



**Economic and Social  
Council**

Distr.  
GENERAL

ECE/MP.PP/2005/18/Add.8  
13 April 2005

ENGLISH  
Original: FRENCH

---

**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\***

**France**

**in accordance with 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.**

- From April 2004 to November 2004, intensive coordination with three national associations of elected representatives, nature protection associations and

---

\* This document was submitted late because the report was received by the secretariat from the Party concerned after the deadline laid down in decision I/8 of the Meeting of the Parties, and because various first-time problems had to be overcome as this is the first reporting cycle under decision I/8. 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.

investigating commissioners; the other ministries and officials of the Ministry of Ecology and Sustainable Development of greatest relevance, at the central and regional level; the National Commission for Public Debate;

- Collection and compilation of information;
- Recording of comments and coordinating meeting on 17 November 2004;
- Placing of the draft report on the website of the Ministry of Ecology and Sustainable Development, from 15 December 2004 to 15 January 2005, together with a mailbox to receive comments from the public;
- Finalization of the report.

**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).**

Not applicable.

### 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) Article 27 of Act No. 83-864 of 13 July 1983, relating to the rights and obligations of public officials, stipulates that "*It is the duty of public officials to comply with requests for information from the public, while respecting the rules set out in article 26 above*" (article 26 relates to professional confidentiality);

(b) (i) **Activities carried out by the Ministry of Ecology and Sustainable Development and the other main bodies:**

- Promotion of education and creation of public awareness of environmental problems have been two of the roles played by the Ministry of Ecology since its creation in 1971;
- Since 2003, activities in the field of information and awareness creation have been linked to the concept of sustainable development. The aim of the national strategy for sustainable development is to ensure that the principles of sustainable development are continuously taken into account;

- The manner in which environmental education for sustainable development is to be harnessed in schools is described in a teachers' guidance circular which may be consulted on the Internet at [www.education.gouv.fr/bo/2004/28/MENE400752C.htm](http://www.education.gouv.fr/bo/2004/28/MENE400752C.htm);
- An operation targeted on young people entitled "1,000 challenges for my planet" is being conducted by the Ministry of Ecology, the Ministry of Education and the Ministry of Agriculture. This involves practical action to preserve the environment and prevent or repair damage to it;
- Sustainable Development Week, held for the first time in June 2003, is aimed at the public at large. Its purpose is to inform members of the public and create awareness concerning sustainable development;

(ii) **Other main bodies:**

- Public bodies reporting to the Ministry. Many public bodies (the body responsible for protecting the coastline, the Natural History Museum, the national parks, and so on) carry out environmental awareness and education activities on different scales for schools and the public at large;
- Environmental protection associations. Many associations and foundations, both national and local, carry out activities of this type, often with Ministry support. They include the Ecole et Nature network, France Nature Environnement, the federation of national parks, the Fondation de France and the Nicolas Hulot foundation;
- Local and regional government. These bodies also carry out environmental awareness and education activities, often in partnership with the Ministry or bodies which report to it. Many such activities fall under local Agenda 21 programmes, as in the city of Dijon, the department of Essonne and the Nord Pas de Calais region;

(c) Associations are governed by the Act of 1 July 1901 relating to the contract of association. Specific provisions relating to environmental protection associations are set out in book I, title IV of the Environment Code. When they have been active for at least three years, such associations may be granted recognition by the administrative authorities, enabling them to go to court in connection with any complaint relating to the protection of nature and the environment. They may receive grants to fund their operations or for projects. Since 2001, agreements may be signed with the authorities specifying multi-year objectives and providing for financial assistance over a period of three years. A circular dated 26 June 2003 relates to cooperation between the Ministry and associations, and the support they provide to the Ministry. In 2004, the assistance provided by the Ministry was focused on enhancing information for the public and participation in public debate, especially in the fields of hazards, energy, town planning and transport;

(d) Under a decree dated 14 January 2003, France established a National Council for Sustainable Development, made up of representatives of civil society. The Council provides advice on matters within its sphere of competence, and is invited to join with the public authorities in marking major international events. Act No. 2000-328 of 14 April 2000 authorized approval of the Convention on Environmental Impact Assessment in a Transboundary Context, signed in Espoo, Finland on 25 February 1991. The implementing decrees were modified accordingly. Under these instruments, if the competent authority considers that a project may have a significant impact on the environment of another State, the authorities of the latter State are provided with a full dossier, and an additional period of time is allowed for them to communicate their views;

