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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**

**The former Yugoslav Republic of Macedonia**<sup>\*/</sup>

**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.**

The Public Communication Office and the Regulation and Standardization Department within the Ministry of Environment and Physical Planning (MOEPP) prepared the draft version of the national report. According to the principles of the Convention on timely disclosure of information to, and participation of, the public, it was made publicly available for amendment and comment within the deadline prescribed by the Convention's secretariat.

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<sup>\*/</sup> This document was submitted late due to the fact that the report was received by the secretariat from the Party concerned after the deadline set out in decision I/8 and 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 draft report, as well as brief information on it and on possibilities for participating in the process and incorporating relevant remarks, comments and suggestions, were submitted to all concerned entities, namely the organizational units of the MOEPP, all other relevant ministries and Government institutions, legal authorities, Ombudsman, local self-government units and a number of non-government organizations (NGOs) active in the environmental field.

The draft report and relevant information were published on the MOEPP's website. Information was also provided by the Agency for Information to the national printed and electronic media, enabling every individual to have access to the draft report. They were distributed through the Centre for electronic communication (Eko.Net), an environmental electronic network working on the promotion of the Internet as a way for fast and easy communication, which provides services to environmental NGOs, relevant institutions, the business sector and interested citizens.

The Ministry received a number of responses concerning the report. All relevant remarks, comments and suggestions were addressed and taken into account.

**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).**

#### Organization of State authorities

The Parliament is the representative body of the citizens and bearer of legal authority in the country. The Government is the bearer of the executive authority. The MOEPP carries out other activities related to the state and protection of the environment and spatial planning.

The local self-government units have responsibilities in urban and rural planning, the environment and nature, and communal activities.

#### Binding nature of international agreements

Article 118 of the Constitution provides that the "international agreements ratified in accordance with the Constitution are part of the internal legal system and cannot be changed by law"; article 68 that "the Parliament of the Republic of Macedonia... ratifies international agreements"; and article 98 that "the courts shall judge on the basis of the Constitution and the laws and international laws ratified in accordance with the Constitution".

On this basis, the agreements ratified in accordance with the Constitution are considered to be the internal law of the country with legally binding force, and cannot be changed by law.

### 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 Draft Law on the Environment directly implements the requirements of the Convention on access to environmental information, public participation and access to justice. It establishes that:

- Everyone has the right of access to environmental information without having to show an interest;
- The right of access to information shall be established in a manner defined by the Law;
- The bodies specified in the Law shall provide environmental information;
- A request for information may be refused only in specific cases;
- The bodies specified in the Law shall organize, collect and disclose environmental information relevant to the scope of their work;
- The reimbursement of the costs for providing the requested information shall be of a reasonable amount which does not exceed the effective costs; and
- Unsatisfied parties shall have the right of access to justice.

Legal obligations on access to environmental information, public participation in the decision-making process and access to justice are set forth in the Law on Waste Management (Official Gazette No. 68/2004), Law on Nature Protection (Official Gazette No. 67/2004), Law on Air Quality (Official Gazette No. 67/2004) and Draft Law on Water. These documents give a legal basis for practical implementation and realization under secondary legislative acts.

The MOEPP has the legal obligation to disseminate environmental information. In the framework of the Ministry, the Public Communication Office and the Environmental Information Centre are authorized to provide access to environmental information according to a Decision of the Minister and the Act of Systematization of the Ministry. The responsibilities of other entities holding environmental information, or on behalf of which environmental information is held, according to the definition of "authorities", falls under the secondary legislative act of the Government on publishing and keeping a list of entities holding environmental information, or on behalf of which environmental information is held, and the types of information they possess.

The Draft Law on the Environment defines the responsibility of the Ministry of Education and Science to ensure that every curriculum for primary and secondary schools addresses teaching methods and issues in the field of the environment. Local self-government units must promote the development of environmental education and public awareness on their territories.

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

The Draft Law on the Environment has to be adopted by Parliament in order for its provisions to be enforced. Further activity on the realization of the legally defined measures will be initiated after the adoption of the relevant secondary legislative acts in this area. As the ongoing process

of decentralisation represents an additional obstacle, the responsibilities of the local self-government units will be implemented in practice after the establishment of the new councils and the election of mayors at the local level.

