



**Economic and Social  
Council**

Distr.  
GENERAL

ECE/MP.PP/2005/18/Add.22  
11 April 2005

ENGLISH  
Original: RUSSIAN

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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  
Environment Matters

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

**REPORTS ON IMPLEMENTATION**

**UKRAINE\***

**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 report to the second meeting of the Parties to the Aarhus Convention (hereinafter referred to as “the report”) was prepared by the Ministry of Environmental Protection of Ukraine pursuant to Order No. 469 of 25 November 2004, which established a working group that

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\* 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.

involved structural subdivisions of the Ministry's central administration, its territorial and governmental administrative bodies, and oblast administrative offices, oblast administrations for land resources, forestry, land improvement and water management; on questions relating to the press and information, education and science, domestic policy, the Coordinating Council of Voluntary Environmental Organizations and the National Committee on the Environment and Natural Resources of Crimea, public councils attached to the central administration of the Ministry of Environmental Protection and territorial bodies, and voluntary organizations.

The report was prepared by the central administration of the Ministry of Environmental Protection. The following persons were responsible for consolidating and processing all the materials received: a member of the public council attached to the Ministry, a representative of the Ukrainian division of the international alliance "The Human Environment", a member of the national team of the European Union's TACIS (Technical Aid to the Commonwealth of Independent States) project on environmental education, information and public awareness for the newly independent States (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine), Mr. E.D. Simonov, a candidate of architecture, a specialist in environmental and ecotechnology and a specialist in marketing and advertising.

The report uses the materials of international projects: the Ukrainian-Danish project "Assistance to Ukraine on implementation of the Aarhus Convention" and the European Union's project on environmental education, information and public awareness for the newly independent States (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine). The second version of the report was discussed at a meeting of the public council of the central administration of the Ministry of Environmental Protection on 21 January 2005. The national coordinator signed the report, which was placed on the web portal of the Ministry of Environmental Protection and sent to the Aarhus Convention Secretariat in two copies in the Ukrainian and Russian languages and also in electronic form for the preparation of an official synthesis report to the second meeting of the Parties.

**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).**

According to the conclusion of the foreign experts involved in the Ukrainian-Danish project "Assistance to Ukraine on implementation of the Aarhus Convention", which was completed in March 2003, Ukrainian legislation is in many respects more progressive than the Aarhus Convention; however, the lack of mechanisms with direct effect in most regulatory acts hampers the successful implementation of the requirements of the Aarhus Convention. Individual norms of the Convention are contained in the following Ukrainian Laws: the Environmental Protection Act, the Environmental Assessment Act, the Information Act, the Citizens' Communications Act, the Act on the Procedure for Media Coverage of the Activities of Government Bodies and Local Self-government Bodies in Ukraine, the Planning and Building Act, the Citizens' Associations Act, the Local Self-Government Act and the Young People's and Children's Voluntary Associations Act.

In order to harmonize existing Ukrainian legislation with the requirements of the Aarhus Convention, the Ministry of Ecology and Natural Resources prepared the act on amendments and additions to a number of legislative acts of Ukraine in connection with Ukraine's ratification of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The Act was approved by Ukraine's Supreme Council on 28 November 2002 (No. 254-IV).

In order to develop real mechanisms for implementing the Aarhus Convention, the Ministry of Environmental Protection prepared two draft decisions of the Cabinet of Ministers on the approval of two sets of regulations that would facilitate implementation of the provisions of the Aarhus Convention by all interested government bodies. However, at the recommendation of the Cabinet of Ministers, the Ministry of Environmental Protection prepared, instead of the decisions, two orders: No. 168 of 18 December 2003 on approval of regulations on public participation in decision-making in environmental matters, and No. 169 of 18 December 2003 on approval of regulations on the procedure for providing environmental information. The Ministry registered the two orders with the Ministry of Justice (No. 155/8754 and No. 156/8755, respectively).

Following the Aarhus Convention's entry into force, government bodies in Ukraine stepped up their efforts to create an open information system. The creation of web portals for the Cabinet of Ministers and government bodies broadened opportunities for the public to receive information about the work of such bodies, in addition to the information provided by the press, radio and television.

The State Information Programme seeks to solve the technical problems involved in the creation of a State information system with information subsystems for various sectors. A State monitoring system is being set up; however the development of the system is hampered by Ukraine's financial difficulties. The absence of developed State environmental information and monitoring systems makes it difficult to implement the Aarhus Convention to the fullest extent.

A number of documents have been adopted with a view to creating conditions for the collection, processing and analysis of environmental information and ensuring public awareness.

Supreme Council Decision No. 2169-IV of 4 November 2004 on public awareness of environmental issues, and the Prime Minister's instruction (unnumbered) of 17 November 2004 on Supreme Council Decision No. 2169-IV of 4 November 2004, provide for the drafting and approval of two sets of regulations by 31 December 2004: the regulations on the provision, on a quarterly basis, of information to the population, through the media on facilities that are the biggest environmental polluters (10 and 100 facilities), and the regulations on the network of the State automated environmental data-processing system.

In order to improve the existing centralized structure for taking decisions at the State level, and the decentralized structure at the regional and local levels with public participation, the Presidential Decree of 31 July 2004 on ensuring conditions for greater public participation in the formulation and implementation of State policy, and Cabinet of Ministers Decision No. 1378 of 15 October 2004 on questions relating to ensuring public participation in the formulation and implementation of State policy, were adopted.

A Cabinet of Ministers decision approved the procedure for holding consultations with the public on the formulation and implementation of State policy, which made it possible to broaden the sphere of application of the Aarhus Convention to all government bodies in all sectors of the economy.

