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ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(Second meeting, Almaty, Kazakhstan, 25-27 May 2005)
(Item 6 (a) of the provisional agenda)

IMPLEMENTATION REPORT

Latvia^{*/}

Based on the reporting format annexed to decision I/8

1. Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.

In September 2004, units of the Ministry of the Environment and subordinate institutions were invited to submit information for the Aarhus Convention National Report. On 23 September, representatives of these institutions were invited to a meeting to discuss the problems they had had while preparing the information.

An invitation to report on measures taken to implement the Aarhus Convention was sent to the Ministry of Justice, the Secretariat of Special Assignment of the Minister for Social Integration, the State Chancellery and the Ministry of Health, as well as to the Environmental Advisory

^{*/} This document was submitted late due to the fact that various first-time problems had to be overcome as this is the first reporting cycle under decision I/8 of the meeting of the Parties. This was compounded by the fact that a considerable volume of other documentation being prepared for the second meeting of the Parties had to be processed during the same period.

Council in early October. Information on the initial collection of data was given to the Aarhus Convention Coordination Group on 27 October 2004.

The draft national report was available for feedback and recommendations sent electronically and published on the homepage of the Ministry of the Environment from 23 November 2004 to 23 December 2004. On 20 December 2004 non-governmental organizations (NGOs) were given a chance to express their opinions on it at a meeting of Latvian environmental NGOs and professional associations.

Recommendations from representatives of the public were collected, evaluated and sent on 3 January 2005 to the authors of recommendations and to the Environmental Advisory Council, with an opinion of the Ministry of the Environment added.

A summary of the Report is submitted to the secretariat of the Aarhus Convention. The complete version will be available on the homepage of the Ministry of the Environment (www.vidm.gov.lv)

2. Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

The Aarhus Convention was ratified by the Law on the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 passed by the Saeima on 18 April 2002. However, in order to lay down detailed procedures, the requirements of the Aarhus Convention are integrated into various legislative acts, the most important being the Law on Environmental Protection, the Law on Environmental Impact Assessment and the Law on Pollution. International legislation is directly applicable in Latvia as of their date of entry into force.

The National Report reflects the situation as of 1 January 2005. Following the reorganization of 1 January 2005 various authorities subordinate to the Ministry of the Environment mentioned in the Report have been reorganized or renamed: the functions of the Environmental Agency, the Hydro-meteorological Agency and the State Geological Service are unified in the Environmental, Geological and Meteorological Agency; the functions of the regional environmental boards, the Marine Environmental Board and the State Environmental Inspection are unified in the State Environmental Survey; the Environmental Impact Assessment State Bureau is renamed the Environmental State Bureau.

ARTICLE 3

3. List legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of article 3.

(a) The requirements of article 3, paragraph 2, are implemented through the Constitution (sect. 8, art. 115) as well as the Law on Procedures for processing submissions, complaints and recommendations by the State and municipal authorities (art. 8); the Law on Environmental Protection (arts. 14 and 17⁴); Cabinet of Ministers Regulation No. 275 (3 August 1999); Procedure for making information held by State authorities and municipal

authorities accessible to the public (art. 8); the Administrative Process Law (arts. 54 (1), 56 (5), sect. 9).

The home page of the Ministry of the Environment allows the submitting of questions, which are answered within a time frame set by law.

The State Chancellery has prepared and distributed (electronically www.mk.gov.lv) manuals to officials: G. Starling "Management of State Authorities"; "Society Involvement. Consulting Methods"; Key Points of Government Policy Communication; "Information of Society and Communication as a Tool of Strategic Policy. Manual to Communication Specialists of State Authorities;"

(b) An informative materials series "Know Your Rights" is published about the rights of the public. The Ministry of Justice has published a fact sheet "Your Rights in the Administrative Process".

The Latvian Environmental Protection Fund, which manages income from the natural resources tax, allocates financing through tenders, including to projects submitted by NGOs to promote environmental protection.

The Environmental Interpretation Service (VITILA), with a coordination center in the Latvian Museum of Natural History, provides training to environmental guides through regular educational and informative actions, coordinates their activities, carries out projects, organizes exhibitions about the environment and prepares informative materials.

The Environmental Education and Science Council, established at the Ministry of the Environment, promotes the upgrading of educational programmes on environmental issues and the integration of wider environmental issues within different fields of science.

The EU PHARE Cross Border cooperation programme project "Promotion of environmental education projects in Latvia," conducted in 1999/2000, aimed to educate various society target groups, facilitate mutual cooperation, establish dialogue and improve forms of involvement of society.

The annual competition "The Best in Environmental Journalism", evaluating information on environmental issues provided in the various media, promotes the improvement of articles published in the mass media and informative footage;

(c) In Latvia, NGOs enjoy many rights. They do not need to meet any criteria to qualify for certain legal rights. No special procedure for the recognition of NGOs has been introduced, nor is one needed.

To obtain financing from the Environmental Protection Fund (see subpara. (b)), projects are evaluated by the Fund's Consulting Council, made up of representatives from NGOs, environmental media, specialists from environmental associations and educational institutions.

The Council makes recommendations on the financing of the projects.

