Commission of the Danube semi-legislative powers, but only with regards to navigation and inspection.
- 1985 Declaration of the Danube Countries to Cooperate on Questions Concerning the Water Management of the Danube signed, more commonly known as the Bucharest Declaration.
- 1991 Environmental Program for the Danube River Basin and its Task Force, created after meetings of the riparian states in Sofia, Bulgaria. First use of participation to assist cooperation.
- Feb 1992 First Interim Task Force meeting in Brussels; Program Work Plan developed and Program Coordination Unit created.
- Jul 1992 Coordination Unit holds workshops held in Brussels to help facilitate communication between coordinators, focal points and donor institutions.
- 1993 Third Task Force meeting in Bratislava creates the Strategic Action Plan and requires community participation in developing the international management plan.
- 1993-1994 Development of the Convention on Cooperation for the Protection and Sustainable Use of the River Danube (the Danube River Protection Convention).
- Jan 1994 First Strategic Action Plan meeting.
- Mar-Jun 1994 Two consultation meetings held in each country describing the purpose of the Strategic Action Plan and to solicit comments on the first draft of the SAP.
- June 1994 Danube River Protection Convention signed.
- Oct 1994 Task Force officially adopts Strategic Action Plan.
- Dec 1994 Ministers of Environment or Water or their designees or each riparian state sign Ministerial Declaration supporting the Strategic Action Plan.
- 1996 Basin states approve the Strategic Action Plan Implementation Programme
- 1997 Danube Pollution Reduction Programme created.
- 1998 Danube River Protection Convention comes into force.
- 2000 European Union Water Framework Directive requires public participation in river basin management planning.
- 2003 Danube River Basin Strategy for Public Participation is implemented.
- 2004 First annual Danube Day

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