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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**

**Bulgaria**<sup>\*/</sup>

**Based on the reporting format annexed to decision I/8**

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

This report was prepared by the following experts of the Ministry of Environment and Water (MOEW): Nelly Ilieva, State Expert, "Strategy, EU Integration and International Cooperation" Directorate; Nataliya Pavlova, Junior Expert, "Strategy, EU Integration and International Cooperation" Directorate; Yana Mihaylova, Junior Expert, "Strategy, EU Integration and International Cooperation" Directorate; and Jacqueline Metodieva, Head of EIA/EA Department.

It was uploaded to the Ministry's website and made available for comments and proposals by the public for a period of 40 days. Non-governmental organizations (NGOs) working in the field of environmental protection were purposely informed about the availability of the draft report at the

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<sup>\*/</sup> 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.

Ministry's website and were asked for comments and proposals. Within the above-mentioned period, the webpage where the draft report was uploaded was viewed by 299 individual visitors, but no comments were received.

**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) Legislative measures: articles 15 and 16 of the Access to Public Information Act require the public authorities to publish certain public information and make it available to the public. Article 22 of the Environmental Protection Act provides for the Minister of Environment to prepare an annual state of environment report and present it to the Council of Ministers; under articles 24 and 25, every public authority is required to publish data from its information resources containing environmental information. According to article 31, national radio and TV operators are required to cooperate with the public authorities for the dissemination of environmental information.

Regulatory measures: Order N110/11.02.2003 of the MOEW establishes a catalogue of environmental data sources. Order N111/11.02.2003 determines the obligations of certain administrative structures to provide environmental information, which shall be included in the Catalogue of Environmental Data Sources;

(b) A memorandum of understanding between the MOEW and the Ministry of Education and Science has been signed.

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

The law does not contain explicit provisions for support to be granted to associations, groups or other organizations engaged in the field of environmental protection.

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

Special information centers, where the public can access the information it is interested in, have been established in both the MOEW and its regional bodies. Considerable information is already available at the Ministry's website, as well at those of its regional authorities. A "one-stop-shop" service to register the filed applications for access to information was established in the MOEW in 2000, which allowed for proper file management and compliance with applicable deadlines. The MOEW has also organized large nationwide environmental public awareness campaigns targeting various interest groups.

Within the framework of several projects under the Stability Pact for South Eastern Europe, guidelines have been developed and seminars have been held to familiarize various target groups with their rights deriving from the implementation of the Convention.

The Ministry has built a partnership with nongovernmental organizations on the principles of equality and transparency. Environmental NGOs take part in the decision-making process as members of advisory bodies to and working groups of the Ministry. At the earliest possible stage, the NGOs are provided with the opportunity to express their positions on legal acts, strategies, plans and programmes drafted by the Ministry concerning the environment and sustainable development.

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

<http://www.moew.government.bg>  
[http://nfp-bg.eionet.eu.int/cds\\_eng/main.htm](http://nfp-bg.eionet.eu.int/cds_eng/main.htm)

**ARTICLE 4**

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

There is no definition of “public authority” in the law which fully transposes the Convention’s definition.

The definition of “environmental information” is fully transposed in articles 18 and 19 of the Environmental Protection Act ([http://www2.moew.government.bg/index\\_e.htm](http://www2.moew.government.bg/index_e.htm)).

- (a)(i) According to article 17 of the Environmental Protection Act, anyone shall have the right of access to available information relating to the environment without having to prove a specific interest;
- (ii)-(iii) According to articles 26 and 27 of the Access to Public Information Act, access to public information shall be granted in the following forms: examination of the information in original or copied form, verbal explanation, or paper or electronic form. The bodies shall comply with the requested form of access to public information, with certain exceptions;
- (b) According to article 20, para. 2, of the Environmental Protection Act, information relating to the environment shall be provided within 14 days after the date on which the applicant was notified about the decision of the competent authority to provide access to the information requested. According to article 28, para. 1, of the Access to Public Information Act, each request for access to public information shall be considered within the shortest possible time, but not later than 14 days as of the date of registration;
- (c)(i) According to article 20, para. 1, of the Environmental Protection Act, access to information relating to the environment may be denied where the request is for:

- Classified information constituting a state secret or an official secret;
- Information constituting an industrial or commercial secret, designated as such by law;
- Intellectual property;
- Information constituting personal data, where the natural person concerned has not consented to the disclosure of the said information, and according to the requirements provided for in the Protection of Personal Data Act;
- Information which would adversely affect the interests of a third party which has supplied the information requested without that party being under or capable of being under a legal obligation to do so, and where that party does not consent to the release of the information; and
- Information that will adversely affect the environmental medium.

According to article 33 of the Access to Public Information Act, if the body does not hold the requested information and is not aware of its location, it shall notify the applicant accordingly within 14 days. According to article 29, para. 1, of the Act, where it is not clear what information is being requested or it is too broadly defined, the applicant shall be advised accordingly and shall be provided an opportunity to specify the requested information;

- (ii) According to article 20, para. 6, subsection 4, of the Environmental Protection Act, upon making a decision to refuse provision of any information covered under paragraph 1, the competent authority shall take into account the public interest served by disclosure of any such information. According to article 14, para. 2, subsection 3, of the Access to Public Information Act, the authorities shall be obliged to announce information, which has been collected, or come to their knowledge during the performance of their activities, where such information is, or could be, of interest to the public;

(d) According to article 32, para. 1, of the Access to Public Information Act, when the body does not hold the requested information, but is aware of its location, it shall re-send the application within 14 days as of receipt of the request and shall notify the applicant of the re-sending;

(e) According to article 20, para. 6, subsection 5, of the Environmental Protection Act, in case of restricted access, the available information relating to the environment shall be provided in the part therein as can possibly be separated out from the restricted information. According to article 37, para. 2, of the Access to Public Information Act, partial access may be granted to such parts of the information, access to which is not restricted;

(f) According to article 38 of the Access to Public Information Act, a decision refusing access to public information shall state the legal and factual grounds for the refusal under this act, the date of the decision and the procedure for its appeal. According to article 28, para. 2, of the Access to Public Information Act, the competent authorities, or persons explicitly authorized by them, shall decide on whether to grant or deny access to public information and shall notify in writing the applicant about the decision;

(g) According to article 20, para. 1, of the Access to Public Information Act, access to public information shall be free of charge. The expenses incurred for granting access to public information shall be recovered in accordance with tariffs determined by the Minister of Finance, and shall not exceed the actual costs incurred. A justification of the expenses shall be provided to the applicant upon request.

According to article 22 of the Access to Public Information Act, no additional expenses shall be charged for corrections and/or addendum to the granted public information in cases where the information is incorrect or incomplete and this has been requested by the applicant on stated grounds.

According to article 29 of the Environmental Protection Act, the charge made for provision of expressly processed information shall be negotiated in each particular case.

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

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

In the MOEW and its regional authorities, there is a very well organized access-to-information system that is subject to continuous development. It is regulated by three ministerial orders regarding the establishment of a register of access-to-information requests, a list of issued legal and administrative acts, and a request processing procedure. A “one-stop-shop” service has been introduced, whereby all access-to-information requests are filed and allocated for consideration.

Official statistics on filed requests for access to information has been kept at the MOEW headquarters since 24 June 2003, and the number of requests through 6 January 2005 is 146. Thirty-three of them were refused on three main grounds: the information was not available at the MOEW, therefore the request was transferred to the respective competent body; the requested information does not fall within the scope of the Access to Public Information Act; the requested information does not currently exist.

Specially designated officers in the Ministry and its bodies are responsible for providing access to information. Employees of the Ministry and its bodies have been trained in the application of the Convention at several seminars held for this purpose. A “Guide for Implementation of the Aarhus Convention” has been developed and uploaded to a special section of the Ministry’s website dedicated to the Convention.