The Ministry of the Environment supports the organization of the annual Meeting of Latvian NGOs and professional associations. The Environmental Advisory Council has been established to promote cooperation between State authorities and society (see para. 19 below).

According to section 6 of the State Administration System Law, State authorities are entitled to cede certain State administration functions along with the financing required to exercise them to NGOs. The Ministry of the Environment has done so;

(d) Latvia follows the activities of the Aarhus Convention's Expert Group on Public Participation in International Forums and evaluates its achievements. The National Aarhus Convention Coordination Group is updated on these activities. No special measures at the international level are taken;

(e) The principle granting freedom from punishment for legal actions is enacted in article 1 of the Constitution. Rights provided by the Aarhus Convention are enacted in State legislative documents, including the Constitution (arts. 92 and 115).

4. Describe any obstacles encountered in the implementation of any of the paragraphs of article 3 listed above.

In regard to paragraph 8 of article 3, administrative and civil rights collided in a case where a claim for damages was lodged in court for losses suffered from exercising administrative rights.

However, according to the Constitution (Satversme), it is not permissible to turn against a person who has exercised his or her legal rights. To avoid such cases, the administrative process, dealing with State claims against individuals, should be clearly separated from the civil process, where individuals claim against individuals.

5. Provide further information on the practical application of the general provisions of the Convention.

Different projects promote the application of the Convention's general principles, for example, "Capacity Self-Assessment and Recommendations to increase Latvian capacity in environmental management" completed in 2004 (will be available at www.vidm.gov.lv); "Implementation of Administrative Process Law and Information Transparency Law" by the Ministry of Justice and the World Bank; project LAT/01/004 "Support to the Judicial System" and project LAT/03/001 "Enforcement of Communications within the Judicial System" by the Ministry of Justice and the United Nations Development Programme (www.tm.gov.lv); "Research of Information Society 2004" (www.mk.gov.lv).

In 2004 the Latvian Office of the Regional Environmental Center started "The Access Initiative" project.

6. Give relevant web site addresses, if available:

www.vidm.gov.lv; www.mk.gov.lv; www.zinisavastiesibas.lv; www.vitila.gov.lv;
www.lvafa.gov.lv; www.tm.gov.lv; www.parks.lv/home/RECLatvija

ARTICLE 4

7. List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Environmental information is defined in the Law on Environmental Protection (art. 17¹(1)). Article 1 of the State Administration System Law defines “public entity” and article 17²(1) of the Law on Environmental Protection describes the State authorities subject to the requirements to provide access to environmental information.

The term “society” is defined in article 13 of the Law on Environmental Protection. This contains no discriminative restrictions.

Article 10 (1) of the Information Transparency Law states that non-classified information is furnished to any person expressing a wish to receive it, taking into account the right of equality of persons to obtain such information.

(a) Article 17¹(3) of the Law on Environmental Protection states the obligation of environmental information holders to provide society with environmental information held by them and available to them. Moreover:

(i) Article 10 (1) of the Information Transparency Law provides that a person requesting information has no obligation to explain his or her interest in the information and can receive such information even if this information does not concern him or her.

Article 17¹(4) of the Law on Environmental Protection also provides that a person requesting environmental information has no obligation to explain his or her need for such information;

(ii) Articles 3 and 5 of Cabinet of Ministers Regulation No. 275 ‘Procedure on how the information held by state authorities and municipal authorities is made open to the public’ explain how copies and excerpts should be provided.

(iii) Article 17⁴(4) of the Law on Environmental Protection provides in what kind or form the information requested shall be issued.

(b) Article 8 (1) of the Law on the “Procedure for processing applications, complaints and recommendations by the State and municipal institutions” lays out the general time frame for processing applications, complaints or recommendations. Additional provisions are included in article 17⁴ of the Law on Environmental Protection;

(c) Cases when requests for information can be denied are stated in article 17¹(5)-(7) of the Law on Environmental Protection, which provides that information on emissions to the environment cannot be qualified as restricted-access information.

Article 19 of the State Statistics Law provides that requirements concerning confidentiality of individual statistical data do not apply to emissions to the environment, the quality of the environment, environmental protection measures and the use of natural resources.

(i) Detailed cases allowing refusal to furnish information are contained in the following legislative acts: Law on “Procedure for processing applications, complaints and recommendations by the State and municipal institutions” (art. 2(2)); Information Transparency Law (arts. 5(4) and 12(3)); Cabinet of Ministers Regulation No. 275 “Procedure on how the information held by State authorities and municipal authorities is made open to the public” (art. 10(4)); Law on Environmental Protection (art.17¹(5)); State Statistics Law (arts.18-19); Law on Private Data Protection;

(ii) Article 17¹(7) of the Law on Environmental Protection outlines the public-interest test, i.e. restrictions on access to environmental information in every single case have to be measured against the interests of the society as a whole in discovering the information, at the same time providing that information on emissions to the environment cannot be classified as restricted-access information;