The Ministry of the Environment is in a process of internal organizational reform, which should enable the consistent fulfilling of its obligations as well as access to information, participation in decision-making and specific aspects of access to justice. This reform is conditioned by the Public Administration Reform process implemented on the governmental level and by available financial and human resources. In particular, the problems that the MOEPP is facing in terms of practical implementation relate to a lack of human resources, of citizens' interest in participating in the decision-making process and of handbooks on public participation.

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

The practical implementation of the principles of the Convention takes place through the Public Communications Office. Environmental information falling under the legal framework which is of vital importance for ordinary and healthy living is disseminated to the public. Citizens have the opportunity to make proposals and petitions or requests on certain environmental problems. The availability of computers for public use in the Public Communications Office allows interested citizens to access new and useful information.

The MOEPP cooperates with environmental NGOs by financially supporting their projects, giving expert assistance, and providing information and data relevant to their activities. NGOs are also included in the drafting of new legal regulations, programmes, policies, projects and activities.

The Public Communications Office has undertaken numerous campaigns for public awareness on specific topics (waste management, nature protection and national parks, phasing-out of leaded petrol, cycling, etc.), and different events are organized according to the eco-calendar days. The green Eco-bus, which is a complete, technically-equipped mobile Public Communications Office and a number of other activities are used as specific tools for communicating with the public during campaigns. The Eco-bus travels throughout the country, carrying out exchange of information and education through direct contact with citizens.

Education and public awareness-raising are also promoted through cooperation with the electronic and printed media.

**6. Give relevant web site addresses, if available:**

[www.moepp.gov.mk](http://www.moepp.gov.mk), [www.moe.gov.mk](http://www.moe.gov.mk) (official site of the MOEPP).  
[www.eko.net.mk](http://www.eko.net.mk), [www.ekosvest.com.mk](http://www.ekosvest.com.mk) (official NGO site).

#### ARTICLE 4

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

The Draft Law on the Environment provides in its section on definitions that:

- “The public” shall mean one or more legal entities or natural persons, citizens and their organizations and associations;
- “The public concerned” shall mean the public, including citizens’ associations established for the purpose of environmental protection and improvement, concerned by or having an interest in - at the present time or in the future - the decision-making process concerning the environment.

The Law defines bodies, legal entities and natural persons holding environmental information, or on behalf of which environmental information is held, as: public administration bodies; local self-government units; legal entities and natural persons having public responsibilities, including special duties, activities and services in the field of the environment; and other legal entities and natural persons specified by law. The list of entities holding environmental information, or on behalf of which environmental information is held, and the specification of the information held by each of these bodies, is the object of a secondary legislative act. The list shall be published and regularly revised. Judicial and legislative bodies are not included in the bodies, legal entities and natural persons holding environmental information, or on behalf of which environmental information is held.

The right of access to environmental information is exercised in respect of all information in written, visual, aural, electronic or any other available form, pertaining to the state of the environmental medium and areas, factors, measures, reports; cost-benefit analysis; and conditions relating to human health and safety.

Everyone has the right to request valid environmental information and data from public authorities, legal entities and natural persons without having to prove their interest.

Finally, the Law is based on the principle of non-discrimination. According to the Constitution, citizens are equal in enjoying rights and freedoms, irrespective of sex, race, skin colour, national and social origin, political and religious conviction, property and social status. Citizens are equal before the Constitution and the laws.

Requests for environmental information may be submitted to any of the entities holding it. The entity is responsible for disclosing the information not later than one month from the date of receipt of the request or two months from the date of receipt of the request under specific conditions.

The manner and the procedure through which access to environmental information is provided shall be subject to a secondary legislative act. The information is provided in the form requested, unless specified conditions in the law are fulfilled.

The proposal envisages that the bodies, legal entities and natural persons holding environmental information, or on behalf of which environmental information is held, may refuse access under specific conditions stipulated by the law.