In 2003, the Ministry was recognized for its work in the area of information provision, being distinguished by the NGO “Access to Information Program” as one of the public institutions providing very good access to the information it holds.

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

<http://www.moew.government.bg/>

## 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) According to article 24 of the Environmental Protection Act, each head of an administrative structure in the system of the executive branch of government shall on an annual basis publish data for the arrays and resources of processed environmental information;
- (ii) According to article 25, para. 1, of the Environmental Protection Act, the Minister of Environment and Water shall issue an order determining the description of the information arrays and resources;
- (iii) According to article 23 of the Environmental Protection Act, in the event of accidental or other pollution, where the limit values for pollutants discharge in the environment as established by a legislative act or an individual administrative act are exceeded, the polluters, as well as the persons responsible for observance of the limit values, shall be obliged to notify immediately the competent regional governors, mayors of the municipalities concerned, the relevant Regional Inspectorates of Environment and Water, the basin directorates, and the authorities of the State Agency for Civil Protection and, in case of change of the radiation level, the Nuclear Regulatory Agency as well. The competent authorities covered under paragraph 1 shall be obliged to notify immediately the Ministry of Health and the affected community about the occurrence of pollution in excess of the emission limit values, suggesting measures for protection of human health and of property;
- (b) According to article 15, para. 1, of the Access to Public Information Act, in order to achieve transparency of the administration's activities, and for the purpose of maximum facilitation of access to public information, every chief officer of an administrative structure within the system of the executive power shall publish on a regular basis up-to-date information containing:
- The description of his/her powers as well as data on the organizational structure, functions and responsibilities of the administration led by him/her;
  - A list of the acts issued within the scope of its powers;
  - The description of the data volumes and resources used by the respective administration;
  - The name, address, telephone number and working hours of the respective administration's office which is authorized to receive requests for access to public information.

According to article 24 of the Environmental Protection Act, each head of an administrative structure in the system of the executive branch of government shall on an annual basis publish data for the arrays and resources of processed environmental information.

According to article 25, para. 1, of the Environmental Protection Act, the Minister of Environment and Water shall issue an order determining the description of the information arrays and resources, when they contain environmental information;

(c) According to article 25, para. 3, of the Environmental Protection Act, the description of the information arrays shall be published on the Internet site of the Ministry of Environment and Water;

(d) According to article 22, para. 1, of the Environmental Protection Act, the Council of Ministers shall present annually to the National Assembly a report on the state of the environment, proposed by the Minister of Environment and Water who, after adoption of the report, shall publish it as an Annual State of Environment Report;

(e) According to article 19, para. 2, of the Environmental Protection Act, “information relating to the environment” shall mean “any information in written, visual, aural, electronic or other physical form regarding....., as well as the activities and/or measures, including administrative measures, international agreements, policies, legislation, plans and programmes impacting or capable of impacting the environmental media”.

According to article 25, para. 1, of the Environmental Protection Act, the Minister of Environment and Water shall issue an order determining the description of the information arrays and resources, where the said arrays and resources contain any information covered under article 19 of the Act;

(f) According to article 133, para. 1, of the Environmental Protection Act, a sustained improvement in the performance of the various organizations will be achieved by applying the National Eco-management and Audit Scheme, in terms of both environmental protection and provision of relevant information to the public and other parties concerned;

(g) According to article 22, para. 1, of the Environmental Protection Act, the Council of Ministers shall present annually to the National Assembly a report on the state of the environment, proposed by the Minister of Environment and Water who, after adoption of the report, shall publish it as an Annual State of Environment Report. In the report, facts and analyses, as well as information on the execution of the state functions in the environmental area, shall be published;

(h) According to article 137 of the Environmental Protection Act, the objective of the National Eco-label Award Scheme shall be to promote development, production, distribution and use of products which have the potential to reduce adverse environmental impacts in comparison to other products of the same product group. The National Eco-label Award Scheme shall be implemented by means of provision of accurate, non-misleading and scientifically based information to consumers on such products;

(i) According to article 130, para. 1, of the Environmental Protection Act, the Executive Environment Agency shall keep a public register of the results of emissions monitoring as provided for in the integrated permits. The data of the register shall be transmitted to the European Register of Noxious Substance Emissions.