In practice, public consultations began to be held in the form of public hearings or through public opinion surveys using sociological methods. The Cabinet of Ministers and other government bodies began to establish public councils that include voluntary organizations specializing in various areas of State activity. However, this Cabinet of Ministers decision did not cover all the areas of public participation provided for in articles 6 to 8 of the Aarhus Convention; the decision recommended that public councils use the model provision on public councils.

Moreover, the web portals of the Cabinet of Ministers and government bodies contain electronic forums that make it possible to study public opinion on topical issues.

In 2004, the data-processing firm EKSOR introduced, as part of the “electronic Government” programme, a pilot project entitled “Electronic reception room for the public”. This interactive electronic system, which enables the public to interact with administrative bodies with the help of personal computers in the systems of government bodies and information service kiosks (“informat”) or other points of collective access. The “informat” established in the Cabinet of Ministers makes possible direct communication and feedback between the directors of the structural units of this body and citizens in a number of interactive modes: written, video or audio communication, videoconferences, and replies to surveys on a variety of issues. Special software and a sensor screen enable visitors without special training to obtain the necessary information on the structure of a government body, its directors, its working conditions and reception hours, and on current problems and the measures that have been proposed to solve them. It has been proposed that this system be introduced in Ukraine through model replication for central, oblast, district, city and rural government bodies.

### Article 3

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

(a) The Ministry of Environmental Protection has approved two orders: No. 168 on approval of the regulations on public participation in decision-making in environmental matters, and No. 169 on approval of the regulations on the procedure for providing environmental information. The Ministry of Environmental Protection registered the two orders with the Ministry of Justice on 4 February 2004 (No. 155/8754 and No. 156/8755, respectively). This makes it possible to regulate information mechanisms and involve the public in decision-making in government bodies at all levels;

(b) In order to promote education and environmental awareness, the Ministry of Environmental Protection carries out the following measures:

- (1) The web page of the Ministry of Ecology and Natural Resources has been operating since 2000 and, in 2003, the Ministry set up a web portal ([www.menr.gov.ua](http://www.menr.gov.ua)) that provides environmental information and contains various headings, including the Aarhus Convention, the Aarhus Information and Training Centre, and public councils attached to the central administration of the Ministry of Environmental Protection and its territorial bodies;
- (2) Every year, the national report on the state of the environment in Ukraine, and oblast reports in most of Ukraine's administrative oblasts, are prepared and published; since 2003, electronic versions of the reports have been placed on the Ministry's web portal; press conferences and briefings for the media are held on a regular basis;
- (3) The Ministry participates in the preparation of parliamentary hearings on environmental issues;
- (4) On 20 May 2003, the Aarhus Information Centre was opened as part of the Ukrainian-Danish project "Assistance to Ukraine on implementation of the Aarhus Convention";
- (5) From 21 to 23 May 2003, Ukraine organized the Fifth Ministerial Conference "Environment for Europe", during which a conference with public participation and a thematic exhibition were held;
- (6) From 24 to 26 May 2004, Ukraine held a national conference on the environment, entitled "One year after the Ministerial Conference", which included an exhibition and seminar for voluntary organizations;
- (7) On 24 November 2004, the Aarhus Information and Training Centre was opened in the Ministry of Environmental Protection;
- (8) On 24 November 2004, the results of the European Union's project on environmental education, information and public awareness for the newly independent States were presented in the Aarhus Information and Training Centre. The project was completed in December 2004 and its main results, which took the form of handbooks for civil servants, the public and trainers, to be used to disseminate information about citizens' rights under the Aarhus Convention; the handbooks are used in the programmes of educational establishments and voluntary organization that conduct training courses. The equipment used to carry out the project was given to the Aarhus Information and Training Centre in order to enhance its technical capabilities;
- (9) The international symposium entitled "Environmental problems of the Black Sea" is held every year;
- (10) Every year, the Ministry takes part in the "Ecology" international exhibition and fair;
- (11) The exhibition of the Ministry of Environmental Protection is updated at the permanent exhibition in the Expocentre of Ukraine in pavilion No. 1 "Ukraine today";

(12) The Ministry organizes the nationwide competition entitled “To pure sources”, as well as various environmental events, such as “Environment Day”, “Clean air” and “Primroses”, which involved broad segments of the population in the practical implementation of environmental measures;

(13) The magazine “Nature in Ukraine” is published with information resources and funding from the Ministry of Environmental Protection;

(14) Meetings of the public councils attached to the Ministry of Environmental Protection and the State administrations for ecology and natural resources in the oblasts and in Kiev and Sevastopol are held on a regular basis to discuss topical environmental issues;

(15) Every year, with the support of the Ministry of Environmental Protection, conferences of the environmentally interested public, seminars and round tables are held, at which information on the environment is disseminated;

(16) There are reception centres for the public in the State administrations for ecology and natural resources in the oblasts and in Kiev and Sevastopol, and a reception centre for the public is being set up in the central administration of the Ministry of Environmental Protection;

(17) Hotlines operate at public reception centres.

(c) The rights of environmental protection associations, organizations and groups are protected by Act No. 2460-XII on Citizens’ Associations of 16 June 1992. Public councils operate in the Ministry of Environmental Protection and its State administrations for ecology and natural resources in the oblasts and in Kiev and Sevastopol; the regulations governing the councils have been approved in the relevant orders issued by these bodies. Cabinet of Ministers Decision No. 1378 of 15 October 2004 on questions relating to public participation in the formulation and implementation of State policy approved the regulations on the public council attached to the Cabinet of Ministers and the model regulations on public councils attached to central and local government bodies. The inspectorates of the Ministry of Environmental Protection and its territorial bodies form the institute of public inspectors. Public inspectors take part in monitoring the implementation of environmental legislation. There are specialized voluntary organizations that provide advice to the public concerning environmental legislation; these organizations include EkoPravo-Kiev, EkoPravo-Lvov and EkoPravo-Kharkov.

