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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

Republic of Moldova^{*/}

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.

This report was prepared after consultation with, and on the basis of materials provided by, the following ministries and national public authorities: the Ministry of the Environment and Natural Resources, the Ministry of Justice, the Ministry of Education, the Ministry of Agriculture, the Ministry of Health, the Department of Construction and Development, the State Water Company "Apele Moldova", the Forestry Association "Moldsilva", the National Institute of Ecology and other Moldavian scientific institutions.

^{*/} Unofficial translation as received by the secretariat. 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.

The voluntary associations Ecological Movement of Moldova, Biotika, Ekotiras, Eko-Leks and INQUA Moldova were consulted on the contents of the report and discussions were held at a meeting of experts of the Regional Ecological Centre and in the course of individual meetings between experts and representatives of the public and the media.

Legal and ecological databases and databanks were used in preparing the report.
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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 Convention was ratified by Parliamentary Decree No. 346-XIV of 7 April 1999. Somewhat earlier, on 14 October 1997, for the purpose of optimizing the process of making town planning decisions with account for public opinion, the Regulation on coordination with the public in town-planning and architectural matters was adopted by government decree, while on 25 January 2000 the Regulation on public participation in the preparation and adoption of environmental decisions was likewise adopted. Within the context of a project carried out with the financial support of the Danish Government, the Ministry has established and is successfully operating an Ecological Information Centre open to all interested parties. Every year, the Centre's services are used by more than 2,000 visitors, who consult the literature available and make use of the information services provided by the Ministry staff. The Centre serves as a venue for round tables, press conferences, briefings, and other informational events. An Ecological Information Bulletin is published regularly.

Under article 20 of the International Agreements Act (Law No. 595-XIV of 24 September 1999), the provisions of international agreements whose contents are suitable for application in legal relationships without the adoption of special regulations are subject to implementation and applicable within the legal system and in the administration of justice. Other provisions are implemented by adopting appropriate regulations. Similar provisions are also to be found in other legislative acts.

At the same time, financial constraints are affecting the quality of implementation of all the provisions of the Convention. Thus, for example, the work on the creation of pollutant registers has been held back and, for the same reason, the establishment of Aarhus Centres for providing the public with environmental information is also being delayed.

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.

The measures to ensure that officials and authorities assist the public to obtain access to environmental information and justice are primarily legal in nature. These measures are included in the various laws and regulations adopted since ratification of the Convention.

Under the National Plan for the Implementation of the Aarhus Convention, a departmental working group on its implementation has been established by ministerial order.

Two regulations governing the participation of the public in the making of environmentally significant decisions have been prepared and adopted, namely, the Guidelines on the implementation of the Aarhus Convention for civil servants and the Guidelines on the implementation of the Aarhus Convention for representatives of the public.

(a) The provisions of the Environmental Policy Concept, approved by Parliamentary Decree No. 605 of 2 November 2001, call for “facilitated access to environmental information and the more active participation of the public in decision-making and in environmental education”. Moreover, “the activities of the Environmental Information Centre should be expanded, district (*uyezd*) information centres and a database on environmental quality and the state of natural resources should be created and the environmental non-governmental organizations (NGOs) should be more actively involved in nature conservation activities”. These general provisions are further developed in the Environmental Protection Act (Law No. 1515-XII of 16 June 1993), the Access to Information Act (Law No. 982-XIV of 11 May 2000), and Government Decree No. 679 of 17 June 2004 on the Ministry of the Environment and Natural Resources.

On the basis of Government Directive No. 1408-911 of 24 August 2004, a special Consultative Council was set up under the Ministry of the Environment and Natural Resources. The chief purpose of this Council, which consists of representatives of the academic sector, the public (and, in particular, the environmental NGOs) and the trade unions, is to improve cooperation between the Ministry, the public and business.

Government Decree No. 1153 of 25 May 2003 is of interest in connection with the problem of providing the public with assistance and access to information concerning genetically modified products. This Decree requires the National Biosecurity Commission, an authority whose task is to ensure the safe use of genetically modified organisms (GMOs) and GMO-based products, to post documents forming part of an application to import a genetically modified organism and use it on the Environment Ministry’s website within 10 days of receipt and for a period of not less than 30 days in order that the public may use this period for submitting comments. Moreover, Order of the Ministry of the Environment No. 19 of 10 February 2004 establishes the procedures for public participation in decision-making in this field.

A list of public authorities which collect and disseminate environmental information has been compiled. This list of about 30 authorities indicates the types and forms of information and the

parameters and substances monitored. This information is also posted on the site of the Ministry of the Environment and Natural Resources;

(b)

- Constitution of 29 July 1994, article 35;
- Environmental Policy Concept;
- Education Act (Law No. 547-XIII of 21 July 1995);
- Environmental Protection Act, articles 9 and 30.

In accordance with the Regulation of 17 June 2004, one of the important functions of the Ministry of the Environment and Natural Resources aimed at implementing article 3 of the Convention is the organization of educational work with all social groups, raising public awareness regarding the state of the environment and promoting knowledge of the environment.

In the short term, it is planned to ensure broad public access to environmental information by creating a system of local Aarhus Centres to provide environmental information. An experimental centre has already been set up and is successfully operating in the district centre of Shtefan Vode.

The nature conservation institutions, the educational, health and cultural institutions, the voluntary associations and the media are all concerned with environmental education.