(d) Information Transparency Law (art. 12(2)); Cabinet of Ministers Regulation No. 275 “Procedure on how the information held by State authorities and municipal authorities is made open to the public” (art. 10.1); Law on “Procedure for processing applications, complaints and recommendations by the State and municipal institutions” (art. 8(1)); Administrative Process Law (art. 56(2)), all state that State authorities not holding the information requested must indicate where it is available, or forward the request to the institution holding the information, duly informing the person requesting the information;

(e) Legislative acts state the obligation to furnish the part of the information that is not classified: Information Transparency Law (art. 10(3)); Law on Environmental Protection (art. 17,1(6)); Administrative Process Law (art. 54(2));

(f) Information Transparency Law (arts. 12 and 15); Cabinet of Ministers Regulation No. 275 “Procedure on how the information held by State authorities and municipal authorities is made open to the public” (art. 11); Law on “Procedure for processing applications, complaints and recommendations by the State and municipal institutions” (arts. 8-9); Law on Environmental Protection (art. 17 (4.2)), all define the reasons and time frame for the cases when information can be denied, by indicating the rights to appeal. According to article 67 of the Administrative Process Law, a refusal has to be in writing;

(g) Conditions under which a fee can be applied for furnishing information are set out in: Information Transparency Law (art. 13); Cabinet of Ministers Regulation No. 275 “Procedure on how the information held by state authorities and municipal authorities is made open to the public” (arts. 15 and 23); Law on Environmental Protection (art. 17(3)); Cabinet of Ministers Instruction No. 4 (06 May 1997) “Procedure on how institutions financed from the State budget can offer services for a fee”.

8. Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

Members of the public indicate that State institutions, including State environmental institutions, often exceed the time frame of 15 days allowed by the law for providing a response. The 30-day term set out in the Convention is mostly complied with.

Members of the public also point to the difficulties of obtaining information on emissions to the environment from the point sources, as it is often classified as restricted information. It is also indicated that environmental institutions collecting the data request a fee for some kinds of information.

9. Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

Requests for information to State authorities are registered in accordance with the Cabinet of Ministers Regulation No. 99 (18 April 1995) "Regulations on registration of requests for information" to obtain data on the number of submissions, complaints and recommendations received in each State and municipal institution.

Information on the number of requests is available at the Hydro-meteorological Agency and the Environmental Agency.

State authority home pages provide for the option of sending an electronic request, which has to be registered and replied to in accordance with the Law on Electronic Documents.

10. Give relevant web site addresses, if available:

www.vidm.gov.lv; www.meteo.lv; www.lva.gov.lv; www.sva.gov.lv; www.lpc.gov.lv

ARTICLE 5

11. List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

(a) Environmental information is defined in article 17¹(1) of the Law on Environmental Protection.

The definition of "public entity" is given in article 1 of the State Administrative Law and furthermore article 17²(1) of the Law on Environmental Protection defines the State authorities which are subject to the requirements to provide environmental information.

Article 13 of the Law on Environmental Protection defines the term "the public". This term contains no discriminatory restrictions.

- (i) Responsibility for gathering and updating environmental information is laid down in the Law on Environmental Protection (arts. 17²(5) and 17³(1)) and the State Administrative System Law (art. 34).
Institutions responsible for collecting and updating certain kinds of environmental information are appointed by special legislative acts and by the statutes of these institutions;
- (ii) The provision of information to State institutions is laid down in the Law on Environmental Protection (art. 17²(3)); the Law on Pollution and Cabinet of Ministers Regulation No. 162 (08 April 2003) "On State Monitoring and Pollution Register".

Particular institutions ensure the provision of relevant information to other institutions in accordance with relevant legislative acts, including statutes of institutions, and treaties on information provision and exchange;

- (iii) The provision of information in the event of an emergency is outlined in the Law on Environmental Protection (art. 14), the Civil Defence Law and subordinated legislative acts;

(b) The obligation to account for and provide information is outlined in the Information Transparency Law (art. 9), Cabinet of Ministers Instruction No. 7 (4 December 2001) "Procedure on how State authorities publish information on the Internet", and the Law on Environmental Protection (arts. 17¹(3), 17³);

(c) Article 5, paragraph 3, of the Convention is implemented by the Law on Environmental Protection (arts. 17²(5), 17³) and Cabinet of Ministers Instruction No. 7 "Procedure on how State authorities publish information on the Internet";

(d) Conditions for the preparation and distribution of environment reports are included in the Law on Environmental Protection (arts. 17²(5), 17³(4)). The Environment Agency prepares and publishes national environmental reports (electronically www.lva.gov.lv);

(e) Distribution of the information listed in article 5, paragraph 5, of the Convention is outlined in the Law on Environmental Protection (art. 17²(5)) and Cabinet of Ministers Instruction No. 7 "Procedure on how State authorities publish information on the Internet". All drafts of legislative acts and policy planning documents, their process of approval and a database of approved policy planning documents are available on the home page of the Cabinet of Ministers. The Saeima home page posts all draft laws and the status of their progress. Recent legislative acts and other environmental documents, as well as their drafts, are posted on the home page of the Ministry of Environment.

(f) Operators are required to inform the public according to the Law on Environmental Protection (art. 5) and the Law on Pollution (art. 4).