(d) Pursuant to Presidential Decree No. 1072/2000 of 14 September 2000 on the programme for integrating Ukraine into the European Union, the Ministry of Environmental Protection has been adapting Ukraine’s environmental legislation to the European Union’s legislation. Almost every bilateral agreement and international technical assistance project provides for public awareness campaigns and public participation in the implementation of the agreement or project.

With respect to the promotion of the principles of the Aarhus Convention internationally, Ukraine:

(1) Takes part in thematic international meetings;

- (2) Participates in the drafting of international documents and reports on the implementation of the Convention;
- (3) Amends its domestic legislation;
- (4) Sends its specialists for further training and participation in working groups to draft plans for the further application of the Convention;
- (5) Participates in international projects and conferences.

In accordance with the bilateral agreements initiated by Ukraine and the TACIS Programme, in March 2003, the Ukrainian-Danish project "Assistance to Ukraine on implementation of the Aarhus Convention", with financial support from Danish Cooperation for Environment in Eastern Europe (DANCEE), was completed by the Ministry of Environmental Protection. Moreover, on 17 December 2004, the project on environmental education, information and public awareness for the newly independent States (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine), which was financed by the European Union under the TACIS Programme, was completed. The Ministry's participation in these projects enabled it to:

- (1) Draft regulations on public participation in decision-making in environmental matters;
- (2) Hold public hearings on two draft regulations, including regulations on the procedure for providing environmental information;
- (3) Open the Aarhus Information and Training Centre in the Ministry's central administration and its State Environmental Institute;
- (4) Introduce manuals on the preparation and holding of training courses for civil servants and the public concerning the basic principles of the Aarhus Convention;
- (5) Disseminate throughout its system a handbook for civil servants on implementation of the provisions of the Aarhus Convention in Eastern Europe and the Caucasus, with the inclusion of positive examples.

Ukraine's participation in the the United Nations Environment Programme (UNEP) and the Global Environmental Facility (GEF) global project on the development of a national biosafety framework for Ukraine also contributes to the application of the Aarhus Convention in Ukraine.

The promotion of the principles of the Aarhus Convention at the international level has been facilitated by:

- (1) The holding of the Fifth Ministerial Conference "Environment for Europe" in Kiev from 21 to 23 May 2003 and, at the same time, the Fourth All-Ukrainian Conference of the Environmentally Interested Public;

(2) The holding of the First International Conference on Regional Environmental Problems on 18 and 19 November 2004 at the Yury Kondratyuk Poltava National Technical University with the participation of Poland, China and other countries;

(3) Participation of representatives of the Poltava Region Environmental Council "Kremenchug Christian Foundation" in the international forum "Children's Health", which was held in Budapest;

(4) Implementation of an international project to reduce water pollution in the village of Takhtaulovo in Poltava oblast, by representatives of the organization "Mama-86" together with German and Dutch voluntary environmental organizations;

(5) Involvement of voluntary organizations in working groups.

(e) Articles 9 and 36 of the Ukrainian Constitution guarantee the equal right of all citizens to join any citizens' association without restrictions on membership or non-membership of political parties or voluntary organizations. Citizens and members of their families may not be prosecuted for submitting communications to central government bodies, local self-government bodies, enterprises, institutions or organizations irrespective of form of ownership, citizens' associations or officials, when the relevant communication criticizes the actions or decisions of such bodies or persons.

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

Lack of a national coordinator for the Aarhus Convention in Ukraine, from the beginning of 2003 to 2005. Reorganization of the Ministry, transfer to and renovation of the new premises of the Ministry of Environmental Protection. Lack of a developed environmental information system as a subsystem of the State information system and of a State environmental monitoring system; high costs of media services.

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

The Ministry of Environmental Protection, as the national coordination centre for the application of the Aarhus Convention in Ukraine, has studied the measures taken to implement the Aarhus Convention in Ukraine and is planning in the near future to step up its activities in the following areas:

*International relations:*

Participate in the meeting of the Parties to the Aarhus Convention, to be held in Almaty from 22 to 27 May 2005, and prepare proposals on the further application of the Aarhus Convention in Ukraine for the meeting of the Parties to the Aarhus Convention.



*Domestic legislation:*

- (1) Draft an environmental information act;
- (2) Finalize, with interested government bodies, the regulations on creating the network of the nationwide automated environmental data-processing system;
- (3) Harmonize, together with the Ministry of Justice and the Supreme Court, Ukrainian legislation on the third section of the Aarhus Convention and develop accessible mechanisms that enable citizens to appeal to the courts when their environmental rights, and the rights of their associations, are violated;
- (4) Prepare draft amendments to Cabinet of Ministers Decision No. 1147 on the list of the basic types of activity that may be financed from environmental protection funds, with a view to financing public consultations, holding public hearings and involving the public in public environmental assessments and unannounced visits by public inspectors; prepare public proposals on draft concepts, strategies, programmes, legislation and environmental protection measures; public participation in the procedure for assessing the environmental impact of proposed activities;
- (5) Finalize the bill on amendments and additions to the Nature Preserve Fund Act, which provides for improvement of the procedure for creating and declaring territories and areas of the Nature Preserve Fund, taking due account of public proposals;
- (6) Prepare and discuss with the public the recommendations on a procedure for public participation in drafting reports on Ukraine's implementation of international conventions;
- (7) Develop a procedure for the participation of voluntary organizations in the creation of the nationwide network of the automated environmental data-processing system, and in the conduct of State environmental assessments, environmental audits and environmental monitoring;
- (8) Introduce amendments to the regulations on public environmental inspectors with a view to broadening their functions;
- (9) Draft, discuss with the public and approve the regulations on the Aarhus Information and Training Centre in the central administration, and model regulations on an Aarhus information centre in State administrations for ecology and natural resources in the oblasts and in Kiev and Sevastopol.