Environmental information is disseminated by such means as the organization of press conferences, meetings between officials and experts of the Ministry of the Environment and Natural Resources and its subdepartments and pupils and students within the context of the "environmental hour", interviews in the media and other information measures, including the preparation and distribution of press releases.

The regular publication of collections of legislation, information bulletins and studies of individual environmental problems is ensuring broad public access to environmental information. In particular, every year, the Ministry of the Environment circulates 1,000 copies of a government report on the state of the natural environment, as well as publishing a popular science promotional magazine called "Mediul ambiant" ("Environment").

Mass environmental measures are one of the most effective forms of environmental education and public enlightenment. Thus, every year, the Ministry of the Environment and Natural Resources holds various competitions for all categories of the population, including a republican competition for the greenest and best equipped locality. Greening measures have already become traditional within the framework of the "Tree of Longevity" event. This year marked the beginning, by presidential order, of a new campaign "Water - Source of Life", concerned with the improvement and maintenance of wells and springs. Some of the money for financing these measures came from the National Environment Fund. Schoolchildren and students regularly receive lessons on the environment. In September every year, it is traditional to organize, together with a number of NGOs, a "City Without my Car" event. Some NGOs hold conferences and seminars with the financial and technical support of the Ministry and its subdepartments. The NGOs play an active part in the "Mold Eco" exhibition organized every year by the Ministry of the Environment and Natural Resources together with the Exhibition Centre Moldexpo.

Six educational seminar-training courses on the subject “The Aarhus Convention: public participation in decision-making” have been held within the framework of the TACIS project on “Environmental information, education and awareness-raising”. Seventy representatives of various ministries and departments, as well as local authorities, participants in the educational programme, have received certificates testifying to their knowledge of the subject. As part of the same project, brochures on the “The Aarhus Convention in questions and answers” and “Procedure for public participation in the preparation of local plans and programmes relating to the protection of the environment” have been published in Russian and Romanian;

(c) The principal regulations governing the activities of voluntary associations and the Republic of Moldova are as follows:

- The Constitution (as amended and supplemented), article 41;
- Civil Code (No. 1107-XV of 6 June 2002), articles 180-183;
- Voluntary Associations Act (Law No. 837-XIII of 17 May 1996);
- Environmental Protection Act, art. 30, para. (c).

About 200 republican and international voluntary associations involved in environmental protection, the promotion of the idea of environmental protection, the humane treatment of animals, etc. are officially registered with the Ministry of Justice;

(d) The Republic of Moldova is actively cooperating with the international organizations in the environmental field. So far, it has ratified 19 environmental conventions and acceded in 2004 to the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

For a long time, the Republic of Moldova has been cooperating with the World Bank, the Global Environment Facility (GEF), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP), TACIS, the European Commission, etc. There is a regular exchange of information with the European countries concerning the actual and forecast state of the environment, hazardous hydrometeorological phenomena, and cases of high levels of environmental pollution.

The Ministry of the Environment and Natural Resources is paying special attention to improving cooperation with the governments of Belgium, China, Czech Republic, Denmark, France, Germany, Netherlands, Poland, Romania, the United Kingdom and the countries of the Commonwealth of Independent States (CIS) within the framework of the Intergovernmental Environment Council, whose decisions cover almost all areas of nature conservation;

(e) The requirements of paragraph 8 are formulated in article 7, para. 5, of the Access to Information Act, according to which no one can be penalized for bringing restricted information to the notice of the public provided that its disclosure does not affect and cannot affect the legitimate interests of national security or provided that the public interest in having access to the information outweighs the damage which might be caused by disclosing it.

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

The main obstacle faced by officials and authorities in assisting the public and providing it with the required guidance is lack of the financial resources needed to set up Aarhus Centres for the dissemination of environmental information.

Another problem is the “narrowness” of the process of implementation of the provisions of the Convention. Thus, at present, this process is being fairly actively promoted within the system operated by the Ministry of the Environment and Natural Resources, whereas the other authorities are more passive.

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

6. Give relevant web site addresses, if available:

The public can access environmental information by visiting the following websites:

www.moldova.md, www.cim.moldova.md, www.meteo.md, www.ineco.moldova.md,
www.iatp.md/emm, www.chbemm.ngo.md, www.ecosfera.ournet.md, www.fauna.ngo.md,
www.biotica-moldova.org, www.rec.moldova.md, www.orangenet.md, www.salvaeco.org,
www.iatp.md/arii, www.iatp.md/mediu-sanatate.

ARTICLE 4

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

Under articles 1 and 16 of the Regulation on public participation in the preparation and adoption of environmental decisions, approved by Decree of the Government of 25 January 2000, “the public” means “one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups”.

“The public concerned” means “the public affected or likely to be affected by particular environmental decisions or having an interest in the adoption of such decisions, as well as non-governmental organizations which, under the national law in force, are active in the field of environmental protection and are deemed to be organizations having an interest”.

The Administrative Courts Act (Law No. 793-XIV of 10 February 2000) gives a definition of public authorities. This act also explains the notion of civil servant.

The Hydrometeorological Activities Act (Law No. 1536-XIII of 25 February 1998) formulates the concept of “specialized information” which means targeted information on the state of the environment and its pollution requiring additional expenditure to obtain, process, analyze, store and deliver, as requested by the user.

Article 4 of the Access to Information Act establishes the right of anyone to seek, obtain and familiarize himself with official information. In no circumstances may the exercise of this right be the subject of discrimination based on race, nationality, ethnic origin, language, religion, sex, opinions, political affiliation, property status or social origin.