(g) The Aarhus Convention Coordination Group has been established. One of its tasks is to ensure the exchange of information relating to the Convention's implementation between parties concerned and better informing of representatives of civil society on the Convention, as well as the identification of actions required to implement the Convention's requirements. In annual public reports State authorities provide information on cooperation with civil society on solving various environmental issues, as well as on actions to inform and educate the general public;

(h) Systems are established and implemented in Latvia to allow consumers to choose environmentally friendly products: European Union eco-labelling, Environmental Management and Audit System (EMAS), quality and management certificates (ISO 9001 un ISO 14001), clean technologies, different product labelling. The non-governmental organization "Green Liberty" has carried out several projects on the environmental impact of various products and human actions, and environmentally friendly choices (www.zb-zeme.lv).

The home page of the Latvian Food Centre (www.lpc.gov.lv) provides information on food products, novel food and food additives;

(i) The operation of the national pollution register is governed by the Law on Pollution (art. 46) and Cabinet of Ministers Regulation No. 162 “Regulations on State Monitoring and Pollution Register”.

12. Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

- Insufficient access to modern information technologies in rural areas.
- No unified system of providing environmental information services has been established so far, however actions have been taken to establish one. An international project was started to improve the environmental information system and to establish an environmental information and education center in Latvia.
- Information is not always understandable to the public.
- The most difficult environmental terms, parameters and measurements are not sufficiently explained.
- Often raw data are included in databases, which makes them difficult to understand for the public.
- Insufficient financial, material, technical and intellectual resources for the development of the environmental information system.
- Representatives of the public indicate that due to the lack of resources State and municipal authorities do not gather certain kinds of environmental data. It has also been pointed out that data are lacking on the spread of genetically modified products in Latvia, as they are not properly labelled and control is performed randomly.
- Insufficient and ineffective information exchange between State authorities and municipalities, as well as unreliable access to it on a local level through electronic media.
- Other institutions (non-environmental institutions) have not duly implemented the requirements for access to environmental information.
- Representatives of the public indicate that not all municipal legislative documents are easy to access for the public (for example, not all the information is available on municipal home pages).
- Public representatives also indicate that no institutional system is established at the national level to promote environmentally friendly choices. At the moment it is mostly positive information that is provided, contributing to the implementation of eco-labelling, but there is no process to ensure the labelling of environmentally hazardous groups of products indicating their environmental impact.

13. Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

The Latvian Environmental Protection Fund has supported many projects in environmental education and training, including in the mass media, by providing grants, subsidies and investment.

Specialized newspapers on environmental issues are available, for example, “Vides Vestis”; the informative papers of the Environmental Educators Association; the Latvian Coalition “For Clean Baltics”; the Regional Environmental Centre for Central and Eastern Europe Latvian Office and others.

The Ministry of the Environment publishes its Annual Public Report, policies, implementation documents and various other informative materials.

The environmental information system includes the home pages of the Ministry of the Environment and institutions subordinate to it. More than 16 directly linked databases ensure free access for the public to environmental information over the Internet. Information contained in the Pollution Register is already accessible via the Internet (www.lva.gov.lv).

A project to establish a national pollutant release and transfer register according to the EU requirements (with EU financing) will start at the end of 2004. Five investment projects have been prepared for the further development of the National Environmental Information System, to attract State, PHARE and EU funding in the years 2005-2009.

According to the requirements of national legislative acts, information gathered by State authorities has been available on their home pages for the last 2-3 years.

Some municipalities, like Riga City Council and Liepaja City Council, have established “one-stop” information centers.

14. Give relevant web site addresses, if available:

www.mk.gov.lv; www.saeima.lv; www.vidm.gov.lv; www.lva.gov.lv; www.lvaf.gov.lv;
www.drvp.gov.lv; www.jervp.gov.lv; www.lielrigasrvp.gov.lv; www.lrvp.gov.lv;
www.madonasrvp.gov.lv; www.rezeknesrvp.gov.lv; www.valmierasrvp.gov.lv;
www.vrvp.gov.lv; www.jvp.gov.lv; www.slitere.gov.lv; www.teici.gov.lv;
www.kemeri.gov.lv; www.dap.gov.lv; www.vgd.gov.lv; www.biosfera.gov.lv;
www.vidm.gov.lv/ivnvb/; www.gnp.gov.lv; www.rdc.gov.lv; www.vvi.gov.lv; www.meteo.lv;
www.dabasmuzejs.gov.lv; www.videsprojekti.lv; www.lvif.gov.lv; www.rapa.lv;
www.getlini.lv; www.zb-zeme.lv; www.lpc.gov.lv

ARTICLE 6

15. List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Legislative acts set out broad possibilities for public participation in decision-making processes in relation to decisions concerning the environment. These are: the Law on Environmental Protection, Law on Pollution, Law on Environmental Impact Assessment, Cabinet of Ministers Regulation No. 157 (23 March 2004) “Procedure on Performing Strategic Environmental Impact Assessment”, Cabinet of Ministers Regulation No. 87 (17 February 2004) “Procedure on Performing Environmental Impact Assessment of Planned Activity”, Cabinet of Ministers Regulation No. 91 (17.02.2004) “Procedure on how the Regional Environmental Board issues

Technical Conditions for Planned Activities that do not Require Environmental Impact Assessment”, Cabinet of Ministers Regulation No. 294 (09 July 2002) “Procedure on Reporting Polluting Activities of Category A, B and C and on Issuing Permits for Polluting Activities of Categories A and B”.