*Education:*

- (1) Conduct, together with voluntary environmental organizations, an information campaign to explain to the public the procedure for obtaining environmental information and for public participation in decision-making in environmental matters;

(2) Conduct training seminars for civil servants in interested government bodies responsible for environmental protection and the collection of environmental information (Ministry of Health, State committees on water and land resources, forestry, and others), and also for the public.

*Organization and administration:*

(1) Create an office for cooperation with the media and the public in the central administration, and departments for cooperation with the media in territorial and governmental administrative bodies in the system of the Ministry of Environmental Protection; approve their regulations and bring them up to strength by recruiting the necessary staff, with a view to enhancing opportunities for implementing the provisions of the Aarhus Convention;

(2) Complete training courses for moderators and administrators in the central administration, and for representatives of State administrations for ecology and natural resources in the oblasts, responsible for disseminating environmental information on the web portal of the Ministry of Environmental Protection;

(3) Organize a system of ongoing training seminars for civil servants of the central administration and territorial and government administrative bodies in the system of the Ministry of Environmental Protection, and also for the public, on the basis of the Aarhus Information and Training Centre of the Ministry of Environmental Protection, with a view to facilitating their fruitful cooperation in accordance with the requirements of the Aarhus Convention;

(4) Provide the necessary staff and office equipment for the Aarhus information and training centres and the Aarhus information centres in the system of the Ministry of Environmental Protection and for public reception rooms in the central administration of the Ministry of Environmental Protection and its territorial bodies; and provide them with individual telephone numbers in order to create a “green” telephone system;

(5) Prepare and set up in the Ministry’s foyer an information board with a schedule for the reception of citizens by the directors of the Ministry of Environmental Protection.

*Cooperation with the public:*

(1) Develop a State programme for cooperation between the Ministry of Environmental Protection and voluntary organizations, and delegate part of the Ministry’s educational activities to voluntary organizations that are members of the public council attached to the Ministry of Environmental Protection;

(2) Together with the public council attached to the Ministry of Environmental Protection, develop procedures for public participation in various types of consultations;

(3) Include an article in the budget of the Ministry of Environmental Protection for the holding of public consultations.

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

Web portal of the Cabinet of Ministers	<a href="http://www.kmu.gov.ua">http://www.kmu.gov.ua</a>
Web portal of the Ministry of Environmental Protection	<a href="http://www.menr.gov.ua">http://www.menr.gov.ua</a>
Council of Ministers of the Autonomous Republic of Crimea	<a href="http://www.crimea-portal.gov.ua">http://www.crimea-portal.gov.ua</a>
State administrations for ecology and natural resources:	
Vinnitsa	<a href="http://www.vstu.edu.ua/vineco/">http://www.vstu.edu.ua/vineco/</a>
Transcarpathia	<a href="http://www.ecores.uzhgorod.ua">http://www.ecores.uzhgorod.ua</a>
Kharkov	<a href="http://www.ecodepart.kharkov.ua">http://www.ecodepart.kharkov.ua</a>
Chernovtsy	<a href="http://www.ecology.cv.ua">http://www.ecology.cv.ua</a>

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

(a)

- (i) Ukraine has a number of regulations of a general nature that guarantee the right of citizens to submit communications: Presidential Decree No. 241 of 19 March 1997 on measures to guarantee the constitutional rights to submit communications; Presidential Decree No. 700 of 13 August 2002 on immediate measures to guarantee citizens' exercise of their rights to submit communications, and Presidential Decree No. 434/2004 of 14 April 2004 on immediate measures to organize the reception of citizens by governmental bodies. This norm is covered in paragraph 3.2 of the regulations on the procedure for providing environmental information, which states that "a request for the provision of environmental information does not have to contain the reasons for the applicant's interest ...";
- (ii) Paragraph 3.3 of the regulations on the procedure for providing environmental information stipulates that, "in replies to applicants' requests, adequate and reliable information shall be provided";
- (iii) Paragraph 3.4 of the regulations on the procedure for providing environmental information states that "governmental bodies and their local branches that have environmental information at their disposal, shall provide applicants with information in the form requested, when possible or, when the information is not available in the form requested, in another form with an explanation as to why the information is being provided in that form";

(b) Paragraph 3.5 of the regulations on the procedure for providing environmental information states that "environmental information shall be provided within the time limits established by the Information Act but no later than one month following receipt of the request,

unless the volume and complexity of the information justify an extension of this period up to two months after the request. When it is necessary to extend the time limit, the applicant must be notified accordingly within 10 days of receipt of the request”;

(c)

- (i) Article 37 of the Information Act provides for certain restrictions on information requests relating to official documents that contain confidential information or State secrets; information on the work of procuratorial bodies, the Ministry of Internal Affairs, the Security Service of Ukraine, bodies involved in initial inquiries and judicial bodies when disclosure of the requested information could adversely affect police operations, the investigation or initial inquiry or violate the human right to a just and fair trial, or endanger the life or health of any individual; information of a professional, business, industrial, banking, commercial or other nature received by their own means, or information that is the subject of their professional, business, industrial, banking, commercial or other interests, Cabinet of Ministers Decision on the list of information that does not constitute a commercial secret provides that “information on environmental pollution, on the manufacture of products that are harmful to health, on other violations of Ukrainian legislation, and on the extent of the damage caused” does not constitute a commercial secret. Article 21 of the State Statistics Act refers to the confidentiality of primary data that have not been pooled and the ban on the dissemination of such data, which might make it possible to identify a specific correspondent. Environmental information may not be provided to anonymous applicants or when there is no return address;
- (ii) Article 21, paragraph 1 (g), of the Environmental Protection Act states that the public may “appeal, in accordance with the legally established procedure, against a decision to refuse to provide environmental information, the unlawful rejection of a request or its incomplete fulfilment”.