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

**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?**

Transparency and efficient access to environmental information is ensured mainly through the websites of the public institutions, their information centers and their published reports, bulletins, and other specialized publications. This is part of the wider trend of providing available environmental information via electronic tools and this is one of the priorities of the MOEW.

As part of the European integration process, and in order to implement the international agreements to which Bulgaria is a Party, the MOEW is developing electronic public registers and databases relating to the environment.

The Executive Environment Agency, jointly with the MOEW, and with the technical assistance of the Austrian Environmental Agency, has developed a Catalogue of Environmental Data Sources.

The reports and bulletins published by the MOEW and the Executive Environment Agency are accessible via the Internet at: <http://nfp-bg.eionet.eu.int/ncesd/bul/bulletins.html>.

In addition to the Green Book, the Regional Inspectorates for Environment and Water have for the past few years published regional state of the environment reports, accessible both on paper and digitally.

Information on accidents and disasters is provided to the public by the Civil Protection Agency, the MOEW and the Executive Environment Agency.

All acts adopted by the National Assembly, as well as the regulations and decisions enacted by the Council of Ministers are published in the State Gazette. Digital versions of the full texts can be found in such legal databases as APIS, CIELA, DIGESTA, etc., maintained by various private companies. In the "European Integration" section of the Ministry's website the complete texts of the national environmental laws and regulations, harmonized with the European ones, are published. In this section, Bulgarian translations of the main EU legal acts in the field of environment are also published. There is also link to the European Commission's website, where the *environmental acquis* are published.

A "List of Conventions to which Bulgaria is a Party" is published in the "International Cooperation" section of the Ministry's website.

The main strategies, action plans and programs in the field of environment are published at the specially dedicated section, "Strategies and Programs" of the Ministry's website.

Main policy documents such as strategies, programmes and action plans can be found in the Ministry's information centre, as well as in the respective sector departments. There is a special section "Dialogue" on the Ministry's website, where important new draft laws, strategies, plans, and programmes are published for comments, and where respective policy implementation reports are also provided.



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

<http://www.moew.government.bg/>  
<http://nfp-bg.eionet.eu.int/ncesd/index.html>

**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) The list of activities enclosed as annex I to the Convention is entirely transposed in annex I to the Environmental Protection Act with the exception of paragraph 4 (g) which will be included in annex I with the amendments of the Act to be adopted by the end of 2005;
- (ii) Article 6, para. 1 (b), of the Convention is transposed with the provisions of article 93 of the Environmental Protection Act; and article 2 of the Regulation on the Conditions, Terms and Methods for Carrying Out Environmental Assessment of Plans and Programs (SG 57/2004) ([http://www2.moew.government.bg/index\\_e.htm](http://www2.moew.government.bg/index_e.htm));
- (b) Article 6, para. 2, of the Convention is transposed with the provisions of articles 87, 95 and 97 of the Environmental Protection Act; articles 19, 20, 21 and 22 of the Regulation on the Conditions, Terms and Methods for Carrying Out Environmental Assessment of Plans and Programs; and articles 9, 16 and 17 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessment of Investment Proposals for Construction, Activities and Technologies ([http://www2.moew.government.bg/index\\_e.htm](http://www2.moew.government.bg/index_e.htm));
- (c) Article 6, para. 8, of the Convention is transposed with the provisions of articles 87 and 99 of the Environmental Protection Act; article 18 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessment of Investment Proposals for Construction, Activities and Technologies; and article 26 of the Regulation on the Conditions, Terms and Methods for Carrying Out Environmental Assessment of Plans and Programs ([http://www2.moew.government.bg/index\\_e.htm](http://www2.moew.government.bg/index_e.htm));
- (d) Article 6, para. 9, of the Convention is transposed with the provisions of articles 88 and 99 of the Environmental Protection Act; and article 27 of the Regulation on the Conditions, Terms and Methods for Carrying Out Environmental Assessment of Plans and Programs ([http://www2.moew.government.bg/index\\_e.htm](http://www2.moew.government.bg/index_e.htm));
- (e) Article 6, para. 10, of the Convention is transposed with the provisions of Articles 85 and 93 of the Environmental Protection Act ([http://www2.moew.government.bg/index\\_e.htm](http://www2.moew.government.bg/index_e.htm));
- (f) This issue is still not regulated by law. A public discussion procedure and public participation in the decision-making process will be established with the adoption of the Law on Genetically Modified Organisms.