The requirements of article 3, para. 9, of the Convention are also reflected in article 22 of the Code of Civil Procedure (No. 225-XV of 13 May 2003) according to which “justice in civil matters is administered on the principle of the equality of all persons, irrespective of citizenship, race, nationality, ethnic origin, language, religion, sex, opinions, political affiliation, property, social or official status, domicile or place of birth, and the equality of all organizations, irrespective of form of ownership or organizational and legal structure, affiliation, place of business or other circumstances.

- The Constitution, articles 34 and 37, para. 2;
 - Environmental Protection Act of 16 June 1993, articles 3 (d) and 30;
 - Natural Resources Act (Law No. 102-XIII of 6 February 1997), article 29, para. 3;
 - Access to Information Act of 11 May 2000;
 - Environmental Appraisal and Environmental Impact Assessment Act (Law No. 851-XII of 29 May 1986), article 10, para. (b);
 - Protection of the Atmosphere Act (Law No. 1422-XIII of 17 December 1997), article 8;
 - Industrial and Consumer Waste Act (Law No. 1347-XIII of 9 October 1997), articles 5 and 15;
 - Sanitary-Epidemiological Protection Act (Law No. 1513-XII of 16 June 1993), articles 6, para. (b) and 7;
 - Radiation Protection and Safety Act (Law No. 1440-XIII of 24 December 1997), article 11;
 - Hydrometeorological Activities Act (Law No. 1536-XIII of 25 February 1998), articles 6, 11 and 13;
 - Drinking Water Act (Law No. 272-XIV of 10 February 1999), articles 9, para. 5, and 13;
 - Government Decree on the approval of the Regulations of the Ministry of the Environment and Natural Resources, part 3, para. 58, of 17 June 2004.
- (a)(i) Article 10, para. 3, of the Access to Information Act stipulates that “any person wishing to obtain access to information under this Law shall be released from the obligation to justify his interest in the information requested”.
- (ii) Article 13 of the Access to Information Act specifies the ways of accessing official information, which include:
- The issuing of copies of requested documents or information (or parts thereof);
 - The issuing of copies of translations of documents or information (or parts thereof) in a language not corresponding to that of the original, subject to an additional charge;

- The dispatch by post (including e-mail) of copies of documents or information (or parts thereof), as well as copies of translations of documents or information into another language made at the request of the applicant, subject to an appropriate charge.

(iii) Article 12 of the Access to Information Act stipulates that official information shall be provided to persons requesting it on the basis of a written or oral request. Article 13, para. 2, of the same Act states that extracts from registers, documents or information (or parts thereof) may, at the request of the applicant, be placed at his disposal in a form acceptable to him for:

- Inspection on the premises of the institution;
- Printing or reproduction by photocopying or some other method;
- Recording on an electronic medium, video or audio cassette or other support which may become available as a result of technical progress.

(b) Article 16 of the Access to Information Act establishes the time-frame for satisfying requests for access to information. Thus, requested information and documents are supplied as soon as ready, but not later than 15 working days from the date of registration of the request. This period may be extended by five working days by the head of the public authority if the request concerns a very large volume of information that requires sorting or if additional consultations are necessary in order to satisfy the request. In these circumstances, the requesting party must be informed of the extension of the period for supplying the information, and of the reasons for extending it, five days before the expiry of the initial period.

The Submission of Petitions Act (Law No. 190-XIII of 19 July 1994) also stipulates that petitions must be considered by the relevant authorities within a 30-day time-frame, but if they do not require additional study or consideration, then either immediately or within 15 days of registration (art. 8);

(c)(i) The Act does not specify the grounds for a refusal to provide information;

(ii) The restrictions for which the Access to Information Act provides correspond to the criteria of paragraph 4 of the Convention;

(d) If the information provider to which the request is addressed does not hold the information requested or another provider holds the information requested in a shape or form more likely to meet the information needs of the requesting party, then, in accordance with article 17 of the Access to Information Act, the request for information may be readdressed to the other information provider and the requesting party must be so notified within three working days of receipt of the request.

Article 9 of the Submission of Petitions Act also states that if a petition falls within the jurisdiction of another authority, it must be forwarded to that authority within three working days of registration;

(e) If access to requested information or documents is partially restricted, information providers are required to supply the person requesting information with those parts of the

document to which, under the law, the restriction on access does not extend and where passages have been withheld to indicate “State secret”, “trade secret” or “confidential personal information”. Any refusal of access to information or the corresponding parts of a document must be formulated in compliance with the provisions of article 19 of the Act;

(f) A refusal to provide official information or a document must be formulated in writing with indication of the date of refusal, the name of the responsible official, the reasons for the refusal with reference to the regulations (title, number, date of adoption, source of official publication) on which the refusal is based, and the procedure for appealing against the refusal, including the limitation period. Information providers are not required to furnish proof that undocumented information is not in their possession (art. 19 of the Access to Information Act);

(g) Except in the cases provided for by law, a charge, in the amount and under the procedure laid down by the representative bodies, may be made for the provision of official information. The amount of the charge should not exceed the costs incurred by the information provider in making copies, forwarding them to requesting party and/or having the information or document translated on request. The charge for providing analytical, summary or previously unknown information, on request, is fixed by agreement between the person making the request and the information provider (art. 20 of the Access to Information Act).

