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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

Slovenia^{*/}

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 was prepared by the Ministry of the Environment and Spatial Planning (MoE). In regard to content falling within the competence of other public authorities, the Agency for the Environment was consulted. The public was consulted through the publication of the report on the official website of the Ministry, which enabled comments to be submitted on the draft. During this period, only the Legal Information Centre of Non-governmental Organizations submitted comments. National legislation, comments on the legislation, the Internet, official sites and other literature were used in the preparation of the report.

^{*/} 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.

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).

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) In 2003, Slovenia adopted the Act on Public Access to Information (UL RS, št. 24/03) as a general act governing the procedure which ensures everyone free access to information of a public character held by State bodies, local governmental bodies, public agencies, public funds and other public law entities, holders of public powers and public service contractors. These documents are made publicly available on an annual basis by the Government. Furthermore, article 9 of the Act requires that each body appoint one or more officials competent for the transmission of information of a public character. With respect to the environment, article 110 of the Environmental Protection Act (UL RS, št. 41/04) sets out the obligation for national and municipal authorities, public agencies, public trust funds and other bodies governed by public law, holders of public powers and providers of public services, to facilitate access to environmental data for all interested parties when prescribed by law or regulations governing access of the public to publicly available information;

(b) Slovenia is in the process of adopting the National Programme on Environmental Protection, a general framework for the strategic orientation of environmental policy during a four-year period (2004 – 2008). This programme establishes as one of the priorities the promotion of education and environmental awareness with the aim of furthering general knowledge of environmental issues. The Strategy for the further development of the Slovenian public sector 2003 – 2005 represents a further basis for public participation. It stresses the importance of public participation in the adoption of legal acts and public sector instruments, and decisions of public authorities;

(c) The Environmental Protection Act represents the legal basis for the recognition of non-governmental organizations (NGOs) undertaking environmental protection activities in the public interest. The Act, which sets out detailed conditions and measures for recognition, is currently under adoption. Such NGOs will be given the right to act in administrative and judicial procedures without having to claim a legal interest, which is conferred upon them *ex lege*. The Nature Conservation Act contains the procedure for the recognition of associations performing nature conservation activities in the public interest. These associations are given the *ex lege* right to represent the interests of nature protection in all administrative and judicial procedures;

(d) Slovenia, as member of the European Union (EU), fully complies with the rules and procedures adopted at Community level on the promotion of the application of the Convention's principles in matters relating to the environment;

(e) It can be derived from the Constitution that nobody can be penalized or persecuted for exercising rights protected under the Convention.

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

Since the Act setting forth more detailed conditions and measures for the recognition of NGOs undertaking environmental protection activities in the public interest is still not in force, NGOs are not able to exercise the rights that are conferred upon them under the Environmental Protection Act. The Legal Information Centre of Non-governmental Organizations commented that this matter is not adequately regulated by the law, which requires in practice that respective NGOs take it up themselves (NGOs claim that the criteria on recognition found in the proposal of the act are too stringent).

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

The promotion of environmental education and awareness is undertaken through governmental co-financing of environmental NGOs and of different projects for the promotion of environmental protection that indirectly contribute to public environmental awareness. The comment made by the Legal Information Centre of Non-governmental Organizations states that a call for governmental co-financing of different projects for the promotion of environmental protection did not enable the application of projects on awareness by the public and NGOs under the Convention.

6. Give relevant web site addresses, if available:

www.sigov.si/mop

ARTICLE 4

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

(a) Article 13 of the Environmental Protection Act applies the principle of accessibility according to which environmental information shall be made public and every person have the right to access environmental information in accordance with the law. Furthermore, article 5 of the Act on Public Access to Information, applicable as a *lex generalis*, sets forth the free access principle which entitles applicants to have free access to information of a public character. Each applicant has, upon request, the right to acquire information from the relevant body for on-site consultation or by receiving a transcript, copy or electronic record;

(b) Article 24 of the Act on Public Access to Information provides that the competent body must decide on the applicant's request immediately, and at the latest within 20 working days from the receipt of the full request. In cases when the body requires more time for the transmission of the requested information due to the volume of the information, the deadline may not be extended for more than 30 working days;

(c) Exceptions to the disclosure of information are dealt with under article 6 of the Act on Public Access to Information, which fully transposes the requirements of the Convention. Exceptions relate to, for example:

- Information defined as classified for the purposes of public security, national security, confidentiality of international relations or intelligence and security activities of State bodies;
- Information classified as a business secret;
- Personal data;
- Information on natural value, etc.;