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

The legislation on environmental assessment has only been in force since 1 July 2004. Therefore, there is as yet no completed procedure on environmental assessment and insufficient practice to permit summarizing the difficulties with implementation of the legislation.

Regarding the procedure on environmental impact assessment (EIA), the media and the public concerned are involved in the entire decision-making process, from the initial announcement for an investment proposal (initiation of the process) to the announcement of the decision taken (conclusion of the process). The identification of the public concerned is, according to the legislation, an obligation borne by the investor. In some cases, it complicates the procedure when there are other persons who would like to participate in the consultations at a later stage of the process.

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

Summarized statistic data on the public participation in the decision-making process (i.e. the number of participants) is not available. An increase in activity by representatives of the local media can be identified in the EIA process, especially when private interests are concerned. Representatives of environmental NGOs are usually more active in cases involving large infrastructure projects or when nature protected areas are concerned.

Statistical information on the implementation of EIA and environmental assessment :

There is still no completed procedure regarding environmental assessment. For 1 July to 1 December 2004, nine determinations on defining the need for conducting an environmental assessment were issued by the MOEW; four of them required an environmental assessment. At the level of Regional Inspectorate for Environmental Protection and Waters, 23 determinations on defining the need for conducting an environmental assessment were issued; six of them required an environmental assessment. All legislative requirements will be followed regarding the public participation in the decision-making process.

Regarding the EIA procedure, the following decisions on the need for EIA have been issued in the system of the MOEW and Regional Inspectorate for Environmental Protection and Waters for the period 1 November 2003 to 30 October 2004:

The total number of the issued decisions is 41, which are distributed according to their characteristics and competent authority:

| MOEW/RIOW         |           | EIA Decisions |              |
|-------------------|-----------|---------------|--------------|
|                   |           | Approved      | Not approved |
| <b>MOEW</b>       | <b>13</b> | <b>12</b>     | <b>1</b>     |
| <b>RIOW</b>       |           |               |              |
| Blagoevgrad       | 2         | 2             | -            |
| Burgas            | 7         | 7             | -            |
| Varna             | 3         | 3             | -            |
| V. Turnovo        | 1         | -             | 1            |
| Vraza             | -         | -             | -            |
| Montana           | -         | -             | -            |
| Pazardjik         | 1         | 1             | -            |
| Pleven            | -         | -             | -            |
| Plovdiv           | 2         | 2             | -            |
| Ruse              | -         | -             | -            |
| Stara Zagora      | 2         | 2             | -            |
| Sofia             | 6         | 6             | -            |
| Smoljan           | 3         | 3             | -            |
| Haskovo           | -         | -             | -            |
| Shumen            | 1         | 1             | -            |
| <b>TOTAL RIOW</b> | <b>28</b> | <b>27</b>     | <b>1</b>     |