(e) Harassment of persons exercising their rights is prohibited. This principle is laid down in the Constitution of 4 October 1958. The preamble to the Constitution contains explicit references to two other fundamental instruments: the Declaration of the Rights of Man and the Citizen of 26 August 1789 and the preamble to the Constitution of 27 October 1946. The courts do not hesitate to apply them directly, and parliament always strives to respect them, subject to the supervision of the Constitutional Council. These statements of essential principles form part of the corpus of constitutional law. As an example, in decision No. 71-44 of 16 July 1971, the Constitutional Council recognized freedom of association as a fundamental principle acknowledged in the laws of the country, as reaffirmed in the preamble to the Constitution.

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

There are no particular obstacles to the implementation of the paragraphs of article 3; any such obstacles can be dealt with under French law.

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

As far as international decision-making processes are concerned, France has experience in transmitting dossiers relating to infrastructure and development projects with environmental impacts to the authorities in neighbouring countries, for purposes of public consultation.

**6. Give relevant website addresses, if available:**

- Constitutional Council: [www.conseil-constitutionnel.fr](http://www.conseil-constitutionnel.fr)
- Ministry of Ecology and Sustainable Development: [www.ecologie.gouv.fr](http://www.ecologie.gouv.fr)
- Ministry of Justice: [www.justice.gouv.fr](http://www.justice.gouv.fr)
- Body responsible for protection of the coastline and lake shores: [www.conservatoire-du-littoral.fr](http://www.conservatoire-du-littoral.fr)
- National Natural History Museum: [www.mnhn.fr](http://www.mnhn.fr)
- Environment and Energy Agency: [www.ademe.fr](http://www.ademe.fr)

- Higher Council on Fisheries: [www.csp.environnement.gouv.fr](http://www.csp.environnement.gouv.fr)
- National Forestry Office: [www.onf.fr](http://www.onf.fr)
- National parks: [www.parcs-nationaux.org](http://www.parcs-nationaux.org)
- Regional nature parks: [www.parcs-naturels-regionaux.fr](http://www.parcs-naturels-regionaux.fr)
- National Institute on the Industrial Environment and Hazards: [www.ineris.fr](http://www.ineris.fr)
- Environmental education: [www.educ-envir.org](http://www.educ-envir.org)
- Fondation Nicolas Hulot pour la nature et l’homme: [www.fnh.org](http://www.fnh.org)
- France Nature Environnement association: [www.fne.asso.fr](http://www.fne.asso.fr)
- Bird Protection League: [www.lpo.fr](http://www.lpo.fr)
- Ecole et Nature network: [www.ecole-et-nature.org](http://www.ecole-et-nature.org)
- Water agencies: [www.eaufrance.com](http://www.eaufrance.com)
- French Committee for Environment and Sustainable Development: [www.comite21.org](http://www.comite21.org)
- Agenda 21 (sustainable development projects at the local level): [www.agenda21france.org](http://www.agenda21france.org)
- National Commission for Public Debate: [www.debatpublic.fr](http://www.debatpublic.fr)

#### Article 4

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

Book I, title II of the Environment Code relates to public information and participation. Among general principles, article L. 110-1 4 refers to “*the principle of participation, whereby everyone has access to information relating to the environment*”. For access to information, in chapter IV, on freedom of access to information relating to the environment, article L. 124-1 basically refers to Act No. 78-753 of 17 July 1978 on various steps to improve relations between the administration and the public, and introduces specific provisions in respect of the environment. Other articles in the Code relate to access to information on specific subjects such as chemicals, hazards, wastes, air and water quality.

Directives 2003/4 on access to information and 2003/98 on the reuse of public-sector information, which are in the process of transposition, were drafted in keeping with article 4 of the Aarhus Convention.

(a) Act No. 78-753 of 17 July 1978 stipulates that “access to administrative documents is secured: (a) by means of free on-site consultation, except where this is precluded by considerations relating to preservation of the document; (b) provided that reproduction does not jeopardize the preservation of the document, by means of the issue of an easily understood copy on a medium identical to that used by the administration, or on paper, at the option of the applicant, subject to the technical capabilities of the administration, and at the expense of the applicant, provided that such expense shall not exceed the cost of such reproduction, and subject to conditions to be set out in a decree”.