The following official information is made available free of charge:

- Information directly concerning the rights and freedoms of the person making the request;
- Oral information;
- Information provided on request for inspection on the public authority’s premises;
- Information which promotes wider awareness of the public authority’s activities and is in the public interest.

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

Insufficient public interest in access to environmental information.

Article 32, para. 2, of the Principles of Town and Country Planning Act partially restricts access to town and country planning documentation of public interest, stipulating that copies of such documentation may be provided on payment of a fee and with the agreement of the local authorities.

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?

Because of financial constraints, statistics on the number of requests for environmental information are not compiled. No appeal against a refusal to provide such information has been recorded. The active dissemination of information by the Ministry of the Environment and Natural Resources generally satisfies the needs of the public.

10. Give relevant web site addresses, if available:

www.moldova.md, www.cim.moldova.md, www.meteo.md, www.ineco.moldova.md

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)(i)-(ii) Article 16, para. (e), of the Environmental Protection Act requires the Ministry of the Environment and Natural Resources to request the country's public authorities, enterprises, institutions and organizations for mandatory information on the state of the environment, the use and the renewal of natural resources and the implementation of environmental protection measures, while the public authorities, enterprises, institutions and organizations must provide the Ministry with all the information at their disposal, unconditionally and free of charge.

Moreover, the Regulation on the Ministry of the Environment and Natural Resources establish various functions of that ministry, such as integrated environmental monitoring, the preparation and dissemination of synoptic, agrometeorological, aviation and hydrological forecasts and information; the compilation, systematization and management of a specialized information system on the basis of the databases of dependent enterprises; and acting as holder of the State store of information on mineral resources. The Ministry also oversees the management of the National Register of Potentially Hazardous Toxic and Chemical Substances and the locating of special industrial and household waste treatment and disposal sites. In accordance with paragraphs 39 and 41-42 of this Regulation, the Ministry coordinates the management of the Red Book, the Inventory of Fauna and Flora, and the Register of Collections of Wild Animals and Plants.

Apart from the Ministry of the Environment and Natural Resources, environmental information is held by the following:

- State Environmental Inspectorate;
- Territorial Environmental Agencies;
- National Institute of Ecology;
- Environmental Pollution Observation Centre;
- Ecological Monitoring Centre;
- The "Hidrometeo" Service.

Other authorities include:

- National Land Resources and Survey Agency;
- National Centre for Preventive Medicine;
- Department of Statistical Analysis and Sociology;
- Department of Civil Defence and Emergency Situations;

- Department of Standards, Metrology and Technical Inspection;
 - State Forestry Association “Moldsilva”;
 - State Water Supply Company “Apele Moldovei”;
- (iii) Article 11, para. 9, of the Access to Information Act requires an information provider urgently to notify the general public of information that has become known to it in the course of its activities if that information:
- Could prevent or reduce a threat to human life or health;
 - Could prevent the infliction or reduce the threat of infliction of any kind of damage;
 - Could halt the dissemination of unreliable information or reduce the adverse effects of its dissemination;
 - Is of special social significance.

The Hydrometeorological Activities Act (art. 11) requires the State Hydrometeorological Service to compile hydrometeorological forecasts of general significance for dissemination through the media, as well as specialized forecasts (agrometeorological, aviation, weather, dispersal and movement of chemical and radioactive pollutants). Article 13 of the same Act stipulates that warnings of dangerous hydrometeorological phenomena and extreme levels of environmental pollution must be promptly brought to the attention of the public, central government agencies and concerned legal persons in accordance with the plans and schemes approved by the authorities, using every available means of communication.

Article 10, para. (g), of the Radiation Protection and Safety Act concerns the powers of the Department of Civil Defence and Emergency Situations and the notifying and informing of the public authorities and the population about the threat and actual existence of emergency situations associated with large-scale radiation accidents;

(b) In order to ensure that the way in which environmental information is made available is transparent and the information itself is accessible, the Ministry of the Environment and Natural Resources has taken a number of measures:

- The Ministry’s site is regularly updated;
- An electronic environmental bulletin is published every month;
- A scientific-promotional magazine called "Environment" is published quarterly;
- A Guidebook on the Ministry is published every year.

Moreover, the public is systematically informed about the Ministry’s most important measures through press releases and press conferences, while Ministry officials participate in various television and radio programmes and publish articles on environmental topics in the national press;

(c) The new Information Technology and State Resources Act (Law No. 467-XV of 21 November 2003) lays down the basic rules and conditions for activities connected with the creation and development of a national information infrastructure. This Act governs relations

associated with the organization and use of State automated information resources and the creation and use of information technologies, systems and networks.

According to article 11 of the Act, State information resources comprise an integrated complex of information resources in the form of databanks.

The Republic of Moldova has an electronic database holding the texts of laws and regulations published since 1991, including environmental texts. This database can be accessed at the site www.docs.md.

Moreover, the public libraries provide free access to legal information published in the press and other printed publications or contained in computer databases and databanks, including through public legal information centres set up in those libraries. Public legal information centres provide the public with free access to official legal information for the purpose of acquiring knowledge of the law and lawful conduct and respect for the law;

(d) A report on the state of the environment is published annually in Romanian and English and posted on the site of the Environmental Information Centre www.cim.moldova.md;

(e) In accordance with article 55 of the Legislative Instruments Act (Law No. 780-XV of 27 December 2001, all legislative instruments are subject to registration in the State Register of Acts of Parliament. Legislative instruments may be recorded in specific ways or in several ways at the same time, including in a card index; registers; computerized (electronic) form; in accordance with the Official Legislation Classifier.