(a) Article 17⁵ of the Law on Environmental Protection obliges State authorities and municipalities to take necessary steps to ensure that those members of the public wishing to participate in decision-making process are provided with the information necessary for decision-making in due time.

(i) Requirements of article 6 of the Convention are included in two interconnected procedures where decisions are taken in regard with activities mentioned in annex I to the Convention:

1) environmental impact assessment - Law on Environmental Impact Assessment and Cabinet of Ministers Regulation No. 87;
2) permitting procedures for polluting activities - Law on Pollution and Cabinet of Ministers Regulation No. 294.

(ii) Article 4 of the Law on Environmental Impact Assessment provides additional activities subject to environmental impact assessment.

In cases stated by article 27 of the Law on Pollution, the public is involved also in permitting procedures for Category B activities.

Public participation in decision-making on construction is outlined in article 12(3) of the Construction Law and Cabinet of Ministers Regulation No. 309 (2 September 1997) “Regulation on Public Discussions on Construction”.

(b) The procedure for informing the public is included in the Law on Environmental Impact Assessment and Cabinet of Ministers Regulation No. 87, the Law on Pollution and Cabinet of Ministers Regulation No. 294, ensuring that the public is informed at an early stage of the project.

The Environmental Impact Assessment State Bureau has created a list of NGOs that have expressed interest in receiving information on new applications.

(c) The time frame for public participation is set out in Cabinet of Ministers Regulation No. 87, Cabinet of Ministers Regulation No. 294 and Cabinet of Ministers Regulation No. 91.

(d) The conditions for early public involvement are included in the Law on Environmental Impact Assessment, the Cabinet of Ministers Regulation No. 87, the Law on Pollution and the Cabinet of Ministers Regulation No. 294.

(e) During environmental impact assessment the public concerned is identified and informed, and also consulted in accordance with the Law on Environmental Impact Assessment. According to Cabinet of Ministers Regulation No. 91 “Procedure on how the Regional Environmental Board issues Technical Conditions for Planned Activities that do not Require Environmental Impact Assessment”, NGOs can apply to the Regional Environmental Board to receive information on applications submitted to the Board.

The Environmental Impact Assessment State Bureau has created a list of NGOs that have expressed interest in receiving information on new applications.

(f) Information submitted to the State authority is available to the public in accordance with the Information Transparency Law; the Law on Environmental Protection; the Law on Pollution; and the Law on Environmental Impact Assessment.

Access to information is ensured by the Law on Environmental Impact Assessment, the Law on Pollution (art. 27); and Cabinet of Ministers Regulation No. 294 (art. 33).

(g) The right of the public to submit recommendations or opinions is included in: the Law on Pollution (arts. 27-28); the Cabinet of Ministers Regulation No. 294; the Law on Environmental Impact Assessment and the Cabinet of Ministers Regulation No. 87. A competent authority has the right to reject an environmental impact assessment report and the duty to request public information and discussions, if this has not been done before (Law on Environmental Impact Assessment (art. 26)).

(h) The conditions for the assessment of public opinion are included in: the Law on Environmental Protection (art. 17⁵); the Law on Environmental Impact Assessment (arts. 3, 22); the Law on Pollution (art. 28(6)) and Cabinet of Ministers Regulation No. 294 (art.35).

An institution can require an operator to alter the planned activity in accordance with public opinion as expressed in public discussions (Law on Environmental Impact Assessment, Law on Pollution).

(i) Provisions for informing the public on the decision made are included in the Law on Environmental Impact Assessment (arts. 20, 23) and Cabinet of Ministers Regulation No. 294, Section V.

Information can be found at www.vidm.gov.lv/ivnvb.

(j) Those requirements are included in the Law on Pollution, Cabinet of Ministers Regulation No. 294, the Law on Environmental Impact Assessment and Cabinet of Ministers Regulations No. 87.

(k) Public participation in decision-making on genetically modified organisms is regulated by the State Administrative System Law (art. 48), the Law on Environmental Protection (art. 17⁵) and the Cabinet of Ministers Regulation No. 333 (20 April 2004) "Regulations of contained use and wilful distribution into the environment or the market of genetically modified organisms, as well as a monitoring procedure" (art. 12) (www.biosafety.lv).

16. Describe any obstacles encountered in the implementation of any of the paragraphs of article 6.

On the one hand, State authorities still have to learn how to practically and efficiently ensure that account is taken of public opinion. On the other, there is a need to increase the level of public environmental awareness, as well as the interest in participating in the decision-making process.

Although Latvian legislative acts provide the public with possibilities of participating in decision-making processes on environmental issues, people do not always understand or avail of their rights and options.

17. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

In order to prepare the State programme “Enforcement of civic society. Years 2005-2009”, the level of public participation in decision-making was analysed. A good example was the cooperation of the Environmental Impact Assessment State Bureau with NGOs in informing NGOs on applications received. Similar cooperation has started between regional environmental boards and NGOs active in the regions, which receive information on applications for permits.

Within the project “Development of national biological safety infrastructure in the Republic of Latvia”, supported by the United Nations Environment Programme and the Global Environment Facility (UNEP/GEF), various actions were taken to inform the public on issues related to genetically modified organisms: home page www.biosafety.lv created; informative leaflet “Genetically Modified Organisms” published and communicated; seminars organized on public participation in decision-making processes on environmental issues (including genetically modified organisms); reviewed “Public participation possibilities in decision-making processes on issues concerning biological safety”; and seminar organized on “Public participation in decision-making processes on environmental issues”.

18. Give relevant web site addresses, if available:

www.vidm.gov.lv/dad; www.vidm.gov.lv/ivnvb; www.lpc.gov.lv; www.em.gov.lv;
www.biosafety.lv; www.lva.gov.lv

ARTICLE 7

19. List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

1) Updated legislation – Law on Environmental Protection (art. 17⁵); Law on Environmental Impact Assessment; Cabinet of Ministers Regulation No. 157 “Procedure for performing strategic environmental impact assessment”; State Administrative System Law, Section VI; Cabinet of Ministers Regulation No. 111 “Cabinet of Ministers Rules of Order” (arts. 51, 96); Territorial Planning Law; Cabinet of Ministers Regulation No. 883 “Territorial Planning Rules for Local Municipalities”.

2) The Environmental Advisory Council, comprising environmental public organizations and representatives of professional associations, aims to promote public participation in decision-making on environmental issues, cooperation and information exchange on environmental issues between public and State authorities, as well as to promote submission of

recommendations concerning drafting and implementation of environmental policy, and preparation of respective legislative acts.

3) The annual work plan posted on the home page of the Ministry of the Environment contains documents that the Ministry of Environment plans to draft, ensuring an opportunity for persons willing to express their interest in a timely fashion to the official responsible.

4) The Law on Environmental Impact Assessment and Cabinet of Ministers Regulation No. 157 provide a procedure for public participation in the strategic assessment of certain planning documents (www.vidm.gov.lv/ivnvb).

5) Responsible institutions organize regular informative activities for the public, where conditions for public participation in drafting planning documents are also explained.

6) Publications on public participation in newspapers.

7) Research on public participation has been carried out while developing the State Programmes “Enforcement of civic society. 2005–2009” and “Core Thesis for enforcement of civic society for 2005–2014”.

8) The public has the right to participate in territorial planning processes. The most detailed provisions are set out, for the local level, by Cabinet of Ministers Regulation No. 883 “Territorial Planning Rules for Local Municipalities”.

20. Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

A general view of public participation in drafting environment-related policies is expressed in the Law on Environmental Protection.

Cabinet of Ministers Regulation No. 111 “Cabinet of Ministers Rules of Order” contains separate provisions (arts. 7-11) on the participation of NGOs in drafting policy documents or legislative acts and the need for public discussion (art. 65), as well giving public representatives the right to participate in State Secretaries’ Meetings.

The public may express an opinion on any policy-planning document under consideration, which after being announced by the State Secretaries Meeting, is available on the home page of the Cabinet of Ministers (www.mk.gov.lv). On issues critical to the public, State authorities have the obligation to separately inform the parties concerned and to organize a consultation in accordance with the State Administrative System Law (art. 48). For example, during the drafting of the National Environmental Policy Plan for 2004–2008, there was wide consultation with the public.

21. Describe any obstacles encountered in the implementation of article 7.

Public opinion is not gathered on all planning documents concerning the environment. If it is, sufficient time is not always allowed. In many cases, public authorities send draft documents to NGOs for their comments, either by making them available on the Internet or directly.

However, the authorities frequently do not receive any comments, or only receive a general reply stating that the NGO does not have any objections to or comments on the draft document. Therefore, an Environmental Advisory Council has been established (see answer to Question 1, Article 7). However, it has not yet proved its efficiency, as not all State authorities know about the Council's actions, and not all NGOs use its services.

In addition, the "Core Thesis for enforcement of civic society for 2005–2014" and the State Programme "Enforcement of civic society. 2005–2009" were developed, aiming among other things at ensuring the involvement of public representatives in drafting planning and policy documents crucial to the public.

Public representatives indicate that public opinion is not binding and efficiency of participation processes depend on the subjective interpretation of the opinions expressed by municipality officials.

22. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Examples of the implementation of article 7 of the Convention include public participation in the revival of the Biodiversity National Programme (BDNP) activities section, in the drafting of the National Environmental Policy Plan, during the campaign "Recommend Territory", and the establishment of the NATURA 2000 territories network.

There is little experience in performing strategic assessment when the public can submit written comments (Cabinet of Ministers Regulation No. 157) and participate in meetings in certain cases.

The Environmental Advisory Council (see answer to question 1) is regularly involved in topical policy and planning documents analysis and can submit recommendations. The Council can invite the officer responsible to present and explain the substance of a draft in a Council meeting.