A large amount of information on the environment is permanently available, notably on Internet sites (cf. question 10).

The purpose of a circular issued in 2002 and protocols signed by the Ministry of Ecology and Sustainable Development in 2003 is ultimately to make all data on water available in the Internet through the opening of a national water data portal ([www.eaufrance.fr](http://www.eaufrance.fr)) in January 2005 and a basin data portal with the same functions in 2006.

The regional water directorates and the regional directorates for industry, research and environment are progressively making their information and data available online;

(b) Decree No. 88-465 of 28 April 1988, relating to the procedure for gaining access to administrative documents, stipulates that “*silence of more than one month on the part of a competent authority which has been requested to communicate documents in pursuance of title I of Act No. 78-753 of 17 July 1978 shall be considered to indicate refusal*”, implying that, for documents subject to release, responses should be forthcoming within one month;

(c) Article L. 124-1-II of the Environment Code sets out the grounds on which a request for information may be refused. They correspond to the grounds already familiar from Act No. 78-753 of 17 July 1978, with the exception of article 6-1, relating to violation of *secrets protected under the law*.

Article L. 124-1-III of the Code expressly refers to the possibility of refusing a request for information when the request relates to data supplied by a third party without legal coercion, or data which, if divulged, would result in harm to the environment to which they relate.

Article 2 of Act No. 78-753 of 17 July 1978 stipulates that the right to communication applies only to completed documents, and makes provision for improper requests to be rejected.

(d) Article 20 of Act No. 2000-321 of 12 April 2000, on the rights of citizens, stipulates that “*when a request is made to an inappropriate administrative authority, the authority shall forward it to the competent administrative authority and shall so inform the party concerned*”.

(e) Article L. 124-1-III of the Environment Code provides that “*when a request for access concerns information relating to interests which are protected in pursuance of [section] II, and it is possible to remove these data, that part of the information which is not confidential shall be communicated to the applicant*”.

(f) Article 7 of Act No. 78-753 of 17 July 1978 stipulates that “*a refusal to communicate information shall be notified to the applicant in the form of a written decision accompanied by the reasons therefor*”. Decree No. 88-465 of 28 April 1988 provides that silence of more than one month on the part of a competent authority shall be considered to indicate refusal. This tacit refusal marks the starting point for an appeal, in cases where the competent authority fails to reply;

(g) On-site consultation is free of charge, and the cost of making a copy, if copying is technically feasible, shall be charged to the applicant, provided that this charge shall not exceed the cost of reproduction (Act No. 78-753 of 17 July 1978).

Decree No. 2001-493 of 6 June 2001 sets out the conditions for calculating the cost of reproducing the documents and dispatching them where necessary; the applicant is advised of the total cost to be paid, and the administration may require payment in advance.

The cost of copying an administrative document may not exceed €0.18 per A4 page for black and white printing, €1.83 for a diskette and €2.75 for a CD-ROM (order of 1 October 2001).

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

The difficulties encountered may be attributed to a lack of resources in some parts of the administration, such as communes, which have few staff. Other causes are requests which are poorly drafted, or do not specify the competent department.

**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 its 2003 report, the Commission on Access to Administrative Documents refers to some 5,000 cases, as in 2002, without identifying environment-related cases. These do not necessarily involve an overt refusal to supply the documents, but may arise from failure to reply by the deadline.

**10. Give relevant website addresses, if available:**

- Ministry of Ecology and Sustainable Development: [www.ecologie.gouv.fr](http://www.ecologie.gouv.fr)
- Ministry of Agriculture: [www.agriculture.gouv.fr](http://www.agriculture.gouv.fr)
- Ministry of Health: [www.sante.gouv.fr](http://www.sante.gouv.fr)
- French Institute for the Environment: [www.ifen.fr](http://www.ifen.fr)
- Higher Council on Fisheries: [www.csp.environnement.gouv.fr](http://www.csp.environnement.gouv.fr)
- Water agencies: [www.eaufrance.com](http://www.eaufrance.com)