The level of compensation for expenses related to the delivery of the information, as determined by the regulation, shall be reasonable and not exceed the real costs. Thus, searches conducted in registers and databases, as well as verification of information where it is held or maintained, shall be free of charge.

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

See answer to question 4.

**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?**

The Public Communications Office keeps a register of the number of visits, which are presented in a table and classified according to the type of information requested or the target groups. The Office regularly experiences interested citizens reporting their problems by telephone and requesting information on the possibilities to resolve them. In order to increase the number of group visits to the Office, more documentary films in the field of the environment, educational materials for pre-school and school-age children and other promotional material shall be provided. All the requests for information indicated in the table are accordingly submitted in the requested form, within the specified term.

**10. Give relevant web site addresses, if available:**

**ARTICLE 5**

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

In accordance with the Draft Law on the Environment, the MOEPP must establish and maintain an Environmental Information System so as to provide a relevant database and comprehensive, accurate and publicly accessible information on the state of nature, the state and quality of the environmental medium and other environmental areas, noise, ionising and non-ionising radiation, including electromagnetic radiation, as well as forecasts through the use of modelling techniques. The Information System must include the systematisation, storage and use of data obtained through State and local monitoring networks, as well as legally obligatory monitoring performed by operators, of individual environmental medium and areas, as well as data from the register of pollutants and polluting substances and their properties, and the cadastre of environmental polluters.

Operators that are sources of emissions and pollute one or more environmental medium and areas, or natural heritage, must under specific legal provisions carry out self-monitoring with devices and instruments which have been approved through the procedure for measurement verification established by law, and maintain the monitoring devices and instruments in proper working condition.

The MOEPP must, in cooperation with other relevant bodies of the State administration, prepare a state of the environment report every three years to be made available on its website.

The entities holding environmental information, or on behalf of which environmental information is held shall, within the scope of their powers, provide for its dissemination, public accessibility and maintenance in forms and formats that are easy to reproduce and accessible through information technology networks. They must also provide for public participation in the drafting process of laws, other regulations and legal acts.

The MOEPP is responsible for the dissemination of environmental information and for facilitating access to environmental information held by other ministries, municipalities, the City of Skopje and its municipalities, and other bodies and entities.

The right of access to environmental information shall be exercised in respect of all information in written, visual, aural, electronic or any other available form, pertaining to:

- The state of the environmental medium and areas, such as the air and atmosphere, water, soil, biological and landscape diversity, including genetically modified organisms, as well as interaction among these elements;
- Factors, such as substances, energy, nuclear fuels and nuclear energy, noise, radiation or waste, including radioactive waste, emissions and other releases into the environment, affecting or likely to affect the environmental media and human health;
- Measures, including administrative measures, such as policy, legislation, plans, programmes, agreements, as well as activities which may directly or indirectly affect the environmental medium and factors, and measures or activities designed to protect those elements;
- Reports on the implementation of environmental laws and other regulations and acts; Cost-benefit analysis and other financial and economic analysis and assumptions applied as part of the measures and activities aimed at environmental protection and improvement;
- Conditions related to human health and safety, safety of foodstuffs, living conditions, sites of cultural importance and man-made structures, to the extent to which they are affected, or are likely to be affected by the environmental media, or through the impact of such media on any condition of the aforementioned elements and factors.

Everyone has the right to request valid environmental information and data from public authorities, legal entities and natural persons without having to prove their interest.

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

- The Law on the Environment is before Parliament for its final adoption;
- Secondary legislative acts have to be adopted;
- Cadastres and registers of pollutants and polluting substances have to be established as envisaged by the Framework Law on the Environment and specific environmental laws;
- The process of decentralization has to be completed, thereby creating capacities on the local level better capable of managing environmental data and information;
- Capacities have to be created to enable the right of access to environmental information to be exercised in respect of all information in written, visual, aural, electronic or any other available form;
- There is a lack of financial resources for the dissemination of data and information, and the opening and equipping of information points and offices;
- Reform of the public administration and reducing available human resources;
- Need to strengthen the capacities of the non-governmental sector.

**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 development of the Environmental Information System was initiated by the REREP 1.8 Project (Development of National Environmental Information Systems for Southeast European Countries). Due to limited resources, only part of the system has been developed.