(d) Article 7, paragraph (a), of the Information Act provides that, “if a question raised in a request does not fall within the competence of the body to which the request was sent, that body shall transmit the request through the proper channels to the relevant body or official within five days, and the citizen who made the request shall be notified accordingly”. Paragraph 3.7 of the regulations on the procedure for providing environmental information states that “if the State body, enterprise, institution or organization irrespective of form of ownership, citizens’ association or official does not have the requested environmental information, the relevant body shall proceed in accordance with article 33 of the Information Act;

(e) Ukrainian legislation does not contain such a provision;

(f) Article 33 of the Information Act establishes the time limit for considering a request for access to official documents, which must not exceed 10 calendar days, within which the applicant is informed whether or not the institution is able to satisfy his or her request. The

request is fulfilled within one or two months, depending on the complexity of the requested information. These measures are also covered in paragraphs 3.8 and 3.9 of the regulations on the procedure for providing environmental information;

(g) Articles 35 and 36 of the Information Act provide that, “at the applicant’s request, the owner of the documents has the right to make copies of the requested documents for an appropriate fee. The amount of the charge for the collection, location, preparation, creation and provision of the requested information shall not exceed the real expenditures involved in fulfilling the requests. No fees shall be charged for the search for official documents. Applicants must remunerate, in full or in part, expenses incurred in the fulfilment of requests for access to official documents and in the provision of written information”.

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

The main obstacles are related to the financing of information and organizational needs in the system of the Ministry of Environmental Protection.

**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?**

Every month and every quarter, information is prepared for the web portal of the Cabinet of Ministers on the number and content of letters that the Ministry of Environmental Protection receives from the public, and on the measures taken to address environmental problems that have been identified. Moreover, every quarter information is prepared for the administration of the President on the implementation of Cabinet of Ministers Decision No. 1302 of 29 August 2002 on measures to increase openness in the activities of government bodies pursuant to Presidential Decree No. 683/2002 of 1 August 2002 on additional measures to ensure openness in the activities of government bodies.

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

Web portal of the Cabinet of Ministers	<a href="http://www.kmu.gov.ua">http://www.kmu.gov.ua</a>
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**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) Paragraph 2.2 of the regulations on the procedure for providing environmental information states that “a specially authorized government body dealing with issues relating to Ukraine’s environment and natural resources, and its local branches, and other central government bodies that have environmental information at their disposal, shall, within the scope of their competence, ensure the creation and constant updating of

electronic databases of environmental information and shall provide the public with free access to them on the Internet”. In order to provide information for databases in Ukraine’s administrative oblasts, the Ministry of Ecology and Natural Resources, in its Order No. 392 of 30 October 2001, approved the procedure for cooperation in the field of information among monitoring agencies;

- (ii) Article 25, paragraph 1, of the Environmental Protection Act provides that “the main sources of environmental information are environmental monitoring data, inventories of natural resources, registers, automated databases, archives, and bulletins issued by authorized government bodies, local self-government bodies, voluntary organizations, individual civil servants and automated information systems”. Article 10, paragraph 1 (f), of this Act provides for the “creation and operation of the network of the State automated environmental data-processing system”. Supreme Council Decision No. 2169-IV of 4 November 2004 on public awareness of environmental issues, and of the Prime Minister’s instruction (unnumbered) of 17 November 2004 on Supreme Council Decision No. 2169-IV of 4 November 2004, provide for the drafting and approval of two sets of regulations: the regulations on the provision, on a quarterly basis, of information to the population through the media on facilities that are the biggest environmental polluters (10 and 100 facilities), and the regulations on the network of the State automated environmental data-processing system;
- (iii) Article 25, paragraph (d), of the Environmental Protection Act provides that “information on environmental emergencies must be provided immediately, within the time limits established by the Environmental Emergency Areas Act”. The State data-processing system for emergencies provides for the dissemination of information about emergencies, including emergencies with environmental consequences; in such cases, the provision of information to the public is compulsory. In order to provide information about emergencies that have transboundary effects, there is a system of stations that disseminate information to the public both in Ukraine and in adjacent countries. Cabinet of Ministers Decision No. 2303 of 16 December 1999 approved the programme for establishing a government data-processing system for emergency situations. Ministry of Health Order No. 189 of 3 August 2000 approved the regulations governing the provision of information in the functional subsystem of the Ministry of Health as part of the government data-processing system for emergency situations.

Article 8 of the Act on Protection of the Population and Territories against Man-made and Natural Emergencies of 8 June 2002 makes it mandatory for central and local government bodies to provide the population, through the media, with up-to-date and reliable information on the state of protection of the population and the territories against man-made and natural emergencies, on the outbreak of emergencies, and methods and means of protecting the

population and the territories and conducting measures to ensure their safety. Notification of the threat of man-made or natural emergencies and keeping the population constantly informed of such emergencies by various means.