In total, 1671 decisions on defining the need for carrying out EIAs were issued during 2003, allocated by competent authority and type of decision, as follows:

| MOEW/RIOW         | Decisions on defining the need for carrying out EIAs |                  |                      |
|-------------------|--|------------------|----------------------|
|                   | Total  | To carry out EIA | Not to Carry out EIA |
| <b>MOEW</b>       | <b>16</b>  | <b>3</b>         | <b>13</b>            |
| <b>RIOW</b>       |  |                  |                      |
| Blagoevgrad       | 110  | 4                | 106                  |
| Burgas            | 329  | 2                | 327                  |
| Varna             | 107  | 4                | 103                  |
| V. Turnovo        | 78   | -                | 78                   |
| Vraza             | 32   | -                | 32                   |
| Montana           | 73   | -                | 73                   |
| Pazardjik         | 55   | 1                | 54                   |
| Pleven            | 68   | 5                | 63                   |
| Plovdiv           | 219  | -                | 219                  |
| Ruse              | 60   | -                | 60                   |
| Stara Zagora      | 165  | -                | 165                  |
| Sofia             | 126  | 19               | 107                  |
| Smoljan           | 73   | 7                | 66                   |
| Haskovo           | 108  | 1                | 107                  |
| Shumen            | 52   | 1                | 51                   |
| <b>Total RIOW</b> | <b>1655</b>  | <b>44</b>        | <b>1611</b>          |

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

<http://www.moew.government.bg/>  
<http://www.riosv-pd.hit.bg/>  
<http://www.riosv-vt.hit.bg/>  
<http://riosvmon.net-surf.net/>  
<http://riosvsz.dir.bg/>  
<http://www.rioswpz.hit.bg/>  
<http://www.vracakarst.com/riosv/>  
<http://riewpleven.hit.bg/>  
<http://www.riosv.icon.bg/>  
<http://www.riew-varna.org/>  
<http://riosvrs.hit.bg/>

**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.**

According to article 75, para. 3, of the Environmental Protection Act, the process of elaboration and public discussion of the National Environmental Strategy shall furthermore involve representatives of the research community and of non-governmental environmental and branch organizations.

The definition of the “public” is transposed in item 24 of the Supplementary Provisions of the EPA as one or more natural or juristic persons and the associations, organizations or groups thereof, established in accordance with the national legislation.

The definition of the “public concerned” is fully transposed in item 25 of the Supplementary Provisions of the Environmental Protection Act as the public referred to in item 24, which is affected or is likely to be affected, or which has an interest in the procedures for approval of plans, programmes, development proposals, and in the decision-making process on the issuance or updating of permits according to the procedure established by this Act, or in the conditions set in the permits.

The definition of “environmental information” is transposed in article 18 of the Environmental Protection Act as follows:

Information relating to the environment shall be:

1. Available primary information;
2. Available pre-processed information; and
3. Expressly processed information.

The definition is further transposed in article 19 of the Environmental Protection Act as follows:

“Information relating to the environment” shall mean any information in written, visual, aural, electronic or other physical form regarding:

1. The state of the environmental media as follows: ambient air, atmosphere, water, soil, bowels of the earth, landscape, natural sites, mineral diversity, biological diversity and the components therein and the interaction between them;

2. The factors as follows: natural and anthropogenic substances and processes; different types of waste and the locations therein; hazardous energy sources: noise, vibrations, radiation, as well as certain genetically modified organisms, as well as the activities and/or measures, including administrative measures, international agreements, policies, legislation, plans and programmes impacting or capable of impacting the environmental media;

3. The state of human health and safety, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in item 2;

4. Cultural and historical heritage sites, buildings and installations, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in Item 2;

5. Cost-benefit analysis and other economic analyses and assumptions used within the framework of the measures and activities referred to in Item 2;

6. Emissions, discharges and other harmful impacts on the environment.

According to article 21, paras. 1 and 2, of the Environmental Protection Act, “public authorities” are the competent authorities which are defined as follows:

- Central and local executive authorities that collect and hold information relating to the environment; and
- Bodies and organizations that dispose of resources of the consolidated national budget and that collect and hold information relating to the environment, with the exception of the legislative and judicial authorities.