- French Research Institute for Exploitation of the Sea: [www.ifremer.fr](http://www.ifremer.fr)
- Bureau for Geological and Mining Research: [www.brgm.fr](http://www.brgm.fr)
- Centre for Documentation, Research and Experimentation on Accidental Water Pollution: [www.le-cedre.fr](http://www.le-cedre.fr)
- Natural History Museum: [www.mnhn.fr/museum/foffice/science/science/ColEtBd/bdScientifiques/sommaireArticle.xsp](http://www.mnhn.fr/museum/foffice/science/science/ColEtBd/bdScientifiques/sommaireArticle.xsp)
- National Water Data Network: [www.rnde.tm.fr](http://www.rnde.tm.fr)
- Access to data on underground water: [www.adés.rnde.tm.fr](http://www.adés.rnde.tm.fr)
- Information on natural hazards: [www.prim.net](http://www.prim.net)
- Information on wetlands: [www.ramsar.org](http://www.ramsar.org)
- National Institute on the Industrial Environment and Hazards: [www.ineris.fr](http://www.ineris.fr)
- Natura 2000: [natura2000.environnement.gouv.fr](http://natura2000.environnement.gouv.fr)
- Hydro site (on river flows and water levels): [hydro.rnde.tm.fr](http://hydro.rnde.tm.fr)
- Commission on Access to Administrative Documents: [www.cada.fr](http://www.cada.fr)

#### **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) At the national level, the public authority whose role it is to disseminate information on the environment to the public is the French Institute for the Environment, which was created in 1991 and was given nationwide powers in 2004 (Decree No. 2004-936 of 30 August 2004). The Institute devotes a large part of its activities to collecting data from public and private producers and processing them.

This information is placed in the public domain in the form of publications or databases (Eider, Corine Land Cover). Some data are supplied by management bodies (the regional water directorates, the regional directorates for industry, research and environment and the departmental directorates for agriculture and forestry). In addition, the technical departments of the Ministry of Ecology and Sustainable Development maintain thematic portals which help users to navigate among the resources available on the Internet ([prim.net](http://prim.net) for hazards, [eaufrance.fr](http://eaufrance.fr) for water).



An inventory of machinery for collection of data on water covering the whole of the country is available on the Internet (<http://dispositif.rnde.tm.fr/RESEAUX/presentation/main/index.php>).

Other State agencies, local authorities and public environmental institutions gather environmental information - for example, for the inventory of nature areas of interest in terms of ecology, flora and fauna;

- (ii) The administrative authorities are provided with information in the context of authorization procedures (cf. Environment Code, articles L. 512-1 to L. 512-13 in the case of sites classified for environmental protection purposes and subject to authorizations or declarations, and articles L. 214-1 to L. 214-11 in the case of authorizations or declarations for facilities, projects or activities which have an impact on surface or underground water).
- (iii) As for information in cases of major hazards, article L. 125-2 of the Environment Code provides that “*citizens have the right to information on the major hazards to which they are exposed in certain parts of the country and on the protection measures affecting them. This right shall apply to technological hazards and foreseeable natural hazards*”. Decree No. 90-918 of 11 October 1990 regulates the exercise of the right to information on this type of hazard.

Where floods are concerned, a high-water warning service was instituted on 1 October 2002, followed in 2003 by a central service for hydrometeorology and flood warning support. It plays a guidance, assistance, advisory and training role nationwide for agencies operating in the field of high-water forecasting and water resources, and keeps them continuously informed of water-related developments. In the event of rapid rises in water levels, it keeps the central and regional water directorates informed of hydrometeorological developments.

Article L. 223-1 of the Environment Code provides that “*when air quality alert thresholds have been or are likely to be reached, the Prefect shall immediately so inform the public*”;

(b) This public service role is played in part by the French Institute for the Environment (cf. above), which places comprehensive environmental information online. Requests for information addressed to it by any individual or corporate body are handled systematically.