It is also important to note that all regulations, as well as international agreements that have entered into force on the territory of the Republic of Moldova, must be officially published in the Official Monitor;

(f) Under article 20, para. 1, of the Consumer Rights Protection Act, consumers of products and services offered must, under a mandatory procedure, be informed of their characteristics by means of identifying elements and indications visibly displayed in a clearly distinguishable form on the product, labeling or packaging or in the technical certificate, instructions for use or other accompanying documentation on the product or service, in accordance with its intended use. Paragraph 3 of the same article stipulates that the producer (packer) must indicate the name of the product, the producer's name and trademark, his address (and, if necessary, telephone number), the regulation, the weight/volume, the main qualitative characteristics, composition, additives used, possible risks, procedure for use, handling, storage and conservation, contra-indications, the number of calories in packed food products, the producing country, the warranty period, the service life, the shelf life and the date of manufacture in accordance with the technical regulations and national standards in force.

Government Decree No. 1153 of 25 May 2003 is of interest in connection with the problem of providing the public with assistance and access to information concerning GMOs. This Decree requires the National Biosecurity Commission, a government agency whose task is to ensure the safe use of GMOs and GMO-based products, to post documents forming part of an application to import a genetically modified organ and use it in the Republic of Moldova on the Environment

Ministry site within 10 days of receipt and for a period of not less than 30 days in order that the public may use this period for submitting comments, as required by the national legislation.

The rules on the labeling of food products and the standards on the labeling of household chemicals were approved by Government Decree No. 996 of 20 August 2003. In accordance with this Decree, the Ministry of Health prepared Decree of the Ministry of Health No. 01-04 of 31 May 2004 on the approval and introduction of sanitary standards for the labeling of nutritional value, the labeling of special dietetic food products and the labeling of food products that have been genetically modified or obtained from GMOs;

(g) As regards the implementation of paragraph 7 of the Convention, no legal or other measures have been taken;

(h) These measures are contained in article 20 of the Consumer Rights Protection Act and in Government Decree No. 1153 of 25 May 2003;

(i) Under the existing legislation the following types of inventories are maintained:

- Land;
- Inventory of useful mineral deposits and subterranean objects;
- Water;
- Forest;
- Fauna.

The following types of registers are used:

- Documents on the evaluation of pesticides;
- Register of infringements of the environmental protection legislation;
- Register for monitoring surface water pollution;
- Air pollution register;
- Register of radioactive waste and substances;
- Register of the quality of drinking water from centralized water supply systems;
- Waste register;
- Maps of territories with adverse climatic conditions;
- Maps of technogenically transformed territories;
- Maps showing the level of anthropogenic impact on geological and morphological processes;
- Water pollution maps;
- Maps showing the discharge of effluents into the environment;
- Maps showing emissions of toxins into the atmosphere;
- General and infantile mortality charts;
- Maps showing the agricultural use of fertilizers and pesticides;
- National environmental assessment maps;
- Register of sites and burial grounds containing harmful substances;
- Register of hazardous objects.

Article 12 of the Industrial and Consumer Waste Act requires public authorities, with the support of the health care and environmental protection agencies, to compile registers of waste disposal sites, according to their quantitative and qualitative characteristics, for the purpose of ensuring that waste storage, accumulation and burial sites are more fully recorded and described and their effects on the environment and human health are monitored.

Moreover, records must be kept when working with harmful products and substances (Harmful Products and Substances Regime Act). The State inventory of harmful influences on the atmosphere should also be mentioned (Protection of the Atmosphere Act).

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

A significant proportion of the population does not and will not have regular access to the Internet and needs to be provided with information in writing or by radio or television.

Accessing electronic databases via the public telecommunications networks is expensive.

At present, there is no real possibility of posting all the information on the Internet.

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?

No statistics are kept on the practical implementation of the provisions of article 5 concerning the collection and dissemination of environmental information.

14. Give relevant web site addresses, if available:

ARTICLE 6

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

(a) Article 20 of the International Agreements Act stipulates that the provisions of international agreements whose contents are suitable for application in legal relationships without the adoption of special regulations are subject to implementation and applicable within the legal system and in the administration of justice. Other provisions are implemented by adopting appropriate regulations.

Therefore, the provisions of article 6 of the Convention are applied directly with respect to decisions on whether to permit proposed activities listed in annex I to the Convention. Moreover, the Environmental Impact Assessment Regulation (Annex No. 1 to the Environmental Appraisals and Environmental Impact Assessment Act) provides for public participation in decision-making relating to specific forms of activity.

In accordance with paragraph 4 of the Environmental Impact Assessment Regulation, where necessary, by decision of the central environment department, other objects and activities may also be subjected to the environmental impact assessment (EIA) procedure, depending on the anticipated level of impact on the environment;

(b) Article 3, para. (d), of the Environmental Protection Act stipulates that the planning, siting and commissioning of objects of social and economic significance and the implementation of programmes and works that presuppose the modification of the environment or certain of its components shall be permitted only if the population living within the health protection zone surrounding the object in question is informed (by the local authorities and users) in the planning and siting stages within 30 days of the preparation of the land allocation documents, in accordance with the law, and its agreement is obtained.

Article 30, para. (c), of the same Act establishes the right of access to information and consultation concerning plans to site and build objects with a harmful effect on the environment and concerning the rehabilitation and improvement of territories, towns and villages. Moreover, article 10, para. (j), of the Act obliges local authorities, together with the client, to assist in the organization and implementation of a public environmental appraisal of the project documentation on objects that presuppose the modification of the environment or individual components thereof.