According to the definition given in article 3, paras, 1 and 2, of the Access to Public Information Act, “public authority” means:

- The State and local authorities, which create and hold public information;
- Public authorities that differ from the pointed above authorities;
- Individuals and legal entities as far as only their activities financed with funds from the consolidated state budget are concerned;
- The mass media in regard of the transparency of their activity.

The requirement of article 3, para. 9, is set up as a main constitutional principle. Article 26, para. 1, of the Constitution states that: “The citizens of the Republic of Bulgaria, wherever they are, have all rights and obligations referred to in this Constitution. (2) The foreigners who are residents in Republic of Bulgaria have all rights and obligations referred to in this Constitution with the exception of those rights and obligations for which the Constitution and the Law require Bulgarian citizenship.”

According to the Access to Public Information Act (art. 4, para. 1), “Any citizen of the Republic of Bulgaria is entitled to access to public information subject to the conditions and the procedure set forth in this act, unless another act provides for a special procedure to seek, receive and impart such information; (2) Foreign citizens and individuals with no citizenship shall enjoy the

right under paragraph 1 in the Republic of Bulgaria; [and] (3) Legal entities shall also enjoy the right under paragraph 1.”

The Environmental Protection Act is a special legal act regarding the access to information under article 17. It states that “Anyone shall have the right of access to available information relating to the environment without having to prove a specific interest.”

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

An established practice of the MOEW is to provide for public access to all drafts of plans, programmes and strategies on the Ministry’s website at the earliest possible stage, allowing a deadline of 30 days for comments and proposals, as well as to organize public discussions.

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

There is still insufficient experience to do so.

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

A public discussion on the Draft National Environmental Strategy 2005-2014 was organized and many of the proposals made during the discussion have been incorporated. The draft Strategy has been also uploaded to the Ministry’s website for comments and proposals.

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

<http://www.moew.government.bg>

**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.**

With regard to the preparation by public authorities of legal rules that may have a significant effect on the environment, article 2, para. (a), of the Law on the Legislative Acts (SG 55/2003) provides for the following:

“Persons subject to obligations or restrictions deriving from a new legal act, shall be informed before its formal adoption. The notification shall be performed by sending the draft to such persons’ representative organizations, by publishing it in the mass media, on the Internet, or by announcing it in another appropriate manner. The parties concerned shall be given at least one month to submit comments and objections to the respective competent authority.”

**25. Describe any obstacles encountered in 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.**

The MOEW publishes on its website the drafts of the more important legal acts in order to provide the public with the opportunity to express recommendations, comments and suggestions. The participation of NGO representatives in the various working groups on draft law development can be pointed out as a good practice.

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

<http://www.moew.government.bg>

**ARTICLE 9**

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

- (a)(i) The basic piece of legislation relating to the access to information is the Access to Public Information Act. According to its articles 40 to 42, the decisions for provision or refusal of information can be challenged before court, the Supreme Administrative Court or the Regional Court, depending on the authority which has issued the decision. Chapter II of the Environmental Protection Act is applied to access to environmental information, but the procedure of the general Access to Public Information Act is applied. Therefore the legislation meets the requirements of the Convention and provides every person, who considers that his or her request for information has not been dealt with in accordance with the provisions of article 4 of the Convention, with the right to a review procedure before a court of law. The legislation also provides that only a judicial procedure is applicable, which guarantees the independence of the decision made, as well as that the respective decision shall be mandatory for the administrative body. The courts efficiently apply these provisions of the legislation and judicial practice is already established;
- (ii) According to the law, there is only a judicial review procedure for the decisions relating to access to information (Access to Public Information Act, art. 40, para.1). As it relates to an administrative decision, the file is submitted through the respective administrative authority, which has made the decision and therefore can reconsider its own decision. On the other hand, taxes are paid according to fixed tariffs established for all courts. As those cases are administrative cases, the respective taxes are relatively small;
- (iii) As there is only a judicial review procedure, the court decisions are binding on all public authorities and natural or legal persons. The court decisions on refusals of requests for information are binding also on all persons who have the obligation to provide access to public information and are determined in article 3 of the Access to Public Information Act. Moreover, factual and legal reasons for refusing access to

public information shall be stated in writing, according to article 28, para. 2, and article 34, para. 1, of the Act, as well as according to the rules on access to public information established by the MOEW;