Cooperation between the Ministry of Health and the MOEPP is significant for the proper development and implementation of the policy on the relation between the environment and human health. The Ministry of Health, through the State Sanitary and Health Inspectorate and the State Health Institute, participates in the monitoring of environment pollution, respectively the monitoring of air, water and food products pollution, monitoring and protection of the population against the harmful impact of gasses, ionising radiation and noise, and supervision of the hygienic and epidemiological condition of the population. Public health organizations included in the monitoring procedure submit data to the MOEPP on a regular basis.

Health and health and environment units within the State Health Institute, as well as ten Regional Health Institutes, have established monitoring procedures on pollution, safety of drinking water and surface waters. These activities are carried out according to established methodology and procedures in compliance with the existing legislation in the form of programme tasks. The Regional Health Institutes processes and submits the monitoring data on air, drinking water and surface waters to the State Health Institute in biannual and annual reports. It submits monthly reports to the MOEPP and prepares an annual report at the beginning of each year.

The MOEPP informs international bodies. The obligation to inform, on both the national and international levels, is carried out by the Macedonian Environmental Info-Center. Based on the processed data, the Ministry also prepares reports on a monthly and yearly basis and submits them to the relevant institutions. Official reports are available to different interested parties and



the public on the premises of the Public Communication Office and on the website of the Ministry. Most information, including air pollution data and state of the environment reports, is published on the MOEPP's website.

The non-governmental sector has established the s.c. Coalition - Aarhus Family in the Republic of Macedonia, with the possibility to use the Internet and communication technology in the implementation of the Convention in order to strengthen the role of the non-governmental sector. For that purpose, it envisages the establishment of four regional offices enabling citizens to request information, resource centres for NGOs in the region allowing for the dissemination of information on a local, national and international level, and centres participating in the dissemination of information on the horizontal and vertical levels.

**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.**

Projects which due to their character, scope or location may have significant impacts on the environment are subject to environmental impact assessment (EIA). EIA is carried out for projects which are subject to a mandatory requirement for EIA on the basis of prescribed criteria. The need for EIA is identified on the basis of a case-by-case assessment of the characteristics, scope and location of the project in accordance with prescribed criteria, in light of latest scientific and technical developments, and in view of regulatory provisions on limit values of emissions to the environment.

The body of the State administration competent for the execution of the works in the area of the environment is obliged to:

1. Publish the notification for the performance of the project in two national daily newspapers and on its website;
2. Publish the decision on the need for the performance of an EIA in two national daily newspapers, as well as on its website and notice board;
3. Announce that the study on the EIA has been prepared and is publicly available in two national daily newspapers and on local radio and television stations; a non-technical report of the study is posted on the Ministry's website;
4. Publish the report on the results of the EIA study in two national daily newspapers and on the Ministry's website;
5. Publish the decision granting approval or refusal of the project's realization in two national daily newspapers, as well as on its website and notice board;
6. Announce the time and place of the public hearing on the EIA study in two daily newspapers and on local radio and television stations.

Where a foreign country so requests, items 2, 3, 4 and 5 shall be made available to the competent authority of the country, in accordance with the stipulated procedure.

The law provides that the body of the State administration competent for the execution of the works in the area of the environment is obliged to publish the A integrated environmental permit on its website and in two national daily newspapers, and allow, within 15 days, access of the concerned public to the information relevant for public participation in the permitting procedure and to the opinions that were taken into consideration and upon which the permit was issued.

Each entity and local self-government unit may comment to the MOEPP, in written form, within 30 days from the date of the announcement. The Ministry is obligated to consider all comments and opinions when issuing the permit.

The local self-government units shall ensure public access to all relevant information within the procedure for granting Integrated Pollution Prevention and Control (IPPC) B permits. Within 30 days from the date of the announcement of the application for an IPPC permit, the concerned public may provide written comments.

During the preparation of IPPC A permits, the MOEPP must explain the reasons for which public comments were taken into account, and which were not considered. At request of the concerned public, the investor(s) must organize a public hearing.

