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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**

**Denmark<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.**

To comply with United Nations rules on the length of documents, this edition is somewhat shorter than the full review of Danish legislation included in the draft report that was sent for hearing to a wide range of State and regional authorities, non-governmental organizations (NGOs), citizens and enterprises. The report was also made available on the Internet.

The full report in Danish, relevant hearing replies and the replies from the Ministry of the Environment (MIM) to these are available at [www.mst.dk](http://www.mst.dk).

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<sup>\*/</sup> This document was submitted late due to the fact that the report was received by the secretariat from the Party concerned after the deadline set out in decision I/8 and various first-time problems had to be overcome as this is the first reporting cycle under decision I/8 of the Meeting of the Parties. This was compounded by the fact that a considerable volume of other documentation being prepared for the second meeting of the Parties had to be processed during the same period.

**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) A fundamental principle of the administrative process is that, as far as possible and without having to fulfil special requirements, an individual should be able to refer to administrative authorities regarding a case. The administrative authorities ensure that the individual receives the legal status provided for in legislation.

The Public Administration Act contains a number of general regulations regarding the administrative process that afford citizens with various rights and authority in connection with the treatment by the administration of a matter for decision.

The Act on Public Access to Documents in Administrative Files (Access to Documents Act) contains the general regulations concerning the obligations of an administrative authority to allow access to documents received or prepared by it as part of its administrative case processing. The Act applies to anyone who requests access to specific documents or documents in particular cases. The authority is not precluded from allowing greater access than that stipulated in legislation, unless otherwise provided for in regulations on the duty of confidentiality, etc.

The Act on Access to Information Relating to the Environment (Environmental Information Act) supplements the Public Administration Act and the Access to Documents Act with regard to information on the environment.

The legal principle of good administrative practice is a generic concept for overall ethics-based principles regarding the behaviour of authorities towards citizens. The principle is primarily used by the Ombudsman as a basis for assessing how the authorities process cases.

According to the legislation, an administrative authority must provide all guidance and assistance necessary to people who refer enquiries within the auspices of the authority. If an administrative authority receives a written enquiry that is not within its area of responsibility, as far as possible the enquiry must be forwarded to the correct authority.

The authority has a duty to prepare guidance on appeals for administrative adjudication if a decision is open to appeal. Guidance on appeals must state the body of appeal and provide information on how appeals are to be submitted, including any time limits. Decisions that may be brought before the courts under due observance of a statutory time limit for the proceedings of the case must be accompanied by information thereon;

(b) The MIM is constantly working to ensure citizens' access to information on environmental issues in a large number of areas, for example on its websites. Printed material is issued when considered appropriate in order to reach the relevant target groups for a given environmental topic. Furthermore, the Ministry has provided the opportunity to take part in the decision-making process by sending bills, proposed statutory orders, guidelines, plans and programmes for hearing to a large cross section of interested parties, as well as making proposals available on the Internet.

The website of the Danish Environmental Protection Agency (EPA) ([www.mst.dk](http://www.mst.dk)) contains separate information on the environmental rights arising from the Convention. Following its implementation in 2001, an information campaign, "Set environmental decisions in motion", was completed.

The MIM is making active contributions to the EMU portal, which provides information for the educational sector on including environmental issues in teaching. In 2003 and 2004, the MIM was responsible for the "Ren Uge" (clean week) campaign in which 5th grade pupils (12-year-olds) worked with waste issues.

The Danish Forest and Nature Agency and the Danish Outdoor Council jointly administer the Nature Guide Scheme with about 300 nature guides, who promote knowledge and understanding of nature and the environment. Each year, approximately 25,000 activities for a total of 850,000 participants are carried out.