(b) This issue is not explicitly regulated by law, but the members of the public concerned undoubtedly have the right to challenge any decision made by the administrative bodies. The Civil Proceedings Code provides a possibility for the legal persons to defend their rights and legal interests. The Code has a subsidiary application towards the administrative procedure and for matters that are not settled in this procedure, the members of the public can challenge the decisions of the administrative bodies.

On the one hand, the Constitution states the right to a clean environment, which provides the material grounds for anyone to participate in the judicial process (according to article 6) and to challenge before court the legality of any decision, act or omission. On the other hand, judicial practice shows that legal persons, including NGOs, which meet the criteria of the national legislation and are registered, are given the possibility to participate in the judicial process;

(c) Members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of the national law relating to the environment; this is provided by the Constitution, according to which everyone has the right to a healthy environment. This ensures the constitutional grounds for challenging all acts and omissions of public authorities and private persons relating to the environment.

On the other hand, chapter XI of the Environmental Protection Act provides for the civil liability of anyone who has caused environmental pollution or damage. Article 171 of the Environmental Protection Act explicitly provides the possibility for the affected parties to bring an action against the offender for cessation of the violation and for elimination of the consequences of the pollution occurred;

(d) The law provides a variety of options for the public to participate in the judicial process. There are provisions for the right to file administrative, civil or a criminal cases relating to environmental matters. Court decisions relating to the environment are mandatory to all administrative bodies, as well as to every natural or legal person. On the other hand, judicial procedures are slow, so other options for speeding up the process should be considered to settle environmental disputes. Unfortunately, the public itself does not seem to show a great interest in using the access to justice possibilities in the settling of environmental disputes. Seminars and projects have been organized and they will contribute in the future to raising public awareness on environmental cases. At present, the administrative and legal prerequisites for effective access to justice have been created;

(e) With regard to providing information for the review procedures, many activities have been carried out to raise public awareness of the Convention (e.g. publishing information on the MOEW's website, holding seminars for different target groups and publishing information materials). By all means, these will lead to public awareness of the possibilities for access to justice and the opportunities for the public to file law suits in cases relating to the environment. On the other hand, article 15 of Administrative Proceedings Act requires that the relevant terms



and competent body for review procedures shall be included in the decisions of the administrative bodies (which constitute an administrative act).

With regards to transparency of court decisions, judicial procedures are as a general principle public and everyone can be present in the courtroom. Apart from that, court decisions and reasonings are available to public. The Supreme Administrative Court has introduced the good practice of publishing its decisions and the protocols of sessions on its website. Some other courts – the courts of appeal and some of the regional and local courts, which have their own websites – have followed this practice.

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

The following problems in the judicial system can be mentioned:

- The judicial process requires more time and the procedures are slow. Sometimes the required timing for issuing a court decision is not complied with, which slows the process;
- Lack of awareness and interest among the magistrates in environmental matters and lack of sufficient capacity. Capacity building activities are required, such as the inclusion of environmental law in the curriculum of the Academy for Training of Magistrates;
- The need for environmental capacity building among legal professionals and the addition of environmental law classes to the curriculum;
- Insufficient public awareness; and
- The need for serious academic works and publications on this topic.

**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?**

No statistics are available.

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

MOEW (<http://www.moew.government.bg>).

Supreme Administrative Court (<http://www.sac.government.bg/>).

Supreme Judicial Council (<http://www.vss.justice.bg/>).

**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.**

There is no doubt that the ratification and implementation of the Convention contributes to the development of civil society. The ratification process itself and the preparation for the practical implementation of the Convention have already stimulated a series of legislative and institutional measures undertaken by the public authorities in order to ensure effective access to environmental information and public participation in the decision-making process.