23. Give relevant web site addresses, if available:

www.mk.gov.lv; www.vidm.gov.lv; www.vidm.gov.lv/ivnvb; www.integracija.gov.lv

ARTICLE 8

24. Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Article 17⁶ of the Law on Environmental Protection provides that State authorities, municipalities and NGOs, as well as the Environmental Advisory Council, promote public participation in drafting environmental legislative acts, by providing an opportunity to directly or through public representatives express comments, opinions and objections regarding the

draft. In addition to information about the cooperation between the Ministry of the Environment and the Environmental Advisory Council, draft legislation is prior to approval freely accessible on the home page of the Ministry (www.vidm.gov.lv) and the home page of the Cabinet of Ministers (www.mk.gov.lv). If necessary, meetings and consultations with NGOs and experts are organized while drafting legislative acts as well as draft documents submitted to the Environmental Advisory Council for evaluation.

Cabinet of Ministers Regulation No. 111 “Cabinet of Ministers Rules of Order” contains provisions for the participation of NGOs in drafting policy documents or legislative acts and for public participation (the State Secretaries Meeting decides whether public discussion or consultations with the public are necessary). The Meeting has to make a positive decision if the issue concerns critical public interests.

A considerable increase and improvement of public participation in drafting legislative acts has been achieved by the requirement contained in Cabinet of Ministers Regulation No. 111 on attaching annotations to drafts of legislative acts containing a description of the potential environmental impact of the document, information on performed consultations with NGOs and their position, what public-information measures have been taken and what the public opinion is, and explains how the public is notified of the act’s implementation.

25. Describe any obstacles encountered in the implementation of article 8.

In some cases, legislative acts have to be drafted in a short time, thus hindering the opportunity to ensure adequate public participation. In order to solve this problem, it was decided to post on the Ministry’s home page the working plan of the Ministry of the Environment in order to inform the public in advance of the time frame allowed for drafting legislation and of the official responsible for drafting the particular legislative act.

Public representatives indicate that recommendations submitted during public discussions on draft legislation are left unanswered and no opportunity provided to access recommendations submitted by others.

Other State authorities often do not assess the environmental impact of legislative acts, if it is indirect. The need for additional training for State officials on environmental issues has been identified. The State Administration School, which is the official educational institution for employees of state authorities, periodically provides such training.

26. Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

The Environmental Advisory Council is involved in discussing draft legislation. The Ministry of the Environment regularly cooperates with certain professional associations and NGOs, including in legislation drafting.

The Ministry of the Environment has sent its annual work plan to the Environmental Advisory Council, indicating planned draft legislative acts, time frame and official responsible. Members of the Council can contact the official responsible and express their interest in participating in drafting legislative acts.

Seminars are organized to explain important legislative initiatives.

27. Give relevant web site addresses, if available:

www.vidm.gov.lv; www.mk.gov.lv; www.saeima.lv; www.bef.lv; www.dap.gov.lv;
www.vas.lv

ARTICLE 9

28. List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

The Administrative Process Law (art. 1) and the State Administrative System Law (Section V) provide an interpretation of the term “public authority”.

The Law on Environmental Protection (art. 13); the Law on Environmental Impact Assessment (art. 3); and the Administrative Procedure Law (art. 1) an interpretation of the term “the public”.

The prohibition of discrimination is contained in the Constitution (arts. 91, 101); Administrative Procedure Law (art. 6).

Environmental information is defined in the Law on Environmental Protection (art. 17¹(1)).

(a)

(i) The Law on Environmental Protection (art. 17¹(8)) provides an appeals procedure concerning environmental information.

A procedure for challenging administrative act is provided by the Administrative Procedure Law (art. 76).

The administrative process with the authorities is free of charge, but the administrative process in court is available upon payment of a reasonable State fee.

(ii) A person requesting information has the right to appeal a respective decision or inaction before a higher authority according to the Administrative Procedure Law, unless special regulations appoint another institution. In critical environment areas special environmental laws set out separate institutions. Application is free of charge.

(iii) A person’s right to rely on a final decision’s binding nature is safeguarded by the Constitution and the legal reliability principle as enforced by the Administrative Procedure Law (art. 10), strengthened by the Administrative Procedure Law (art. 81(5)), the State Administrative System Law, the Law on Environmental Impact Assessment and the Law on Pollution.

(b) The Law on Environmental Impact Assessment governs the decision-making process on environmental impact assessment, but the Law on Pollution applies to issuing permits for polluting activities. They both include the public’s right to participate and respective rights. Rights to appeal on respective action of officials violating public participation rights are provided in both laws mentioned and in the Administrative Process Law.

(c) The right to appeal decisions or actual actions, including inactions, and respective procedures are included in the Administrative Procedure Law. The administrative courts launched operations on 1 February 2004.

Additional regulations on violations of environmental legislation are provided by the Law on Environmental Protection (arts. 11, 13-15, 56); and the Law on Suspension of Operation of Companies, Authorities and Organisations (arts. 8, 15).

The State Human Rights Office accepts and reviews complaints from residents on possible human rights violations, gives consultations, if necessary, undertakes the role of mediator between State authorities and individuals for dispute settlement and issues recommendations for the elimination of violations.