The Forest and Nature Agency is also developing teaching materials on biodiversity for the Folkeskole (the Danish Primary and Lower Secondary School);

(c) The Act of Constitution ensures freedom of association. A wide range of environmental legislation gives environmental organizations the right of appeal and the right to be admitted as parties to hearings. Furthermore, they are frequently invited to take part in relevant committees and working groups. Environmental organizations may also apply for subsidies to carry out specific projects within the framework of the existing subsidy schemes;

(d) Denmark promoted these principles in negotiations at the 2002 World Summit on Sustainable Development in Johannesburg and strives to ensure the broadest possible application of the principles globally and regionally;

(e) The Act of Constitution establishes citizens' rights of freedom of speech, freedom of association and the right to challenge in court decisions by the administrative authorities. The European Convention on Human Rights also offers protection of citizens' fundamental rights and freedoms. National legislation provides positive statements of the situations in which a citizen may be subject to legal proceedings or prosecution. The law does not allow for the institution of legal proceedings etc., as mentioned in article 3, para. 8, of the Convention.

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

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

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

**ARTICLE 4**

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

Public authorities

In accordance with section 1 of the Access to Documents Act, public authorities and bodies, including natural and legal persons with public responsibilities, or which carry out public functions or services, in relation to the environment, and which are subject to public supervision are covered by the duties to notify access to environmental information.

Environmental information

All information in written, visual, or aural form, electronic or in any other form, and which relates to:

- 1) The state of the environment in the individual environmental elements, i.e. air and the atmosphere, water, soil, landscapes and natural sites, biological diversity and its components, including genetically modified organisms and the interactions between these elements,
- 2) Factors such as substances, energy, noise, and radioactivity etc. as well as activities or measures, including public measures, environmental agreements, policies, legislation, plans and programmes which affect or could affect the individual environmental elements mentioned under 1), as well as profitability calculations and other financial analyses and assumptions applied in connection with decision-making processes in the environmental area, and
- 3) The state of human health and safety, living conditions, cultural aspects, and building structures, if they are or could be affected by the state of the individual environmental elements or through these elements by factors, activities, or measures mentioned under 2).

Compliance with article 3, para. 9, of the Convention

*Everyone* is afforded the rights guaranteed under the Act.

- (a)(i) There are no requirements in the legislation regarding requests for environmental information;
- (ii)-(iii) Administrative practice is deemed *de facto* to comply with the Convention. A current bill provides that the authorities should supply environmental information in the form or format requested by the applicant, including in electronic form, unless the information is already available in another form which is readily accessible to the relevant person, or it is reasonable to make the information available in another form or format;

(b) Matters regarding access to environmental information must be addressed no later than one month after the receipt of a request or, if the complex nature and scope of the matter so justify, no later than two months after receipt;

- (c)(i) Practice is in accordance with article 4, para. 3 (a), of the Convention. Requests for access to documents must conform to certain criteria under the law. The duty to provide guidance pursuant to the Public Administration Act entails that the authorities must assist applicants in meeting these criteria;
- (ii) The balance between, on the one hand, the interests of the public to have specific environmental information, and on the other, the need to keep certain information confidential is expressed in a number of regulations containing provisions on exemptions from the Access to Documents Act and the Public Administration Act.

A specific assessment is made of the individual case, as the authorities have an obligation to assess whether, in accordance with the principle of public transparency, access to documents should be applied to information which, according to the Access to Documents Act, is exempt from disclosure.

By far the majority of actual exemptions under the regulations are in complete accordance with the Convention, and the Access to Documents Act goes further than the Convention in some cases. The Environmental Information Act provides that certain provisions in the Access to Documents Act do not apply to environmental information.

Information included in public statistics or scientific studies can be exempted from disclosure if such exemptions follows from other exemptions in the Access to Documents Act which are in accordance with the Convention. The exemption in the Access to Documents Act providing that information collected as part of public statistics and scientific studies is not subject to disclosure cannot therefore be applied to environmental information.

According to the Convention, information for use in public statistics and scientific studies can be exempted from disclosure, provided the information originates from a third party who was not, or could not be made, subject to an obligation to disclose the information. This possibility is included in the Environmental Information Act.