(b) The procedure for the provision of environmental information is contained in the regulations on the procedure for providing environmental information. The web portal of the Ministry of Environmental Protection and the web pages of its territorial bodies have thematic headings that provide systematized environmental information. In 2003, Aarhus information centres began to open in the State administrations for ecology and natural resources in Donetsk, Vinnitsa, Zhitomir, Zarkarpatsky, Kiev, Kirovograd (on the basis of the Chizhevsky library), Odessa, Ternopol, Kharkov, Cherkasy and Chernovtsy oblasts, in Kiev and in the central administration of the Ministry of Environmental Protection. On 24 November 2004, the Aarhus Information and Training Centre, which was established on the basis of the Aarhus Information Centre created by Order No. 314 of the Ministry of Environmental Protection on 13 August 2004, was inaugurated in the Ministry of Environmental Protection;

(c) Paragraphs 2.2 and 2.3 of the regulations on the procedure for providing information state that “a specially authorized government body dealing with issues relating to Ukraine’s environment and natural resources, and its local branches, and other central government bodies that have environmental information at their disposal, shall, within the scope of their competence, ensure the creation and constant updating of electronic databases of environmental information and shall provide the public with free access to them on the Internet”. “With a view to creating conditions for the broad dissemination of environmental information, the specially authorized government body dealing with issues relating to Ukraine’s environment and natural resources, and its local branches, shall establish environmental information centres in the capital of Ukraine, in the Autonomous Republic of Crimea and in oblast centres.”;

(d) Article 25, paragraphs (a) and (b), of the Environmental Protection Act provides for the preparation, issuance and publication of national and oblast reports. Every year, the Ministry of Environmental Protection publishes a report on the state of the environment in Ukraine, and the Ministry’s territorial bodies prepare oblast reports, publish them in the regional press and issue them as separate publications. All reports are available in electronic form on the Ministry’s web portal;

(e) Press conferences are held for journalists, and the web portal of the Ministry of Environmental Protection has created several headings under which the aforementioned environmental information can be found;

(f) Article 48 of the Environmental Protection Act states that Ukraine promotes the rational use of natural resources and environmental protection by offering tax privileges to enterprises, institutions, organizations and citizens (when they undertake measures to ensure the rational use of natural resources and to protect the environment; when they switch over to low-waste and resource- and energy-saving technologies; when they organize production and introduce purifying equipment and waste recycling and disposal facilities; when they make use of devices to monitor the state of the environment and sources of emission and discharge of pollutants; and when they take other measures to improve protection of the environment) and through the granting, on preferential terms, of short- and long-term loans for the implementation of measures to ensure the rational use of natural resources and to protect the environment;

(g) Such information is published in the magazine “Nature in Ukraine” and in special environmental publications that are disseminated to the public at conferences, round tables, public hearings, exhibitions and meetings of public councils, and in the central and regional press. This information is also placed on the web portal of the Ministry of Environmental Protection and on the web pages of its territorial bodies;

(h) Article 3 of Act No. 771/97-VS of 23 December 1997 on the quality and safety of food products and edible raw materials, with the additions of 24 October 2002, refers to the “principle of State policy for ensuring the quality and safety of food products and edible raw materials, which provides for public support in the monitoring of food products”. In order to protect the population’s rights in the area of genetically modified products, on 12 September 2002, the Supreme Council of Ukraine approved Ukraine’s act of accession to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, and on 11 September 2003; [text missing]

(i) In Ukraine, statistics are kept on individual registers of emissions (discharges) in the form of generalized confidential information using three basic forms: 2-TP (water), 2-TP (air), form No. 1 (toxic waste: heavy metals, etc.). Relevant legislation includes Instruction No. 7 of 10 February 1995 specifies the content of, and procedure for preparing, reports containing inventories of industrial wastes, Cabinet of Ministers Decision No. 1655 of 13 December 2001 on approval of State record-keeping on the protection of the ambient air, Cabinet of Ministers Decision No. 1360 of 31 August 1998 on approval of the procedure for keeping a register of facilities that create, process and recycle waste, and Cabinet of Ministers Decision No. 1216 of 3 August 1998 on approval of the procedure for keeping a register of waste removal sites. Under the Ukrainian-Danish project “Assistance to Ukrainian government bodies in the management of contaminated areas”, a register of potentially contaminated areas in Dnepropetrovsk oblast, and a register of unauthorized dumping grounds in Sevastopol, are being kept. This information is collected by the National Centre on Hazardous Wastes of the Ministry of Environmental Protection. In 2005, Ukraine plans to create a unified database on emissions (discharges), which will include an electronic database accessible to the public, and to amend its legislation and regulatory acts. The oblast programme for environmental protection, the rational use of natural resources and an environmental policy that takes account of Poltava oblast’s regional priorities for the period up to 2010 (“Ecology-2010”) provides for the creation of a regional system of pollution inventories and registers. Ukraine has carried out a number of projects and established several working groups with a view to introducing the Pollutant Release and Transfer Register. In May 2003, the participants in the Fifth Ministerial Conference “Environment for Europe” adopted and signed a protocol on pollutant release and transfer registers. On the initiative of the United States Agency for International Development (USAID), a working group on the introduction of the Pollutant Release and Transfer Register in Ukraine was established. The working group concluded that Ukraine has the legislative basis for introducing a system for keeping a register of emissions (discharges) and transfer of pollutants; however, before Ukraine can adopt the international system of pollutant release and transfer registers, it must make changes in its method of statistical reporting, develop programme products and create a database network.