The Regulation on public participation in the preparation and adoption of environmental decisions describes the ways in which the public may be informed of the intention to undertake projects involving an economic activity (announcements in the press or on radio or television, direct contact with the leaders of NGOs);

(c) Apart from the 30-day period for informing the public at the commencement of the decision-making procedure laid down in article 3, para. (d), of the Environmental Protection Act, the current legislation does not contain any time-frames. Although it requires the public to be consulted on town and country planning schemes before approval, article 27 of the Principles of Town and Country Planning Act does not provide for any time-frames;

(d) In accordance with article 13 of the Environmental Impact Assessment Regulation, the public must have open access to the EIA documentation and the EIA application for 30 calendar days. During this period comments on the documents may be forwarded in writing to the person designated by the local authorities.

Local authorities must forward comments received as a result of the public discussion of EIAs and their own comments to the client, and a copy of these comments to the central environment department within 14 days of the expiration of the period mentioned in paragraph 13 of the Regulation;

(e) With respect to paragraph 5 of article 6 of the Convention, no legal or other measures have been taken;

(f)(i)-(ii) In accordance with article 13 of the Environmental Impact Assessment Regulation, the client is required to forward the EIA to the ministries and departments corresponding to the object profile or activity and the local

authorities on whose territory it is intended to build a new object, extend, rebuild, modernize, decommission or demolish an existing object or carry out a new activity. Within five days of receiving the EIA the local authority must announce in the media where and when the document can be inspected, copies can be obtained and a public environmental appraisal and public discussion are to be conducted.

In accordance with article 11 of the Regulation on public participation in the preparation and adoption of environmental decisions, public participation in decision-making at local level relating to an economic activity that will affect the environment is initiated by the client by informing the local authority and the public of the administrative district in which it is planned to carry out that activity.

In its turn, the local authority on whose territory the project documentation is to be prepared must arrange for public participation in the adoption of decisions affecting the environment and take steps to ensure the transparency of the activity announced by the client by informing the public of the intention to undertake projects involving an economic activity.

Moreover, in accordance with article 11 of the Environmental Appraisals and Environmental Impact Assessment Act, voluntary associations conducting a public environmental appraisal have the right:

- To obtain from the client planning, design and EIA documentation in full, or if it contains a trade and/or other legally protected secret (other than a State secret) to the extent that this secret is not disclosed;
- To familiarize themselves with the regulatory and technical documentation on the conduct of the State environmental appraisal;
- To participate through their representatives in meetings of the expert committees in which the conclusions of any public environmental appraisal are discussed;

(g) Under article 19 of the Environmental Impact Assessment Regulation, the results of public discussions of EIAs must be forwarded to the local authority. Moreover, in accordance with article 14 of the Environmental Appraisals and Environmental Impact Assessment Act, the conclusions of a public environmental appraisal are in the nature of recommendations and acquire legal effect only upon approval by the body representing the State environmental appraisal system;

(h) With respect to paragraph 8 of article 6 of the Convention, no legal or other measures have been taken;

(i) With respect to paragraph 9 of Art. 6 of the Convention, no legal or other measures have been taken;

(j) With respect to paragraph 10 of article 6 of the Convention, no legal or other measures have been taken;

(k) The Regulation on informing and consulting the public with respect to GMOs was approved by Order of the Ministry of the Environment No. 19 of 10 February 2004.

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

The provisions of the current EIA Regulation and the Public Participation Regulation do not completely satisfy the requirements of article 6. In particular, their formulation is vague and does not fully correspond to paragraphs 3 to 9. At the same time, the Moldavian regulations need improving in order to strengthen the legal measures designed to ensure that the time-frames of the public participation procedures meet the requirements of paragraph 3; that the public can participate at an early stage, in accordance with paragraph 4; that the procedures for public participation allow the public to submit any comments, information, analyses or opinions that it considers relevant to the proposed activity, in accordance with paragraph 7; that the public is promptly informed of the decision, in accordance with paragraph 9; and that when a public authority reconsiders or updates the operating conditions for an activity the provisions of paragraphs 2 to 9 are applied *mutatis mutandis*.

Unfortunately, the current legislation does not provide for the possibility of public participation in the taking of decisions concerning the issue of licences and permits giving the right to pursue certain activities involving a risk to human health or the environment.

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.

The Republic of Moldova does not keep any statistics on public participation in decisions on specific activities or on decisions not to apply the provisions of article 6 to proposed activities serving national defence purposes.

The following are examples of public participation:

- Agreement of the outline map for the location of filling stations;
- Approval of the outline map for plantings in the capital of the Republic of Moldova;
- Preparation and approval of local environmental plans;
- Preparation of the environmental education bill;
- Preparation of the environmental information bill;
- Preparation of the Environmental Policy Concept.

18. Give relevant web site addresses, if available:

Site of the Ministry of the Environment and Natural Resources (www.moldova.md).

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.

The legislation establishes the legal basis for public participation in decisions on plans and programmes relating to the environment.

Thus, in accordance with article 30, para. (c), of the Environmental Protection Act, the State grants all natural persons the right to participate in the discussion of economic or other programmes wholly or partially concerned with the protection of the environment and the use of natural resources.