The right of access to documents does not include technical designs or approaches, or operational or business conditions or similar ones to the extent that they are of financial significance for the person or enterprise referred to in the information. The counterpart to this regulation is article 4, para. 4 (d), which contains a special regulation for information on emissions whereby the exemption regarding corporate secrets cannot be applied to information on emissions that is relevant for environmental protection. Information on emissions to the surrounding area can only be exempted under the Access to Documents Act when there is specific documentation that disclosure would lead to significant financial damage to the

enterprise *and* the regulations of the Convention provide for the possibility to exempt the information.

Only if the disclosure of information on intellectual property rights will lead to significant financial damage to the enterprise and is covered by article 4, para. 4 (e), of the Convention, can the information be exempted from disclosure.

The Access to Documents Act includes the possibility to limit the right of access to documents following a specific assessment due to concerns of public sector control, regulation and planning activities; the economic interests of the public sector; and private and public sector interests where the particular nature of the case requires that they be kept confidential. The Access to Documents Act states that, if these concerns apply for a part of a document, the rest of the document must be made available to the applicant. Environmental information can only be exempted according to the Access to Documents Act to the extent that this will not conflict with the provisions of article 4;

(d) The Environmental Information Act states that if a request is not made to the correct authority or body, the applicant shall be notified as quickly as possible of the correct authority, or the request must be forwarded to the correct authority and the applicant notified hereof;

(e) The Access to Documents Act lays down a duty to grant access to the following documents that are exempted from disclosure with respect to information on actual circumstances with material significance for the circumstances of a case:

- Documents prepared by an authority for its own use;
- Correspondence between different units within the same authority;
- Correspondence between a municipal council and its committees, departments and other bodies or mutually between these bodies;
- Council of State minutes, minutes of meetings between ministers and documents prepared by an authority for use at such meetings;
- Correspondence between Ministries on legislation, including appropriation acts;
- Documents exchanged in connection with an authority performing secretarial tasks for another authority;
- Correspondence between authorities and experts for use in court cases or in considerations on whether legal proceedings should be instigated.

The Access to Documents Act states that the person requesting access to documents should be informed about the other contents of a document if only part of a document covers:

- Private, including financial, information about an individual;
- Technical designs or approaches, or operational or business conditions or similar to the extent that it is of financial significance for the person or enterprise referred to in the information that the request is not granted.

The Access to Documents Act states that the person requesting access to documents should be informed of the other contents of a document if the following concerns are only relevant for part of the document:

- National security or the defence of the State;
- National foreign policy or foreign economic interests, including the relationship with foreign powers or international institutions;
- Prevention, clarification and prosecution of breaches of the law, execution of penalties and similar, or protection of the accused, witnesses or others in criminal or disciplinary prosecutions;
- Performance of public control, regulation or planning activities, or intended measures pursuant to tax legislation;
- Public economic interests, including performance of public-sector business; or
- Private and public interests, where the special nature of the conditions requires that they be kept confidential.

Criminal procedures, as well as legislation until it has been presented as a bill to Parliament, are exempt from the regulations on access to documents;

(f) The Environmental Information Act states that matters regarding access to information must be addressed no later than one month after receipt of a request or, if the complex nature and scope of the matter so justify, no later than two months after receipt. Refusals of requests must state reasons, must be accompanied by advice on appeals and must be in writing if the request was in writing or if the applicant so requested;

(g) The Environmental Information Act states that payment for transcripts and copies of environmental information in written documents is due in accordance with the regulations pursuant to the Access to Public Administration Files Act, and with respect to the parties to a case, in accordance with the Public Administration Act.

The Access to Documents Act and the Environmental Information Act only give the authority to levy charges for the supply of transcripts and copies of documents and not for access to registers of authorities or environmental information, irrespective of whether they are inspected on-site or electronically.