Environmental data collected by the public authorities may be consulted by the public free of charge, either on the Internet or in the documentation issued by the agencies concerned. Leaflets are also distributed free of charge by such public bodies as the water agencies, the National Forestry Office, the Environment and Energy Agency and the regional water directorates;

(c)

- The report on the state of the environment in France, a national survey produced by the French Institute for the Environment every four years, appears only in a paper version, but since 2003 “Basic data on the environment” may be consulted online;
- Over the past five years, France has made an effort to grant its citizens easier access to the law. The official newsletter of the Ministry of Ecology and Sustainable Development and the *Journal officiel* are accessible via the Ministry’s site, while [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr) offers access to all legislation;
- The national strategy for sustainable development, introduced in 2003, gave rise to a progress report and a report on national indicators relating to sustainable development, which are available on the Ministry’s website. Plans for water resources development and water resources management may be consulted on the Ministry site and those of specialist institutions. Lastly, decrees for the transposition of directive 2001/42 stipulate that the plans and programmes mentioned in Environment Code article L. 1224 will be accessible to the public by electronic means;
- Many other databases on specific topics, including water and air, which are maintained by technical bodies, are accessible on their sites, either directly or by means of links with sites focusing on specific areas (see list under question 10);

(d) The publication of state-of-the-environment reports by the French Institute for the Environment is notified by the media, and in particular by journalists specializing in environmental matters;

(e) These reports are accessible via the Internet, on a variety of sites (cf. question 14);

(f) Under Act No. 2001-420 of 15 May 2001 on the New Economic Regulations, market-quoted businesses have an obligation to include in their annual reports a section on social and environmental management and the manner in which they take into account the social and environmental impacts of their activities.

Environmental audits are encouraged - for crops, for example, with the support of the National Institute of Agronomic Research.

The NF-Environnement standard which appears on the labels of certain products enables consumers to make more environmentally aware choices;

(g)

- Under environmental legislation, public information is guaranteed through descriptions of the justification for legislation, reports of parliamentary committees, accounts of parliamentary debates, progress reports published by the Ministry of Ecology and Sustainable Development, and more specific and ad hoc reports such as those issued by the General Environmental Inspectorate, all of which are accessible on the Internet;
- A consultation charter drawn up in 1995 commits its signatories to encourage participation by members of the public in projects that affect them by providing comprehensive information;
- General administrative law requires all units of the administration to publish their official documents. This information is communicated through publications issued by the Ministry of Ecology and Sustainable Development and its departments in the regions (the regional water directorates and the regional directorates for industry, research and environment), as well as agencies operating on its behalf (departmental directorates for agriculture and forestry and departmental directorates for infrastructure);

(h)

- The French environmental label, NF-Environnement, created in 1991, is the property of the French Standards Association (AFNOR), which manages and promotes it. Associated with it is a logo which, when attached to a product, guarantees that it meets specific criteria.
- The purpose of the NF-Environnement label is to help consumers in making their choices while encouraging industries to improve the environmental quality of their products. Pharmaceuticals, products of the agri-food industry, services and the motor vehicle sector are excluded for the moment. A list of NF-Environnement environmental labels may be consulted on [www.afnor.fr](http://www.afnor.fr);
- Genetically modified organisms ([www.ogm.gouv.fr](http://www.ogm.gouv.fr)). A number of ministries have set up a joint site to provide answers to the most common questions. Thematic worksheets can be consulted on regulations, current or future experiments, commercialization in Europe, and so on;

(i) Each year the Ministry of Ecology and Sustainable Development collects the information required for the French register of pollutant emissions, which is published annually on the Ministry site in compliance with European Union requirements.

Under the order of 24 December 2002 on annual declarations of pollutant emissions from classified facilities which are subject to authorizations, each operator concerned must forward to the inspectorate of classified facilities a single declaration of pollutant emissions originating

from its installations. Starting in 2005, this declaration must be made on an Internet site which is exclusively used for collecting such information, and the Ministry will place the collected data on a site for consultation by the public at large.

CO<sub>2</sub> emissions falling under the “quotas” directive must be declared at the same time.

In 2003 France supplied the European Commission with the data needed for the European EPER register. They relate to 1,280 facilities and contain 3,401 pollutant emission values. They have been available on the European Commission website (<http://www.eper.cec.eu.int>) since February 2004.

Various types of data relating to water pollution are available directly on the Ministry’s website: a list of data banks and networks run by the national water data network ([www.rnde.tm.fr](http://www.rnde.tm.fr)), such as the national data bank on underground water, the data bank on hydrometry and hydrology and the national water data bank.