The draft “Legal Guardian Office Law” was developed in 2004. It provides for the establishment of a Legal Guardian Office with classic ombudsman rights. It could also cover the assessment of decisions or inaction by State authorities concerning the environment.

The Law on Environmental Protection provides for the establishment of public inspectors system, assigning rights to public representatives to act against individuals violating environmental legislation. The rights of public inspectors are detailed in the Fisheries Law and the Administrative Violations Code (arts. 254, 256).

(d) (i) Possibilities and rights to challenge decisions and actual activities, including inaction, by State authorities, as provided for by the Administrative Procedure Law are recognized as adequate and effective means if correctly applied.

In addition another legal means of ensuring efficiency could be the establishment of a State Human Rights Office (see answer (c) to article 9).

(ii) Compilations of court decisions are published regularly, and decisions are available for persons concerned on the website of court authorities. A database with court decisions is available electronically for a fee (www.lursoft.lv/lbdb). Decisions of the Constitutional Court are available free of charge online (www.satv.tiesa.gov.lv).

The decisions of other institutions are available in accordance with the Information Transparency Law.

Section 22 of the Administrative Procedure Law provides for a temporary solution (injunctive relief), which can be applied at any stage of case review.

(e) According to article 2 of the law “On the Procedure for Announcing, Publishing, Becoming Effective and Ceasing to be Effective of Laws and other Acts passed by the Saeima, the State President and the Cabinet of Ministers”, legislation passed by the Saeima, the State President and the Cabinet of Ministers is published in the official newspaper “Latvijas Vestnesis”. Legislation passed by the Saeima and the Cabinet of Ministers is also published in “Latvijas Republikas Saeimas un Ministru Kabineta Zinotajs”.

The “Latvijas Vestnesis” database of legislation is available free of charge online (www.likumi.lv). A user-friendly database of legislation is available electronically for a fee (NAIS).

In the Latvian courts website (www.tiesas.lv), persons can explore options to apply to court, as well as find useful links for further information search and responses to frequently asked questions. Leaflets on the rights and procedures for bringing claims to the courts have been prepared.

The Administrative Procedures Law (art. 67(2.9), Section VII) includes the obligation of the State authority making an administrative decision to include in the decision a reference to rights of appeal.

NGOs are encouraged to participate in informing society, mainly by supporting various projects (examples mentioned in articles 3 and 4).

Public and State authorities have been informed on the entering into effect of the Administrative Procedure Law and core principles containing duty to inform on the possibility of and procedure for challenging administrative acts.

29. Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.

Overloaded courts are one obstacle to timely review. Whereas the review process within the authorities is quite speedy (usually two weeks to one month depending on the nature of the case), the process in court takes comparatively longer. This especially concerns the review of civil cases.

Problems with proving environmental damage created as a result of a decision, activity or inactivity, as well as the knowledge of judges and lawyers of environmental legal regulations and latest legal developments.

The risk persists that claims in court can be raised in civil action for damages against persons who have exercised their right to apply in court within the procedure of administrative process (see question 2 to Article 3).

30. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

General statistics on judicial operations are available on the home page of the Ministry of Justice: www.tm.gov.lv. The authority subordinate to the Ministry of Justice, the Judicial Administration, gathers more detailed statistics on the operation of the courts.

The State Environmental Inspection and Regional Environmental Boards collect information on cases concerning the environment. They have access to the Penalty Register.

The Parliament is reviewing a draft State Covered Legal Assistance Law to promote the protection of an individual's right to an impartial court hearing, and by providing financial aid for legal assistance, thus ensuring access to legal aid for low-income individuals, as well as to other persons who cannot afford to pay for required legal assistance.

Within the UNDP and the Ministry of Justice project “Enforcement of Judicial System Communication Capacity”, it is planned to enforce transparent and professional communication between the judicial system and society.

The administrative process in authorities is free of charge (Administrative Procedure Law (art. 18)).

The administrative process in the courts is available for a reasonable State fee. Persons with a low income can seek the assistance of attorneys-at-law for free, as well as apply in courts using State authorities.

The Administrative Procedure Law provides an obligation to assist in drafting court claims or applications to authorities.

31. Give relevant web site addresses, if available:

ww.saeima.lv; www.likumi.lv; www.tm.gov.lv; www.satv.tiesa.gov.lv; www.tiesas.lv;
www.parks.lv/home/RECLatvija; for a fee - www.nais.dati.lv, www.lursoft.lv/lbdb,
www.latlex.lv

32. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

First, the Convention promotes better understanding by each individual and society in general of impact that humans and their actions have on the environment. Such understanding and widely available information can help to increase awareness of each individual and change his/her actions to become more environmentally friendly. The more information concerning the environment and the impact on it is communicated and the more the public gets involved and participates in decision-making regarding the environment, the more difficult it becomes to make decisions that could have potential significant harmful impact on the environment and consequently on society’s living conditions. To summarise, by ensuring that decision-making is based on understanding and involvement of the public, a situation is created in which the interests of the public in living in a friendly environment, including the interests of generations to come, are respected.