There are various Statutory Orders on payment for transcripts or copies in connection with access to information. Charges amount either to DKr 10 (€1.34) for the first copy and DKr 1 (€0.13) per copy thereafter, or to the actual cost of making the copies. The court fee for transcripts, including transcripts of judgements, is of DKr 175 (€20), pursuant to the Environmental Information Act.

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

**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?**

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

**ARTICLE 5**

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

- (a)(i) The authorities have a duty to establish a complete, factual and legal foundation for cases before a decision is made (inquisitorial procedure), and to file all case documents;
- (ii) A number of administrative regulations ensure that extensive environmental information is provided as the basis for an application. This applies for example to regulations on the environmental approval of listed activities and installations, and to regulations on environmental impact assessment (EIA).

Furthermore, the authorities may lay down notification schemes for special sectors in order to keep track of the production and pollution levels of enterprises.

The Nature Protection Act sets forth general provisions on the protection of natural habitats in the form of bans on changes in status. In order to ensure that the authorities also become aware of other activities which do not require prior permission or similar, but which are deemed to be projects in the context of the Habitats Directive and which could significantly impact on an internationally-recognized nature protection area, a notification scheme has been included in the Act.

The Environmental Protection Act provides that regulations must be adopted for the location and operation of listed activities and installations, including provisions on self-monitoring. The regulations apply to those activities under the Convention that are covered by the supervisory regulations of the Environmental Protection Act. It is ensured that the authority can collect the necessary information of significance to a pollution assessment and any remedial or preventive measures.

The Environmental Protection Act lays down that the listed activities and installations must periodically prepare green accounts with information on their environmental impacts. The Statutory Order on Waste contains regulations on an information system for waste and recycling. The Water Supply Act and the Marine Environment Act contain similar regulations.

According to the Mineral Resources Act, the party carrying out extraction of mineral resources must provide detailed information on these activities to the authorities. The Electricity Supply Act, Heat Supply Act, Natural Gas Act, Danish Subsurface Act and Continental Shelf Act all contain supervisory schemes for compliance with legislation under which the authorities can request information, and which provide for a notification duty;



- (iii) A number of enterprises with particularly hazardous activities must develop emergency preparedness plans in order to prevent serious accidents, which must be reported to the relevant authorities. The Emergency Management Act states that emergency preparedness should prevent, limit and remedy injury to people and damage to property and the environment in the event of accidents and disasters, including acts of war or the immediate threat thereof. The authorities must prepare an overall emergency preparedness plan, and they can impose a duty on the public, enterprises and authorities to provide the information necessary for its preparation.

The environmental authorities provide advice to enterprises within the scope of the Environmental Protection Act, and process matters relating to the risk of pollution of the external environment in the event of an accident.

The Working Environment Authority provides advice within its area and processes matters regarding the design of the workplace, performance of work, technical equipment, substances and materials. The fire authorities advise on their area and process matters regarding fire hazards.

The police prepare external emergency preparedness plans and coordinate plans by the various authorities for their own initiatives. They ensure that people who may be affected by an accident are notified of the safety measures and of actions they should adopt.

The authorities must mutually notify each other of matters of significance.

The Environmental Protection Act contains a duty for owners and users of real estate to inform the inspection authority immediately if they cause or ascertain pollution of the property's soil or subsurface. The person responsible for plant and equipment that can cause pollution must inform the inspection authorities immediately of breakdowns or accidents that may lead to significant pollution or risk thereof. According to the Statutory Order on Reporting pursuant to the Protection of the Marine Environment Act, the master of a ship or the head of a marine installation must notify the relevant authorities immediately in the event of discharges or risk of discharges from the ship to the sea.

With respect to the "active duty to inform", it is assumed that the authorities have the non-statutory duty to notify without delay the relevant members of the public of dangers in the event of accidents or disasters, so that the public is able to take the necessary action.