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

The stages of collection of data and making them available have been accomplished, but there is room for improvement. Difficulties arise mainly from a shortage of data in certain areas, or else a profusion of data or data generators. These are gradually being addressed. For example, the Ministry’s water department is developing a new site known as “eaufrance” to facilitate public access to information and clarify the nature of the available data, bearing in mind the fact that the data are very diverse.

**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?**

Some statistics drawn from the 2003 progress report issued by the French Institute for the Environment, relating to the dissemination of information:

- Total number of hits: 6,097,685;
- Total number of pages printed: 1,502,146.

The regional water directorates, which are responsible for announcing high water levels, place bulletins and daily information online, at least in peak periods. For high-water forecasting, an Internet-based information system covering all the forecasting services is being devised, and will be linked to a national monitoring map.

Among devolved offices, the site run by the Centre region’s water directorate, for example, recorded 65,000 hits over 12 months, 230,000 pages were consulted and 5,000 sets of geographical data were downloaded. At the time of the high water in the Loire in December 2003, the site, which indicates water levels and forecasts for the middle Loire day by day, recorded 6,000 hits in a single day.

**14. Give relevant website addresses, if available:**

Add to the sites already mentioned:

- Delegation for users and administrative simplifications: [www.dusa.gouv.fr](http://www.dusa.gouv.fr)
- Légifrance: [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr)
- Office of the President of the Republic (for basic instruments): [www.elysee.fr](http://www.elysee.fr)
- Ministry of Foreign Affairs: [www.France.diplomatie.fr/mae](http://www.France.diplomatie.fr/mae)
- Treaties and agreements concluded by France: [www.doc.diplomatie.fr/pacte](http://www.doc.diplomatie.fr/pacte)
- References for all treaties: [www.ecolex.org](http://www.ecolex.org)
- Environmental-law-related sites: [www.lexinter.net/JP/environnement.htm](http://www.lexinter.net/JP/environnement.htm)
- European Pollutant Release Register: [www.eper.cec.eu.int](http://www.eper.cec.eu.int)

**Article 6**

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

In 1999 the research department of the Ministry of Ecology and Sustainable Development launched a research programme entitled “Coordination, decision-making and environment”; the issue of public participation in the process of decision-making or the implementation of public policy had emerged as a priority from a survey carried out in 1998. The aim is to analyse experiments carried out over the past three decades in order to obtain results which will serve as a basis for training for all those concerned.

- (a) (i) The largest development or investment projects are subject to public debate (cf. annex to Decree No. 2002-1275 of 22 October 2002 relating to organization of the public debate and the National Commission for Public Debate) and a public inquiry (cf. annex to Decree No. 85-453 of 23 April 1985 relating to democratization of public inquiries for protection of the environment);
- (ii) Although development and town planning operations are not mentioned in annex I to the Convention, French law provides for consultation with the public in the case of such operations, which is conducted at the initiative of local authorities (Town Planning Code, article L. 300-2). Similarly, under French law wind farm projects must be placed before a public inquiry (Environment Code, article L. 553-4).

(b) The notice of public inquiry includes most of this information (cf. article 12 of the Decree of 23 April 1985), in particular on the proposed activity (a), the nature of the decisions to be adopted and the proposed procedure (d). For identification of the public authority responsible

for taking the decision (c), the information is not available in the notice but in the inquiry file. Information on the environment (d) (vi) and on any transboundary impacts of the project (e) is contained in the impact assessment attached to the public inquiry file;

(c) The notice of organization of an inquiry must be published at least two weeks before the start of the inquiry, by public posting or publication in the press (article 12 of the Decree of 23 April 1985). The notice of organization of an inquiry specifies its length, "*which may not be less than one month and, unless it is extended by a maximum of two weeks by decision of the investigating commissioner or the inquiry commission, may not exceed two months*" (art. 11). The length of the inquiry may be extended (art. 19);

(d) The Act of 2 February 1995 on enhancing protection of the environment set up a National Commission for Public Debate, which arranges for the public to be consulted concerning major development or infrastructure projects proposed by the State, regional and local authorities, public institutions or individuals at an early stage of the procedure. Act No. 2002-276 of 27 February 2002 on local democracy, codified in articles L. 121-1 to L. 121-15 of the Environment Code, and Decree No. 2002-1275 of 22 October 2002 on organization of the public debate and the Commission on the subject, broadened the Commission's sphere of activity and the organization of the public debate, transforming the Commission into an independent administrative authority. Public participation may relate to the project's desirability, objectives and characteristics, begins as soon as preliminary studies are under way and ends when the public inquiry is complete;