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

Lack of harmonization of existing legislative and regulatory acts; lack of a normative base for regulating payment for information services, lack of information units and insufficient staffing in the system of the Ministry of Environmental Protection.

**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?**

Every quarter, information on the implementation of Cabinet of Ministers Decision No. 1302 of 29 August 2002 on measures to increase openness in the activities of government bodies pursuant to Presidential Decree No. 683/2002 of 1 August 2002 on additional measures to ensure openness in the activities of government bodies is prepared for the administration of the President. Such information contains statistical data on the number of publications in the press of replies to the public's many enquiries both in the central administration of the Ministry of Environmental Protection and in its territorial and government administrative bodies.

**14. Give relevant web-site addresses, if available:**

Web portal of the Cabinet of Ministers	<a href="http://www.kmu.gov.ua">www.kmu.gov.ua</a>
Web portal of the Ministry of Environmental Protection	<a href="http://www.menr.gov.ua">www.menr.gov.ua</a>

**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)

(i) Paragraph 2.4 of the regulations on the procedure for providing environmental information provides that "a specially authorized government body dealing with issues relating to Ukraine's environment and natural resources, and its local branches, and other central government bodies, enterprises, institutions and organizations shall publish information in the media on plans to issue the relevant documents on the use of natural resources and also on environmental pollution, which shall be issued within the scope of their competence";

(ii) The State Environmental Inspectorate has drawn up a list of over 200 environmentally hazardous facilities; information on 10 of them will be provided in the media on a quarterly basis, and information on 100 facilities will be provided once a year.

(b) This is covered by paragraph 2.7 of the regulations on public participation in decision-making in environmental matters;

- (c) This is covered in paragraph 2.2 of the regulations on public participation in decision-making in environmental matters;
- (d) These measures are covered in paragraphs 2.5 and 2.6 of the regulations on public participation in decision-making in environmental matters;
- (e) No such measures have yet been taken.
- (f)
  - (i) These norms are contained in the decision-making procedure relating to facilities covered in the State Building Standards GSN A 22.1-2003 “Compilation and content of materials for environmental impact assessments in the design and construction of enterprises, buildings and structures”;
  - (ii) This norm is contained in the Environmental Assessment Act, the Land Use and Building Act and in paragraph 2.1 of the regulations on public participation in decision-making in environmental matters.
- (g) This norm is contained in paragraph 2.9 of the regulations on public participation in decision-making in environmental matters.
- (h) This norm is contained in paragraph 2.11 of the regulations on public participation in decision-making in environmental matters. On 28 August 2003, the State administration for ecology and natural resources in Vinnitsa oblast issued Order No. 22-OD on taking account of the recommendations of public hearings in work projects.
- (i) This norm is contained in paragraph 2.12 of the regulations on public participation in decision-making in environmental matters.
- (j) Cabinet of Ministers Decision No. 554 of 27 July 1995 on the list of activities and facilities that pose a heightened environmental risk provides for compulsory State assessments, which include the public. The procedures used for various types of activity are contained in the regulations on public participation in decision-making in environmental matters. The procedures used to take decisions on facilities are set out in the State Building Standards GSN A 22.1-2003 “Compilation and content of materials for environmental impact assessments in the design and construction of enterprises, buildings and structures.
- (k) Paragraph 1.4.4 of the regulations on public participation in decision-making in environmental matters provides for public involvement in the issuance of documents concerning the deliberate release of genetically modified organisms into the environment. The Ministry of Environmental Protection has drafted and submitted to the Cabinet of Ministers for consideration a bill on amendments to a number of legislative acts of Ukraine in connection with the adoption of the act on Ukraine’s accession to the Cartagena Biosafety Protocol to the Convention on Biological Diversity. Since April 2003, the Ministry of Environmental Protection has been carrying out the UNEP-GEF global project on the development of a national biosafety framework for Ukraine. As part of the project for developing a national biosafety framework, the National Coordination Committee was set up; the Committee comprises representatives of

the Supreme Council, interested ministries, research institutes of the National Academy of Ukraine, and the Ukrainian Academy of Agricultural Sciences, and voluntary organizations. Information on the results of the project can be found on the project's web site: [www.biosafety.kiev.ua](http://www.biosafety.kiev.ua).

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

Local self-government bodies are extremely closed, which hinders public participation at the initial stage of the decision-making procedure on specific types of activity at meetings of commissions of city councils or State administrations; this is particularly the case with commissions that deal with land issues and urban planning.

**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?**

No information available.

**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.**

This norm is contained in paragraph 1.4 of the regulations on public participation in decision-making in environmental matters.

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

Cabinet of Ministers Decision No. 1378 of 15 October 2004 on questions relating to ensuring public participation in the formulation and implementation of State policy sets out the procedure for holding public consultations on the formulation and implementation of State policy. The Secretariat of the Cabinet of Ministers has issued recommendations entitled "Public consultations. Directives, technologies, experience", which have been disseminated at public hearings; the Secretariat has begun the practice of involving voluntary organizations in public hearings on various issues.

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

The Government of Ukraine has begun to make extensive use of public hearings on various questions of State policy. However, the holding of such hearings has revealed a number of shortcomings, which must be taken into account in the future.

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

The public takes part in the preparation and discussion of concepts, programmes and local plans involving environmental activities, in the work of Supreme Council's visiting commissions, in parliamentary hearings, and in the preparation and discussion of draft legislation of the Cabinet of Ministers.

**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.**

These norms are covered in article 2, paragraphs 15 and 16, of the regulations on public participation in decision-making in environmental matters. Representatives of the public, including representatives from public councils attached to government bodies, take part in the consideration of important environmental issues. In Ukraine, the practice of including representatives of voluntary organizations in boards and advisory groups attached to commissions of deputies of oblast councils of people's deputies, has become widespread.