In 2001, the Danish Emergency Management Agency issued a nationwide nuclear disaster recovery plan, which lays down the organization and measures of the emergency services to be initiated to protect the public in the event of an accident at a nuclear plant. One of the primary goals of the plan is to inform the public and the relevant authorities of how they should act in relation to radiation hazards.

According to the Emergency Management Act, the individual ministries must in their respective areas of competence plan for the maintenance and continuation of social

functions in the event of accidents and disasters, including acts of war, and for providing support to the defence forces.

Regulations are being prepared on the dissemination of environmental information;

(b) The authorities have a duty to assist citizens by providing information on the type of environmental documents each authority is in possession of.

Frontlinien, the MIM's main information centre, replies to queries within the areas of responsibility of the Ministry. Its website ([www.frontlinien.dk](http://www.frontlinien.dk)) contains a virtual bookshop, where the Ministry's printed publications can be ordered and all electronic publications downloaded free of charge. The MIM has published over 3,000 electronically-available reports and booklets. Several publications also provide comprehensive and user-friendly advice regarding access to documents and environmental information.

Each authority has the duty to use filing and archive systems which, as a minimum, provide an overview of incoming cases and existing documents so that the person requesting access to documents in a given case can have the assurance that all relevant documents are made available.

In accordance with the Access to Documents Act, the right of access to documents includes entries in journals, registers and other lists of relevant documents. This right also applies to lists using electronic data processing.

The State's official on-line legal information system, Retsinformation ([www.retsinfo.dk](http://www.retsinfo.dk)), contains all legislation, including environmental one. Frontlinien advises the public, enterprises and others on how to use the database.

The Environmental Information Act provides that anyone has a right to environmental information, subject to the conditions and exceptions found in the Access to Documents Act and Public Administration Act;

(c) The MIM has a comprehensive website ([www.mim.dk](http://www.mim.dk)), where it is possible to retrieve a range of environmental information.

As a result of a governmental decision, new publications issued by the ministries and agencies have since 1997 been made public electronically in parallel with a printed version. The website also contains environmental data, including databases and specific data that are processed and presented in electronic publications. Information regarding environmental data is available on the MIM's database list (in English at <http://www.mst.dk/miljdata/Info/eng-mereinfo.html>).

All bills are presented on the MIM's website at the same time as they are sent to hearing. Information regarding acts which are being processed by Parliament is also available, including their stage in the Parliamentary procedure, minutes, etc.

The MIM's website also includes adopted strategies, programmes and political objectives, issued publications, guidelines, technical reports, annual reports and newsletters;

(d) The Planning Act lays down that the Minister of the Environment must issue one or more reports no less than every four years on the state of the environment and on nature and environmental policy, with the involvement of the relevant national environmental, industrial, labour market and consumer organizations. The report on the state of the environment and the National Strategy for Sustainable Development are published, and cover all environmental fields.

The Ministry also publishes a popular report of environmental indicators, providing the public with easy-to-access information on developments in the state of the environment. The report, as well as public replies to hearings in connection with its preparation, are available on the National Environmental Research Institute's website ([www.dmu.dk](http://www.dmu.dk));

(e) Retsinformation contains all regulations, and the MIM issues many environmental publications, as mentioned above, which are available on the Internet. Frontlinien provides information on the environment in Denmark. Furthermore, the MIM carries out general information activities which take place through the dissemination on its website of international contracts, conventions and environmental agreements, as well as other important international environmental documents;

(f) Under the Environmental Protection Act, there is a duty to provide information on certain heavily polluting enterprises through green accounts. Other enterprises are able to publish voluntary green accounts.

Enterprises can attest through product labelling that a product meets specific environmental quality requirements (e.g. the Nordic, Swan, EU and Flower ecolabels).