(e) In general, French law does not require this type of procedure, which is left to the discretion of the developer, but in such cases as operation of a mine or land consolidation, efforts are made to identify the public concerned, provide information concerning the project and initiate public discussion before the application is lodged. However, to the extent that the Commission, in cases brought before it, recommends to developers that they should carry out or continue public consultation, the developers must do so and take account of the consultation arrangements proposed by the Commission;

(f) The impact assessment prepared under the responsibility of the developer and made available to the public at the public inquiry corresponds point by point to the content of paragraph 6 (cf. book I, chapter II, of the Environment Code, articles L. 122-1 ff. and L. 123-9, and article 6 of the Decree of 23 April 1985);

(g) When there is a public inquiry, article 15 of the Decree of 23 April 1985 allows the public to make comments in writing, in the record of the inquiry or by letter, or directly to the investigating commissioner or a member of the inquiry commission;

(h) At the end of the public debate, the developer must take a decision which is published. In it the developer indicates the principle of and conditions for the continuation of the project placed before the public, and where appropriate the main changes made. This decision must be forwarded to the Commission (cf. article L. 121-13 of the Environment Code). At the end of the public inquiry, the investigating commissioner must draw up a report "*describing the process of the inquiry and examining the comments made. In a separate document, the investigating commissioner or the inquiry commission records the conclusions reached and the grounds therefor, specifying whether or not they are favourable to the operation*" (cf. article 20

of the Decree of 23 April 1985). Lastly, the Act of 27 February 2002 introduced the project declaration, adopted by the public authority after the public inquiry, in which it expresses its view as to the public interest of the project, including in particular the main changes that have been made following the public inquiry (cf. article L. 126-1 of the Environment Code);

(i) It is a general principle of French law that the official documents of the administration must be published. The Act of 27 February 2002 stipulates that project declarations (article L. 126-1 of the Environment Code) and public-interest declarations (article L. 11-1-1 of the Expropriation Code) must be accompanied by a statement of grounds. The same applies to decisions to grant or refuse permission to projects subject to impact assessments, which must be accompanied by a statement of grounds and made public (see article L. 122-1 of the Environment Code);

(j) Modifications of authorizations require a new procedure. In the case of installations classified for environmental protection purposes, articles L. 512-15 and L. 512-16 of the Environment Code set out conditions governing the resubmission of an application for an authorization in the event of the transfer or extension of the installation or a change in the manufacturing processes, and the conditions governing authorization set out in a decree of the Council of State in the event of a change of operator;

(k) There is a procedure for authorization of the deliberate dissemination of genetically modified organisms in the environment (article L. 533-3 of the Environment Code), and a procedure for authorization of commercialization (article L. 533-5 of the Environment Code). These two procedures are based on an analysis of hazards for health and the environment, which is performed by committees of independent experts.

In order to be authorized by the authorities to “disseminate” a genetically modified organism, the notifying party must supply scientific proof that the new construct is harmless. Assessment of the hazards associated with the dissemination of a genetically modified organism is carried out by the competent bodies in each member State of the European Community. In France, this assessment is carried out by the Biomolecular Engineering Commission, in respect of the environment and public health, and by the French Food Health Security Agency in respect of food safety. Their opinions are published on the Internet:

[http://www.ogm.gouv.fr/experimentations/evaluation\\_scientifique/evaluation\\_scientifique.htm](http://www.ogm.gouv.fr/experimentations/evaluation_scientifique/evaluation_scientifique.htm)

[http://www.ogm.gouv.fr/mise\\_marche/avis\\_scientifiques/avis\\_scientifique.htm](http://www.ogm.gouv.fr/mise_marche/avis_scientifiques/avis_scientifique.htm)

For each application for field experiments, a public consultation procedure is initiated via the Internet:

[http://www.ogm.gouv.fr/experimentations/consultation\\_public/consultation\\_public.htm](http://www.ogm.gouv.fr/experimentations/consultation_public/consultation_public.htm)

For each application for commercialization, a public consultation procedure is carried out at European Community level via the Internet: <http://gmoinfo.jrc.it>.