**25. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

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

Lack of financial mechanisms for organizing public participation and ensuring that maximum consideration is given to the public's proposals and comments. Restrictions in the list of basic types of activity that may be financed from State, oblast and local environmental protection funds.

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

The Ministry of Environmental Protection has experience in holding public meetings in accordance with the regulations on public participation in decision-making in environmental matters and the regulations on the procedure for providing environmental information, which were adopted on 12 October 2002 as part of the Ukrainian-Danish project "Assistance to Ukraine on implementation of the Aarhus Convention". The voluntary organization EkoPravo-Kiev was involved in the organizational process; the association placed the text of the draft regulations on its web site and studied the proposals and comments that it received from voluntary organizations.

**28. Give relevant web-sites, if available:****Article 9****29. List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.**

In 2001, the book *Sudebnaya zashchita ekologicheskikh prav zhitelei Ukrainy (Spravka dlya sudei)* [Judicial protection of the environmental rights of inhabitants of Ukraine (Information for judges)] was published in Ukraine. The book, which includes special procedures, was prepared as part of the project “Legal Initiative for Central and Eastern Europe” with assistance from the American Association of Lawyers.

**Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

(a)

- (i) Article 21, paragraph (f), of the Environmental Protection Act provides for the right of persons requesting environmental information to “appeal, in accordance with the legally established procedure, against a decision to refuse to provide environmental information, the unlawful rejection of a request or its incomplete fulfilment”;
- (ii) Article 35 of the Information Act provides that, in cases of refusal to provide a document or of delays in fulfilling a request, including a request for environmental information, the applicant has the right to lodge a complaint against the refusal or delay to higher authority (pre-judicial procedure). If the complaint is refused, the public has the right to appeal such refusal in a court of law (judicial procedure). The public itself decides to what authority to appeal to first;
- (iii) In accordance with the provisions of the Code of Civil Procedure and the Citizens’ Communications Act (regarding administrative complaints), decisions must be provided in written form. According to article 67 of the Code of Administrative Procedure, decisions and decrees are sent to the parties, the procurator who took part in the trial, and third persons. In accordance with article 216 of the Code of Administrative Procedure, the court shall send copies of decisions and decrees to parties and third persons involved in the case who did not actually attend the court hearing at which the case was considered.

(b) Article 4 of the Code of Administrative Procedure states that “any interested person has the right, in accordance with the legally established procedure, to appeal to a court for the protection of a violated or disputed right or a legally protected interest”. Paragraph 2 of this article states that any refusal of the right of recourse to a court is invalid. According to article 6 of the Judicial System of Ukraine Act, all subjects of legal relations are guaranteed the protection

of their rights, freedoms and legitimate interests by an independent and impartial court established in accordance with the law. Article 9 of the same Act states that no one may be restricted in the right to receive in a court of law oral or written information on the outcome of the consideration of his or her case.

(c) Article 55 of the Constitution of Ukraine establishes a judicial procedure - article 16 of the Citizens' Communications Act establishes an administrative procedure - appealing against decisions. The interested person independently decides which procedure to use. Article 21 of the Citizens' Communications Act stipulates that central government bodies, local self-government bodies, enterprises, institutions and organizations irrespective of form of ownership, citizens' associations, and officials shall consider citizens' communications (including complaints), free of charge. In such cases, the interested party may receive advice, including advice in writing, from the legal department of the State administration for ecology and natural resources.

(d) The appropriateness and effectiveness of the legal means of protecting violated rights, freedoms and legally protected interests is guaranteed in article 8 of the Constitution of Ukraine, which upholds the principle of supremacy of law. The Constitution of Ukraine has the highest force of law, and its norms have direct effect. Article 124 of the Constitution provides that justice in Ukraine is administered exclusively by the courts, whose jurisdiction applies to all legal relations that arise within the State; courts have jurisdiction over all cases involving the protection of citizens' rights and freedoms, including their environmental rights. A court may not dismiss an individual's claim or complaint solely on the grounds that his or her demands may be considered under a legally valid pre-judicial procedure.

(e) Article 35 of the Information Act provides that, in cases of refusal to provide a document or of delays in fulfilling a request, including a request for environmental information, the applicant has the right to lodge a complaint against the refusal or delay to a higher authority (the so-called "pre-judicial procedure"). If the complaint is refused, the public has the right to appeal such refusal to a court of law (the so-called "judicial procedure").

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

Absence of any efforts on the part of the judicial branch to harmonize domestic legislation with the Aarhus Convention.

**31. 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?**

In 2004, there was only one court case involving environmental protection: the lawsuit of the EkoPravo-Lvov charitable foundation against the Ministry of Environmental Protection concerning the declaration of the conclusions of the State environmental assessment by the Ministry of Environmental Resources entitled "Creation of a deepwater shipping canal between the Danube and the Black Sea in the Ukrainian sector of the delta", as null and void. The disputes that arose in that regard were settled in the courts in accordance with article 9 of the

Aarhus Convention. Under article 63 of the Code of Administrative Procedure, court fees consist of State duties and the costs involved in the consideration of the case. The judge or the court may, after considering a citizen's financial capacity, waive his or her payment of court fees to the State.

**32. Give relevant web-site address, if available:**

**33. 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 improvement of access to environmental information and public participation in decision-making under this Convention enhances the quality of decisions and their implementation, contributes to greater public awareness of environmental issues, gives the public an opportunity to voice its concern and enables government bodies to take due account of such concern.

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