(d) Article 20 of the Act applies to the conduct of the body in cases where it does not hold the requested information. It must immediately, and at the latest within three working days, assign the request to the competent body for resolving the request in relation to its substance;

(e) Article 7 of the applies to partial disclosure of a document, which can be separated out without jeopardizing its confidentiality. The body must separate out such information from the document and refer the contents of the remaining document to the applicant;

(f) The Act provides that the decision must be made within 20 working days from the day of the receipt of the full request or, in exceptional circumstances, not more than 30 days. Pursuant to its article 27, the applicant has the right to appeal against the decision by which the body has refused the request. A person authorized to access information of a public character shall decide on the appeal. According to article 31, an administrative dispute may be initiated against the decision by the authorized person in accordance with the statute;

(g) According to article 34 of the Act, on-site consultation of the requested information shall be free of charge. The body may charge the applicant for costs relating to transmission of a transcript, copy or electronic record of the requested information.

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

The provisions of the Convention are fully transposed into national legislation.

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 substance of decisions are published on the official page of the person authorized to disclose information of a public character (www.dostopdoinformacij.si) and on the official page of the Agency for the Environment.

10. Give relevant web site addresses, if available:

www.dostopdoinformacij.si

http://www.arso.gov.si/o_agenciji/Informacije_javnega_zna~caja/porocilo_ZDIJZ_04.doc

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) Article 96 of the Environmental Protection Act obligates the State to carry out the monitoring of natural phenomena, the state of the environment and environmental pollution. Article 27 contains measures applicable to environmental accidents. An entity having caused an environmental accident has to immediately inform the authority responsible for disseminating information as designated under regulations on the protection against natural and other disasters;
- (b) Article 106 of the Act applies to the disclosure of environmental data to the public through an environmental report. In cooperation with other ministries, the MoE draws up a report on the environment at least every four years. Every other year, the Ministry prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and are available to the public;
- (c) Article 108 of the Act provides for the uploading of environmental data on the Internet in accordance with the Act on Public Access to Information. The Ministry makes available on the Internet environmental studies, reports, monitoring data or summaries of monitoring data and reports on environmental impacts, or a reference to the authority from which the reports may be obtained (article 108 of the Environmental Protection Act);
- (d) Article 106 of the Environmental Protection Act provides for the disclosure of environmental data to the public through environmental reports. In cooperation with other ministries, the MoE prepares a report on the environment at least every four years. Every other year, the Ministry prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and made available to the public;
- (e) Art. 10 Act on Public Access to Information obliges the competent body to make available *inter alia* on the Internet the consolidated texts of regulations relating to its field of work, under the State register of Internet regulations. The Environmental Protection Act provides for the availability of acts as mentioned under subparagraph (d);
- (f) Article 104 of the Environmental Protection Act compels the Ministry to maintain an environmental protection register containing the records of persons having environmental protection permits, records of providers of environmental public utility services and records of persons having authorizations or certificates for performing environmental protection activities;
- (g) Article 105 of the Environmental Protection Act requires the Ministry to ensure the establishment and management of an environmental information system on the performance of State tasks in the field of environmental protection, including the disclosure of environmental data to the public;
- (h) Article 32 of the Environmental Protection Act provides for a system of environmental management in order to promote more appropriate management and public information on the

impacts of activities on the environment. These organizations are also included in the environmental protection register;

(i) Article 109 of the Environmental Protection Act requires the Ministry to forward and exchange environmental data with competent EU authorities and organizations.

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

The provisions of the Convention are fully transposed into national legislation and the environmental information system is established, the only obstacle being that the data are not horizontally connected. This project is currently being undertaken by the Agency for the Environment.

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?

A public relation office has been established at the Ministry as a point of contact, and the Ministry maintains a website where all required information is available. In addition, it releases every month an information bulletin in English and Slovenian. A report on environmental indicators has been prepared in accordance with article 106 of the Environmental Protection Act. It comprises 51 environmental indicators which are further divided into nine different topics, such environmental substances (water, air), environmental problems (ozone layer, climate changes, waste treatment) and integrated indicators on sectoral policies (agriculture, tourism, energy).

14. Give relevant web site addresses, if available:

www.sigov.si/mop

http://eionet-si.arso.gov.si/kazalci/index_html?Sku_naziv=UVOD&tip_skup=1&Sku_id=12

ARTICLE 6

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

Procedures for public participation in decisions on specific activities are found in the Environmental Protection Act. Its article 58 provides that during the environmental impact assessment (EIA) procedure, the Ministry must make available to the public the application for the environmental permit, environmental impact report, written opinion on the revision carried out and the draft decision on the environmental permit, and allow the public to give its opinions and comments.