In accordance with the Trade and Industry Development Act, the Danish Safety Technology Authority or an agency authorized by the Authority may lay down regulations on accreditation of laboratories for testing and calibration as well as of enterprises for certification, inspection, attestation and environmental verification. Authorization has been used to issue the Statutory Order on accreditation of enterprises to certify persons, products and systems, as well as for inspection and environmental verification (Eco-Management and Audit Scheme (EMAS)). In accordance with the Environmental Protection Act, a Statutory Order has been issued on voluntary participation by organizations in EMAS;

(g) Analyses of initiatives for bills and action plans or strategies for environmental policy must be carried out. For example, this applies to the presentation of bills and other governmental proposals for which a strategic environmental impact assessment (SEA) is carried out. The assessment is published at the same time as the proposal is presented.

The MIM's website contains organizational charts of individual authorities and their responsibilities. At a decentralized level, similar websites for counties and municipalities exist;

(h) The website of the EPA includes a full catalogue of approved and banned pesticides. The list of banned substances covers active substances which cannot be used in pesticides or groups of pesticides in Denmark.

The administration of the Flower and Swan ecolabels is headed by an ecolabelling board, secretariat and coordinating committee. The board was set up by the Minister of the Environment

following recommendations from a number of organizations representing the interests of retailers, industry, the environment and consumers;

(i) Developments in this area are influenced by EU legislation. Under the auspices of the EU Directive of 24 September 1996 concerning integrated pollution prevention and control (IPPC Directive), an emissions register has been developed aimed at making information available for the public and political decision-makers. The register is available at [www.eper.cec.eu.int](http://www.eper.cec.eu.int).

The MIM has launched a register with information about the environmental conditions of enterprises (available in Danish at [www.mst.dk](http://www.mst.dk)), which represents part of the work to provide the public with easy access to environmental information. To date, 158 enterprises have been registered, which are mainly large or agricultural enterprises that discharge one or several of the 50 listed substances and which are deemed to have an impact on the environment.

Denmark signed the binding Protocol on Pollutant Release and Transfer Registers (PRTRs) on 21 May 2003.

**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?**

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

#### ARTICLE 6

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

- (a)(i) Many of the activities listed in annex I to the Convention are regulated under the Planning Act on EIA or special EIA regulations on off-shore activities. The EIA regulations contain procedures that are in accordance with the Convention. Other activities are regulated under part 5 of the Environmental Protection Act on listed enterprises, including in particular the special system with advance public participation that was introduced by Act no. 369 of 2 June 1999 in connection with the implementation of the IPPC Directive. In 2000, minor adjustments were made to the existing law, related in particular to public participation in the reassessment of certain types of heavily polluting enterprises;
- (ii) Article 6, para. 1, of the Convention has been implemented through the EIA regulations found in the Planning Act. These regulations imply in part a compulsory EIA procedure with advance public participation for a large number of other activities than those listed in annex I to the Convention. They also mean that a large number of other activities are covered by the so-called screening system in the

Planning Act, and thus also covered by the EIA regulations, if, following a specific assessment, they are deemed to have significant environmental impacts;

(b)-(i) Article 6, paras. 2-9, has been implemented through several provisions (see [www.mst.dk](http://www.mst.dk));

(j) Article 6, para. 10, regarding reconsideration has been implemented through the Environmental Protection Act and the Statutory Order on the Approval of Listed Activities.

A current bill gives the Minister of the Environment the authority to adopt regulations on public participation in connection with decisions on whether there should be an extraordinary revision of the conditions of an environmental approval;

(k) The Act on the Environment and Genetic Engineering regulates releases of genetically modified organisms (GMOs) into the environment. It contains provisions according to which affected authorities and organizations must be heard in matters of approval of GMOs for release.

Provisions on the procedure for hearings and the provision of information to the public in connection with approvals for trial releases and marketing of GMOs set forth that:

- Hearings must be notified in national newspapers and on the Forest and Nature Agency's website. Trial releases must also be announced in local newspapers;
- The Forest and Nature Agency will set up a register of approvals for trial releases and marketing of GMOs, which must include the name and address of the applicant, a description of the GMO, the objective and location of the release, a summary of the risk assessment, the Minister of the Environment's assessment of the case, as well as the approval terms;
- A wide range of information, such as changes to an approval and results of monitoring of GMOs approved for marketing, is made public on the Forest and Nature Agency's website.