In accordance with article 27 of the Principles of Town and Country Planning Act, the public is consulted before any town and country planning schemes are approved. In this connection, it is obligatory to display the announcement on the premises of the local authority and to submit the draft documentation for inspection and general discussion. Article 29 of the Natural Resources Act contains a State guarantee of public participation in decision-making relating to the use of natural resources and also in the public monitoring of compliance with the environmental protection legislation by natural and legal persons, on the basis of public awareness and public access to any information concerning the public interest.

Article 29, para. 4, of the Town and Village Plantings Act (Law No. 591-XIV of 23 September 1999, Official Monitor 1999) provides for the right of citizens and voluntary organizations to participate in the discussion of decisions concerning the development and protection of green belts and to initiate consultations, including referenda, in these cases. Article 20, para. 3, of the Act prohibits all construction in a green belt unless a public appraisal results in a favourable opinion and the population of the surrounding area agrees.

Article 17 of the Regulation on public participation in the preparation and adoption of environmental decisions provides for mandatory public participation in the preparation of national social and economic development projects and programmes involving the use of natural resources and having a significant impact on the environment.

Article 75 of the Constitution calls for the most important issues concerning the life of the people and the State to be put to a referendum.

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

In accordance with article 7 of the Regulation on the Ministry of the Environment and Natural Resources, the Minister must ensure public access to information and public participation in decision-making.

One practical opportunity for public participation in the preparation of environmental policy is provided by the work of the special Consultative Council of the Ministry of the Environment and

Natural Resources. The main purpose of this Council, which consists of representatives of the academic sector, the public (and in particular the environmental NGOs) and trade unions, is to improve cooperation between the Ministry, the public and business. The Council also enables the Ministry's services to interact with the voluntary organizations and associations concerned with environmental issues and reach agreed decisions on the use of natural resources and environmental education.

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

Despite the fact that the legislation establishes the principles of public participation in decisions on plans and programmes relating to the environment, it lacks legal mechanisms (procedures) for applying the provisions of paragraphs 3, 4 and 8 of article 6, as required by article 7 of the Convention. Moreover, certain regulations fail to establish criteria for identifying the public which may participate in the preparation of plans and programmes relating to the environment, as specified in article 7.

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

The setting up of a Consultative Council within the Ministry of the Environment and Natural Resources has made it possible for voluntary associations to participate in the discussion of environmental policy (national action plans, draft legislation, regulations, etc.).

23. Give relevant web site addresses, if available:

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.

In accordance with article 30, para. (c) of the Environmental Protection Act, the State grants all natural persons the right to participate in the discussion of draft legislation.

Chapter 2 of the Regulation on public participation in the preparation and adoption of environmental decisions governs the procedure for involving the public in the preparation of draft laws, regulations, programmes and other enactments. This is ensured by having the central environment agency inform the public of the commencement of the activity, with the agency bearing all the costs. The public may be informed through the media or individually.

In the event of the public becoming involved in the preparation of laws, regulations and decisions concerning projects at national level or with transboundary implications or other laws and regulations, the central environment agency must:

- Inform the public, through the media, of the commencement of the process of preparation of the text in question;

- Organize working groups (opinion polling teams) that include representatives of the NGOs and the public;
- Organize, where necessary, sociological surveys to determine the topicality of and need for the legislation to be prepared;
- Invite representatives of the media to meetings of the working groups, thereby ensuring the transparency of the proceedings;
- Forward the corresponding draft documents to the NGOs and other interested authorities for signature;
- Organize press conferences, round tables, and television and radio broadcasts for the purpose of explaining the gist of the legislation;
- Study requests and proposals deserving of attention and change, where necessary, the content of the drafts in preparation;
- After the documents prepared have been approved by the higher authorities or published in the Official Monitor, take steps to draw them to the attention of the public by holding press conferences, round tables, briefings, etc.

An important step towards the implementation of article 8 of the Convention is the preparation, within the TACIS project “Environmental information, education and awareness-raising” of the Directive on the involvement of the public in the preparation and adoption of draft regulations in the field of environmental protection and the use of natural resources. This Directive was drawn up by national experts and agreed with representatives of the Ministry of the Environment and Natural Resources. It was approved by Order of the Environment Ministry of 1 November 2004.

The Ministry of the Environment and Natural Resources is setting a positive example in this respect by posting draft regulations being adopted (approved) by the Ministry on its website. This information is also forwarded to members of the special Consultative Council.

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

The obstacles were removed as a result of the approval of the Directive on the involvement of the public in the preparation and adoption of draft regulations in the field of environmental protection and the use of natural resources.

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

During the preparation of the Directive on the involvement of the public in the preparation and adoption of draft regulations in the field of environmental protection and the use of natural resources objections were raised with regard to the provisions of article 8 of the Convention. Thus, the draft Directive was discussed at three round tables in which representatives of the Ministry of the Environment and Natural Resources, other ministries and departments, the NGOs, the public and the media participated. On the basis of the results of these round tables the draft Directive was revised and submitted to the Ministry of the Environment for agreement. The comments and proposals received from the Ministry were also taken into account in finalizing the document. When the final version of the text was ready, public hearings with the participation of representatives of the public were organized. These made several proposals, some of which were incorporated in the final text. The draft Directive was also submitted to the

Ecological Movement of Moldova for a public environmental appraisal, which resulted in a favourable opinion.

27. Give relevant web site addresses, if available:

Site of the Environmental Information Centre (www.cim.md).

Site of the Ministry of the Environment and Natural Resources (www.moldova.md).