Article 65 provides that the Ministry informs the public that the environmental permit has been granted within 30 days from the adoption of the decision through a locally established method,

on the Internet and in one of the daily newspapers covering the whole territory. The announcement must include in particular:

- The content of the decision and the main conditions for the implementation of the planned activity, where specified;
- The main reasoning for the decision;
- The description of the most important measures for prevention, reduction or elimination of the adverse effects of the planned activity on the environment when the environmental permit is granted; and
- An indication of the opinions and comments by the public and the member State that have been considered;.

(e) Article 10 of Act on Public Access to Information regulates the availability of information on the Internet. Each body must make available the following information of a public character:

- Consolidated texts of regulations relating to its field of work, under the State register of Internet regulations;
- Programmes, strategies, opinions, studies, and other similar documents relating to its field of work;
- Proposals for regulations, programmes, strategies, and other similar documents relating to its field of work;
- All publications and tendering documentation in accordance with regulations governing public procurements;
- Information on administrative services;
- Other information of a public character.

Each body should facilitate, free of charge, access to information referred to in the preceding paragraph;

(f) Article 104 of the Environmental Protection Act concerns the establishment of environmental registers. Accordingly, the Ministry must keep and manage a register containing:

- Records of persons having an environmental protection permit under the Act;
- Records of providers of environmental public utility services;
- Records of persons having authorizations or certificates for performing environmental protection activities in accordance with the Act and regulations issued under it;

(g) Article 105 of the Environmental Protection Act concerns the environmental information system. In order to perform State tasks in the field of environmental protection, including the disclosure of environmental data to the public, the Ministry ensures the establishment and management of an environmental information system;

(h) Article 31 of the Act regulates the granting of eco-labels. In order to promote the production of products or provision of services that have a less detrimental impact on the environment throughout their life-cycle than other products of the same kind, and thus contribute to the efficient use of environmental components and a high level of environmental protection,

the Ministry can award eco-labels. Article 32 applies to a system of environmental management of organizations which aims to promote more appropriate environmental management and public information on the impacts of their activities on the environment. For this purpose, the Ministry can enable companies, traders, institutes and other organizations or parts or associations thereof to participate in the Community Eco-Management and Audit Scheme (EMAS);

(i) Article 105 of the Environmental Protection Act applies to an environmental information system. In order to perform State tasks in the field of environmental protection, including disclosing environmental data to the public, the Ministry must ensure the establishment and management of an environmental information system.

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

The provisions of the Convention are fully transposed into national legislation.

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

The public participates in these procedures, but no statistics are available on this topic.

18. Give relevant web site addresses, if available:

www.sigov.si/mop

www.arso.gov.si

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 following provisions of the Environmental Protection Act are applicable to the participation of the public during the preparation of plans and programmes related to the environment:

Article 37

During the procedure for the preparation of the national environmental action programme and operational environmental protection programmes, the Ministry must make the draft programmes available to the public for comment. Through a public announcement on the Internet and in one of the daily national newspapers, the Ministry must inform the public of the location of the programme and of the procedure for submitting comments. Access to the drafts and the

possibility to provide comments must cover a period of at least 30 days. The ministry shall consider the opinions and comments of the public and take them into account, as appropriate, in the drawing-up of the programmes. It must notify the public of the adoption of the programme on the Internet and in one of the daily national newspapers. Such notification must include the reasoning for the decisions adopted and information on public participation in the drawing-up of the programme.

Article 40

An integrated EIA is carried out for a plan or amendment to a plan adopted pursuant to the law by the competent authority of the State or municipality for the area of spatial planning, water management, forest management, hunting, fisheries, mining, agriculture, energy, industry, transport, waste and waste water management, drinking water supply, telecommunications and tourism, where such plan or amendment lays down or foresees an activity affecting the environment for which an EIA must be carried out or when it covers a special protection area under the regulations on nature conservation or such area is likely to be affected by the implementation of the plan. Pursuant to article 43, the public is involved when the environmental report for the EIA is determined to be appropriate and the developer of the plan must, within the adoption procedure, make the plan, environmental report and its revision available to the public during at least 30 days and ensure public discussion.

The developer of the plan publishes in one of the daily national newspapers, through a locally established method and on the Internet a public announcement indicating the place and time of the public display and discussion of the plan, and procedure for submitting comments. Where the developer is the competent authority of the municipality, the public announcement has to be published in a newspaper covering the territory of the municipality instead of the territory of the State.