In practice, hearings take place with the distribution for comment of parts of the application (the Summary Notification Information Format and an overview of the full application) to about 50 parties, including environmental and consumer organizations. Announcements that the public may comment on new applications for trial releases or marketing of GMOs are published in national newspapers and on the Forest and Nature Agency's website. The full application, with the exception of confidential information, can be supplied on request. Replies received by the Forest and Nature Agency are incorporated in a memo for the Minister, which forms the basis for the Minister's decision. The memo is subsequently made public on the Nature and Forest Agency's website.

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

**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.**

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

#### ARTICLE 7

**19. List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

The precise scope of the regulations under article 7 of the Convention on public participation in, for instance, authorities' planning decisions, is difficult to establish, in that the Convention does not define the concept of "the environmental area". It would seem relevant to seek guidance in this matter from the Convention's definition of environmental information. With regard to the Convention's implementation, it has been deemed that the 2000 Act Amending Certain Environmental Acts (Implementation of the Aarhus Convention, etc.) in general meets the requirements of article 7.

Planning and environmental legislation contains a number of regulations on planning and prior public participation in accordance with article 7. In addition, the public is also very much involved in practice in the large amount of planning that does not arise directly from the law.

The MIM ensures that its own planning always involves prior public participation.

Environmental legislation contains a number of provisions on public participation in statutory plans and programmes.

A current bill proposes a provision in the Danish Environmental Protection Act according to which regulations can include the preparation of plans and programmes within the scope of the Act. The Minister of the Environment will have the authority to lay down regulations on public participation in the preparation and amendment of plans and programmes within the scope of the Act. It will also be possible to apply the authority to lay down requirements for public participation in the preparation of any future national plans and programmes as well as to ensure that any later Community law requirements on public participation in plans and programmes can be implemented in Danish legislation.

The MIM places priority on public participation in connection with the development of policies, plans and programmes related to the environment. In developing policies and strategies, preliminary meetings and workshops allowing the public to have a say in the decision-making process are extensively used.

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

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

**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:**

#### **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 most important rule is that the public is involved prior to the introduction of a bill or the issuance of a new statutory order, etc. The procedure provides that drafts of general regulations are sent for hearing to a wide range of organizations and authorities. Memoranda of the incoming comments are prepared, and the need for amendment as a result of the comments is considered in each case. In normal circumstances, this practice is always applied.

Environmental acts and statutory orders are usually sent for hearing for a duration of four weeks. As a consequence of a Government decision, bills are always made available on the Internet at the same time as they are sent for hearing. The MIM also puts its draft statutory orders on its website at [www.mim.dk](http://www.mim.dk).

**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.**

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

#### **ARTICLE 9**

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

- (a)(i) Ordinary rules on legal procedure state that anyone with an individual legal interest can institute legal proceedings;

- (ii) According to the Environmental Information Act, a decision regarding access to information can be appealed to the appeals body for the case relating to the request. Refusal of an information request that is notified by a body or supply company covered by the Act can be appealed to the Environmental Appeals Board.

The right of appeal is supplemented by the non-statutory administrative law principle of remonstrance. It is also possible to bring a case before the Ombudsman of Parliament and the authorities responsible for the supervision of municipalities.

The review of a legal decision regarding access to information can be appealed in accordance with the regulations of the Administration of Justice Act;

- (iii) See subparagraph (d) below on the right to demand reasons in writing and requirement of a binding decision;

(b) The regulations on access to judicial review do not meet on their own the requirements of the Convention because environmental organizations cannot always expect to be granted standing. Therefore, extensive access to administrative recourse before special environmental boards has been implemented. To a certain extent, there is greater access to appeals than the minimum requirements of the Convention in that the regulations also cover other types of decisions and other Acts than those listed in the Convention's annex.