Finally, the law is based on the principle of non-discrimination. According to the Constitution, citizens are equal in enjoying rights and freedoms, irrespective of sex, race, skin colour, national and social origin, political and religious conviction, property and social status. Citizens are equal before the constitution and the laws.

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

- The Law on the Environment is before Parliament for its final adoption;
- The Law on Access to Public Information is to be prepared and adopted;
- Secondary legislative acts are to be adopted;
- There is a need for financial resources and strengthening of the capacities of all the relevant entities in the process.

**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.**

A national regulation applicable to the activities which may impact the environment provides that the MOEPP carries out EIAs. This competence, especially in regard to public participation, has not been implemented due to the lack of secondary legislation and of an obligation to ensure public participation. There is however an obligation for the Ministry of Transport and Communication to consult the public under the Law on Construction, which applies only to activities and projects entailing the construction of objects and facilities, but not to other activities.

Irrespective of the fact that there is no obligation for public consultation during the EIA procedure, the Convention's requirements are applied in view of public interest requirements. Specific examples of projects entailing public participation in the EIA procedure include the OKTA oil pipeline (Greece being the investor); Skopje highway; HEP Kozjak; TEP Negotino - Bulgarian Border Transmission Line; Tetovo - Vrutok Transmission Line; Waste Management Feasibility Study in Southwest Macedonia (CARDS); Feasibility Study on the Construction of a Landfill in the Gevgelija - Dojran region; and Wastewater Treatment Plant Project in Gevgelija. There is no available information on other similar activities.

**18. Give relevant web site addresses, if available:**

**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 Draft Law on the Environment provides for the obligation to involve the public in the adoption of environmental programme and plan documents. Its article 69 determines the terms for public participation in the preparation and adoption of the National Environmental Action Plan and Local Environmental Action Program.

Prior to the initiation of adoption procedure for the planning document, and within five days from the date of completion of the environmental report, the body in charge of the preparation of the planning document publishes information concerning the draft document and environmental report, including information on the public participation procedure. At the same time, it submits the draft planning document and the environmental report to the body of the State administration responsible for environmental affairs, which, together with the bodies affected by the implementation of the planning document, legal entities and natural persons and the public, may express their opinion to the body in charge of preparation within 30 days from the date of submission and publication of the information. The body shall, in the development of the planning document, take into account the opinions received and prepare a separate report thereon.

The manner in which information is published, the public participation procedure and the report's preparatory procedure are the object of a secondary legislative act.

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

See answer to question 19.

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

- The Law on the Environment is before Parliament for its final adoption;
- Secondary legislative acts are to be adopted;

- There is a need for financial resources and strengthening of the capacities of all the relevant entities in the process.
- Preparation of strategic, plan and programme documents.

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

Public participation must be clearly and unambiguously defined under several secondary legislative acts with regard to all strategic, plan and programme documents (including the Spatial Plan of the Republic of Macedonia, Water Master Plan, Strategy on Economic Development, National Environmental Action Plan, Local Environmental Action Program, Vision 2004 and Plan on phasing-out leaded petrol). These documents are legally adopted after they have gone through the draft and proposal phases. Draft documents are published and a public hearing organized to discuss their contents. The opinions, comments and suggestions obtained from the hearing are taken into consideration during the completion of the text of the document, submitted as a proposal for final adoption. Several activities have recently been undertaken, including the campaign on phasing-out leaded petrol and the campaign on awareness-raising on cycling in Skopje.

**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.**

According to the Draft Law on the Environment, the conditions and procedures for public participation during the preparation of environmental regulations and other acts are the object of a secondary legislative act, which must specify amongst other things the procedure and deadlines for effective participation, and the procedure for publication of the draft regulation and possibility for the public to comment on it. The results of public participation are taken into consideration during the preparation of the draft document.

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

- The Law on the Environment is before Parliament for its final adoption;
- Secondary legislative acts are to be adopted.

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

The MOEPP is responsible for the harmonization of environmental regulations with EU law, and has for this purpose established interministerial working groups. The working groups have

become the main driving force for most of the activities related to the preparation of legal texts, and have presented a platform for the development of new environmental legislation compatible with EU requirements.