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

The public participates in the process of preparation of legislation intended for the adoption of environmental policy (e.g. the National Programme on Environmental Protection), as well as in the preparation of legislation on spatial and sectoral plans for the management of natural resources.

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

The provisions of the Convention are fully transposed into national legislation.

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

23. Give relevant web site addresses, if available:

www.sigov.si/mop

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.

The public has the possibility to effectively participate in the preparation by the public authorities of executive regulations and other legally binding rules. On a regulatory basis, the MoE has an internal guidance document as an operational tool by which the public is given the opportunity to submit comments and remarks on generally applicable legally binding rules and other documents concerning environmental matters. It can also participate in public discussions that are announced in advance through the Ministry's electronic network and Bulletin. During the adoption process of secondary legislation, cooperation with different segments of interested members of the public (for example, the Chamber of Commerce and Chamber of Craftsmen) is also foreseen.

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

The lack of a legal right of the public to enforce these rights under the guidance document when it is not adequately complied with represents an obstacle to the implementation of article 8.

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

27. Give relevant web site addresses, if available:

www.sigov.si/mop

ARTICLE 9

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

Access to justice is fully regulated in matters concerning the refusal or dismissal of requests for the disclosure of environmental information. Article 27 of the Act on Public Access to Information regulates appellate proceedings. The applicant has the right to appeal against the decision by which the body refused the request, as well as against the order by which the body dismissed the request. A person authorized to access information of a public character decides on the appeal. This procedure is implemented in accordance with the provisions laid down in the Act governing general administrative procedure. Judicial protection is also guaranteed under article 31, which provides the opportunity to initiate an administrative dispute against the decision by the person authorized in accordance with the statute.

The Environmental Protection Act also applies to parties to a proceeding relating to the granting of an environmental permit. Permanent residents of the area affected by the environmental impacts of the project have a legitimate interest in line with the regulations on administrative procedure if the impacts cause a disproportionate environmental burden or danger for human health or if the person owns or possesses real estate, and thus are granted the status of accessory participants to the procedure. The public announcement relating to the environmental permit must include an invitation to all persons whose legitimate interests are affected by the planned activity and who have the status of accessory participant.

The status of accessory participant is held *ex lege* also by NGOs operating in the public interest in the environmental area which meet certain criteria set in article 152 of the Environmental Protection Act, and which have provided comments in the proceedings on the granting of the environmental permit.

Article 14 of the Environmental Protection Act applies to so-called *actio popularis*. In order to exercise the right to a healthy living environment, citizens may, as individuals or through societies, associations and organizations, file a request before a court to the effect that the entity responsible for an activity affecting the environment must cease the activity when it causes or would cause an excessive environmental burden or presents or would present a direct threat to human life or health, or that the entity responsible for such an activity be prohibited from initiating the activity when there is a strong probability that the activity would present such a threat. The Human Rights Ombudsman is also responsible for the protection of the right to a healthy living environment, in accordance with the law.

There is moreover a constitutional right to challenge the validity of legal acts before the Constitutional Court. The legal interest needed to file the complaint is granted to the person who can prove that the act could interfere with his or her rights and duties or property rights. Under this provision, the affected public may challenge environmental plans, programmes and other environmental acts and implementing acts. The Constitutional Court has already in previous case-law recognized the legal interest of an NGO in dealing with the spatial implementing acts.

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

The act which regulates in detail the granting of the status of an NGO operating in the public interest in the environmental area is still not in force. For this reason, environmental NGOs still cannot make use of the relevant provisions of the Environmental Protection Act (see above).

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?

Despite the general compatibility of the legislation with the third pillar of the Convention, further development and possibilities for strengthening the effective implementation of the Convention provisions shall be envisaged in parallel with regional and international developments.

31. Give relevant web site addresses, if available:

www.sigov.si/mop

www.dostopdoinformacij.si

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.

By ratifying the Convention, Slovenia has proved its commitment to the promotion of civil society and sustainable development, and to the better enforcement of environmental legislation in our country and in Europe. The review of the state of implementation of the Convention indicates that some areas of environmental protection are already regulated consistently with the Convention while others still need further implementation. It is hoped that ratification of the Convention will lead to efficient solutions and accelerate the adoption of implementing legislation, which, with further adaptations can be consistent with the *acquis communautaire* of the EU and broader systematization and effectiveness of existing solutions, means and programmes. The consequence of ratification should further enhance and improve the activity of NGOs and civil society, and develop democratic processes on the regional and international levels.