Right of appeal has been introduced for nationwide associations and organizations that have the protection of nature and the environment as their primary objective. Such associations are required to have articles of association or similar provisions that document their objectives, and to demonstrate a nationwide sphere of activity and professional and permanent structure.

Special regulations have also been introduced on the right of appeal of organizations representing important recreational interests. Organizations that protect the environment and nature have been afforded an extended right of appeal;

(c) Administrative possibilities exist for deferring to the Ombudsman, Governor of the County or police in order to contest actions and omissions by private individuals or public authorities that do not comply with the provisions of national environmental law.

The competence of the Ombudsman covers the entire public administration. It must decide whether authorities or people under its jurisdiction are acting in breach of the applicable law or whether they are in any other way guilty of errors or neglect in the performance of their duties. Control applies to decisions and other administrative activities. Appeals can be submitted by anyone within one year of the commission of the act. The Ombudsman can issue criticisms, recommendations or otherwise give an opinion regarding a case. In accordance with the declaration issued during the negotiations on the institution of the Ombudsman, Denmark recognizes that the opportunity to bring cases before it amounts to an opportunity for review by an independent administrative body.

The Governor of the County ensures that municipalities and municipal associations comply with the legislation applicable in particular to public authorities. The Governor does not supervise the extent to which special appeals or supervisory authorities can take a position on the case in



question. He or she can make statements on the legality of municipal measures or omissions and can annul municipal decisions that have been made contrary to legislation. In legally-defined cases, the Governor can also impose default fines, institute damages and declaratory actions, as well as enter into agreements on penalties under the law on tort.

Reports to the environmental authorities or the police regarding non-compliance with environmental regulations can be made.

The constitutional right to bring cases to court requires that the person bringing the case comply with the relevant regulations;

(d) Court decisions regarding access to environmental information, public participation in decisions on specific activities with impacts on the environment and the consistency of actions and omissions by private or public authorities with environmental legislation are publicly available (see the Environmental Information Act). Furthermore, the Administration of Justice Act provides for general access to documents regarding judgements, Court orders, etc.

It is general practice that administrative decisions are notified in writing. This practice is supplemented by the principle of good administrative practice, according to which written queries from the public must be answered in writing, just as particularly significant decisions must be notified in writing. Moreover, according to the Public Administration Act, the public can demand a written reason for a decision that was reported verbally, unless the decision sustains the appeal of the person concerned. Administrative decisions are binding

The Environmental Information Act states that refusals of requests for access to environmental information must be reasoned and accompanied by advice on appeals. Refusals must be in writing, if the request was in writing or if the applicant so requested. The requirement on written documents applies to both authorities and bodies covered by the Act, as well as to each refusal, including refusals to provide information in a specific form.

The decisions of the Ombudsman are written but not binding; in practice, the administration generally follows its recommendations. The Ombudsman's position in a case does not limit subsequent access to court for review of the case.

Decisions by the courts are in writing, binding and can be enforced.

Administrative review is essentially free. However, in matters brought to the Nature Protection Board, a charge of DKr 500 (€67) has been set for bringing cases.

A court fee is due for instituting legal proceedings for judicial reviews. In addition, costs for legal assistance and expert assistance are usually required.

The Administration of Justice Act provides for the possibility of free process, and there is a certain amount of public legal aid available. Legal aid covers advice and completion of individual written notifications and ordinary reports, including applications for free process, process documents from legal cases and participation in meetings. Legal aid can also be granted

for appeals against decisions by public authorities. Moreover, courts may to a certain extent appoint a lawyer for pending legal cases.

In accordance with legal practice, private individuals can, under certain conditions, have an injunction imposed against the acts of others that conflict with regulations of a public law nature;

(e) See the response to question 3, para. (a).

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

**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?**

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

**32. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.**