In the framework of these projects, the MOEPP has striven to provide transparency through the following means: questionnaires; carrying out research on public opinion through quantitative and qualitative polls; organization of workshops; organization of regional presentations on the draft laws to inform local self-government units; and involvement of the private sector. Comments from representatives of interested parties (Government and State institutions, local self-government units, public enterprises, industry, users of natural resources and other interested private legal entities, NGOs, and scientific and expert organizations) were also taken into account in the draft laws.

**27. Give relevant web site addresses, if available:**

**ARTICLE 9**

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

The Law on General Administrative Procedure is applicable to administrative procedures in the framework of the public administration bodies and Government (Official Gazette Nos. 52/56; 10/65; 18/65; 4/77; 11/78; 9/86; 16/86; and 47/86). In the case of an administrative procedure managed by a local self-government unit, or another public administration body acting as a body of first instance, the right to appeal against the decision is submitted to the competent Ministry in the relevant area. On the other hand, when the public administration body acts as the first instance body, the right to an appeal is submitted to the Commission of the Government for the settlement of administrative matters in second instance in the area of the environment, which is established as a standing body within the Government.

According to article 49 of this Law, a party to an administrative procedure is the legal or natural person upon whose request the procedure has been initiated, against whom the procedure has been raised or who is entitled to participate in the procedure for the purpose of protecting his or her rights or interests (hereinafter the “party”). The party is entitled to raise an appeal against a decision issued at the first instance (see art. 223) and to initiate an administrative dispute settlement regarding a decision issued at the second instance or in case of “administrative silence” before the Supreme Court (administrative disputes are managed in accordance with the Law on Administrative Disputes, Official Gazette No. 4/77).

The Second Instance Commission of the Government, which settles actions received from first instance bodies, must issue a decision in accordance with the Law on General Administrative Procedure within 60 days. After the expiry of the term, the party not satisfied with the decision issued by the Second Instance Commission, or in the case where the Commission has not responded within the prescribed period, may initiate an administrative dispute settlement procedure before the Supreme Court. The same rule applies in the case where the MOEPP acts as the body of second instance.

In addition to ordinary legal remedies, the party may also use extraordinary legal remedies against a final decision under the administrative procedure, i.e. the revision of the procedure (art. 250). The Draft Law on the Environment regulates the rights and obligations of the State and local self-government units, as well as the rights and obligations of legal entities and natural persons with regard to environmental protection and improvement for the purpose of the exercise of the right to a healthy environment. The Law on General Administrative Procedure applies with regard to procedures stipulated under the Draft Law on the Environment, unless stipulated otherwise.

In order to enable organizations and natural persons to have access to justice, the Draft Law on the Environment specifies the cases in which the public and citizen organizations established for the purpose of environmental protection have the right to submit an appeal in the area of the environment, thus providing a wider frame for exercising appeals rights than the one established under the Law on General Administrative Procedure.

This right of access to justice for protecting the rights and interests of organizations and individuals applies in the following cases:

- Protection of the right of access to environmental information;
- Protection of rights under the EIA procedure;
- Protection of rights under the integrated environmental permitting procedure.

The right of access to justice by organizations and individuals for the purpose of protecting their rights and interests through the administrative procedure is also regulated by separate environmental laws, such as the Law on Air Quality, the Law on Nature Protection, the Law on Waste Management, the Draft Law on Water and other laws regulating the rights of legal entities and natural persons in the area of the environment. The procedures specified in these laws are subject to the those found in the Draft Law on Environment, as well as in the Law on General Administrative Procedure, so that the rules described above apply.

#### Protection of the rights of individuals and organizations in the administrative procedure by the Institution of the Ombudsman

The Institution of the Ombudsman is an independent body with the competence to protect the rights of all citizens guaranteed to them under the Constitution, laws and international acts and documents ratified by Parliament, as well as the right of free access to environmental information, in cases of violations by acts or omissions of the State administration bodies and other bodies and organizations having public competencies. The appointment of the Ombudsman guarantees his or her independence. Articles 11 to 18 of the Law on the Ombudsman (Official Gazette No. 60/2003) provides for a tax exemption for the requesting party regarding the procedure initiated before the Ombudsman.