ARTICLE 9

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

- (a)(i) In accordance with the provisions of article 4, para. 3, of the Submission of Petitions Act, a petitioner who is not satisfied with the reply to an initial petition or has not received a reply within the period specified by law is entitled to appeal to the competent administrative court. The Access to Information Act (art. 23) stipulates that if a person considers that his legitimate rights or interests in relation to access to information have been impaired or if he is not satisfied with the decision of the information-provider or the next higher authority, he may appeal the acts or omissions of the information-provider directly in the competent administrative court.

Similar procedures are laid down in the Administrative Courts Act (Law No. 793-XIV of 10 February 2000).

An applicant may institute legal proceedings to protect his right to environmental information if his request for information is refused, if the information provided is incomplete, if the information is not provided within the time-frame specified in the legislation, etc. that is, whenever his substantive right to information is infringed;

- (ii) Under article 7, para. 2, of the Submission of Petitions Act, petitions appealing against an act, decision, action or omission of some administrative authority or official that has infringed the rights and legitimate interests of the petitioner (including the right of access to information) are to be filed with the next higher body of first instance.

If a person considers that his legitimate rights or interests relating to access to information have been impaired, he may appeal the acts or omissions of the information-providing authority to the head of that authority and/or to the next higher authority within 30 days of the day on which he found out, or should have found out, about the infringement. The heads of the information-providing authority and/or the next higher authority must consider the appeal of a person requesting information within five working days and notify him of the results of their review within three working days. There is no charge for appealing to the next higher authority or the next higher official.

Appeals against the actions or omissions of organizations that do not have higher authorities may be filed directly in the competent administrative court.

A similar provision is contained in article 16 of the Administrative Courts Act. Thus, a claim may be filed directly in the administrative court when a person considers that his rights have been infringed as a result of failure to consider his case within the period prescribed by law or the rejection of a preliminary claim for recognition of his rights and for damages.

When a claim is filed in the administrative court, the claimant, if a natural person, pays an official fee of one minimum wage or, if a legal person, twenty minimum wages;

- (iii) Under article 25 of the Administrative Courts Act, when the administrative court considers and allows a claim, it may annul the administrative act appealed against, in full or in part, or may order the defendant to issue the administrative act requested by the claimant or a certificate or other document or terminate the infringements committed by the defendant, and, moreover, compensate the claimant for any damage caused by the untimely implementation of the decision of the administrative court.

Having given its decision on the merits, within three days of its becoming effective the administrative court must send copies to the defendant for implementation and to the court of general jurisdiction in the defendant's locality for control of implementation and, if necessary, enforcement. The decision must be implemented within the time-frame specified therein and if no time-frame is indicated, then within 30 days of its entry into effect. If the decision is not implemented within the specified time-frame, then the head of the authority required to implement it may be called to account, in accordance with the legislation in force;

(b) Under article 73 of the Code of Civil Procedure, organizations and natural persons may institute legal proceedings to protect the rights, freedoms and legitimate interests of other persons, at their request, or to protect the rights, freedoms and legitimate interests of an indeterminate group of persons. Proceedings to protect the interests of a legally incompetent person may be instituted whether or not requested by the interested party or his legal representative. Under this article, NGOs can also act to protect persons whose rights have been impaired, especially as natural persons can protect their own interests in civil proceedings personally or through representatives. Personal participation in the proceedings does not deprive a natural person of the right to have a representative;

(c) Thanks to the legislative provisions mentioned in paragraph (b), representatives of the public have free access to administrative and judicial procedures to challenge acts and omissions by private persons and public authorities which contravene environmental law. One such NGO specializing in the provision of legal assistance (including representation of the interests of the public before administrative and judicial bodies) is the Public Environmental Advocacy Centre "Eco-Lex";

- (d)(i) The procedures for protecting civil rights are listed in article 11 of the Civil Code. In particular, the right to a favourable environment can be protected using the following remedies: injunctions against acts that are infringing a right or creating a threat of infringement; invalidation of the act of a central or local government or self-government authority; damages; compensation for non-material damage; other remedies provided for by law;
- (ii) In accordance with the requirements of civil procedural law and business procedural law, decisions are given in writing. Moreover, the proceedings are recorded and the record may be inspected by an interested party. Costs are fixed by the Code of Civil Procedure and the State Fees and Charges Act (Law No. 1216-XII of 3 December 1992). Public prosecutors and parliamentary counsel defending the rights and legally protected interests of other persons in the cases provided for by law are exempt from the payment of the State court fee and other costs associated with the hearing of the case. Moreover, claimants seeking compensation for damage caused by environmental pollution or the non-rational use of natural resources are exempt from the payment of legal costs.

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

So far, there have been few examples of environmental disputes being brought before the courts by citizens or voluntary associations. However, the Public Environmental Advocacy Centre “Eco-Lex” is handling a steadily increasing number of such cases.

Citizens are still poorly informed about the opportunities for access to environmental justice.

There is no clear legal notion of the protection of the right to a favourable environment and therefore the courts are refusing to admit claims and consider cases on the merits.

The courts often lack information on the environmental legislation and its practical application.

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?

There are no statistics available on environmental justice. One of the mechanisms for ensuring access to environmental justice is to keep the courts informed about the provisions of the Aarhus Convention and changes in the environmental legislation. In this connection, the Centre for Improving the Qualifications of Officers of Justice is organizing and holding seminars on environmental law for judges, public prosecutors and barristers.

31. Give relevant web site addresses, if available:

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.