The past practice of the Ombudsman evidences the violation of several procedures relating to the environmental rights of individuals or groups of citizens. Nevertheless, the number of procedures that are underway does not give a realistic picture in the sense that citizens are often

insufficiently educated about their rights generally and their right of free access to information specifically.

#### Protection of the rights of individuals and organizations through court procedures

The right of individuals and organizations to initiate a procedure before a court for the purpose of protecting their rights or legally protected interests is regulated in civil, criminal or administrative laws, namely the Law on Litigation Procedure (Official Gazette Nos. 33/98; 44/02), the Law on Criminal Procedure (Official Gazette Nos.15/97; 44/02) and the Law on Administrative Disputes (Official Gazette Nos. 4/77; 36/77; 44/02).

The protection of environmental rights and interests is also regulated in the Draft Law on the Environment. According to the section of its article 158 on liability for damage caused to the environment, the legal entity or natural person under direct threat or suffering consequences from apparent environmental damage has the right to request from the instigator of the damage the return of the environment to its original state or claim compensation for the damage in accordance with the general legal rules on compensation.

In addition to actions referred to in chapter 22 of the Criminal Code, private plaintiffs may submit lawsuits to courts competent for criminal acts under separate environmental laws, including:

- The Law on Nature Protection, which covers criminal acts against the environment such as the extermination of indigenous species, introduction and reintroduction of wild species in nature, illegal appropriation and use of genetic and biological material, illegal damage to and destruction of speleological structures, and damage to and destruction of minerals and fossils;
- The Draft Law on Water, which applies to the unauthorised use of water and extraction of ground water.

The Draft Law on the Environment and the Draft Law on Water are expected to be adopted by the end of 2004.

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

- The Law on the Environment is before Parliament for its final adoption;
- Relevant secondary legislative act have to be adopted;
- Reforms in the legal system are needed;
- Lawsuits are dragged out, which results in the prescription of documents or claims;
- Education and awareness-raising among the executive and judicial authorities dealing with the exercise of access to justice rights is lacking.

**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?**

The Journalist-Lawyer Environmental Centre, an NGO established in 1999, aims to raise public awareness, support participation in environmental protection and promotion, and participate in the development of environmental policy and law. During its first two years of operation, 85 calls from citizens and NGOs were received. It is noteworthy that citizens were informed of the existence of the Centre as a place where they can consult, get free legal advice and be represented before public authorities in solving environmental problems.

The establishment of the first Centre for Environmental Public Advocacy was a big step in the process of implementation of the Convention and improvement of the protection of environmental human rights. In two years, a database for all requests and cases was created; 15 administrative cases were initiated; one judicial case was opened (still undergoing); inquiries were initiated in seven cases; one case was solved in cooperation with the defendant; and 14 consultancies were given. At the time of writing, the Centre was not working actively. The project leader, a lawyer, is still working on a few ongoing cases. It would be useful for the public in general if the Centre were to continue with its work actively.

The Law on the Ombudsman (arts. 11 to 18) envisages a tax exemption for the requesting party of a procedure initiated before the Ombudsman. There is no available information on other type of organized legal assistance in the environmental field.

**31. Give relevant web site addresses, if available:**

[www.covekovi-prava.gov.mk](http://www.covekovi-prava.gov.mk)

www.ombudsman.gov.mk

ww.sobranie.mk

<http://www.stat.gov.mk>

www.usud.gov.mk

www.mlrc.org.mk

**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.**

The Convention is one of the most significant international agreements on the protection of citizens' right to a healthy environment. The public has the right and need to be informed, to participate in decision-making on environmental protection issues and to have access to justice. The implementation of the Convention enables the improvement of access to information and increases public participation in decision-making, thereby improving the quality of decisions and environmental protection. It contributes to the protection of the right of every individual of present and future generations to live in an environment appropriate for his or her health and welfare, and to have the rights of access to information, public participation in decision-making and access to justice on environmental issues, in accordance with the Law on Environmental Protection and Promotion.