For field experiments, an information sheet is posted in the mayor’s office.

The Biomolecular Engineering Commission includes representatives of civil society, and organizes seminars on cross-cutting issues which are open to non-governmental organizations.

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

Various types of difficulty are encountered:

- For public inquiries, inquiry files are sometimes excessively technical, periods when the file may be consulted are inadequate, there is a lack of awareness of the public inquiry procedure, the geographical area covered by the consultation is too small, or copies of the file are available only to recognized associations;
- For the public debate, in the light of past experience, public consultation procedures have been improved.

The French Government has decided to improve the public inquiry procedure by simplifying and harmonizing public inquiries, securing the involvement of the various parts of the administration, the National Commission for Public Debate, the Council of State and the voluntary sector.

This process of reflection will take account of developments in European Union law in this field. France is in the process of transposing into its legislation directive 2001/42 on assessment of the effects of certain plans and programmes on the environment and directive 2003/35 of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment, which applies the principles of the Aarhus Convention at the European Union level. These provisions will boost the provision of information to the public and public participation at each stage of development of a project, plan or programme which has an impact on the environment.

In order to increase input from the public, the National Commission for Public Debate is devising a general methodology for consultation, drawing on its experience, which will be available in the form of advice and recommendations.

**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.**

About 15,000 public inquiries are held each year, most of which do not relate to the activities listed in annex I (urban development and planning in particular).

Defence sector activities are not subject to public inquiries (article L. 123-15 of the Environment Code).



**18. Give relevant website addresses, if available:**

- National Commission for Public Debate: [www.debatpublic.fr](http://www.debatpublic.fr)
- Genetically modified organisms: [www.ogm.gouv.fr](http://www.ogm.gouv.fr)
- CNCE association: <http://perso.wanadoo.fr/cnce/>
- Delegation for users and administrative simplifications: [www.dusa.gouv.fr](http://www.dusa.gouv.fr)

**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.**

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

The effect of ordinance No. 2004-489 of 3 June 2004 transposing directive 2001/42/EC (cf. question 16) was to make the process of environmental impact assessment, public information and consultation generally applicable at the level where structural decisions are taken, ensuring the overall compatibility of projects. The documents in question are prescriptive planning documents of general scope (such as town planning documents) and certain sectoral planning or programming documents relating in particular to transport, wastes or water management.

Directive 2000/60/EC of 23 October 2000 established a European framework for a Community water policy. This framework directive calls for a reform of water policy, which is now under way. In this context, the Ministry of Ecology organized a broad national debate on water policy throughout 2003.

Under the directive, public consultation may be demanded on at least three elements:

- Timetable and programme of work for the drawing up of basin management plans, including the survey of consultative measures - before the end of 2006;
- Provisional overview of the major water management issues arising in each basin - before the end of 2007;
- Draft basin management plan - before the end of 2008.

The directive sets the length of each consultation at six months for the written formulation of comments, so as to allow consultation and active participation. France transposed the directive into its domestic law by means of Act No. 2004-338 of 21 April 2004. The Act provides for public consultation on the first two elements between May and November 2005 and on the third element at the end of 2007. Requests for the organization of a public debate on general environment and development options may be made to the National Commission for

Public Debate jointly by the Ministry of Ecology and Sustainable Development and the ministry concerned. In such cases, the public debate is held in the same manner as a public debate on a specific project (article L. 121-10 of the Environment Code). No such requests have yet been made to the Commission.

- 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 website addresses, if available:**
  - National Commission for Public Debate: [www.debatpublic.fr](http://www.debatpublic.fr)

#### **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.**

It is a requirement under almost all the regulatory instruments to consult a national representative body (the National Council for the Protection of Nature, the National Water Council, the Higher Council on Classified Facilities, and so on). Although it is not mandatory, it is increasingly common to consult the major networks of voluntary organizations. But there is no “public” participation as such in the legislative or regulatory process under French law.

In the context of the introduction of the “quotas” directive (2003/87/EC) and its implementing decree (Decree No. 2004-832 of 19 August 2004), France made the national quota allocation plan available to the public and to operators for electronic consultation via the Internet site of the Ministry of Ecology and Sustainable Development and in prefectures for a period of one month.

- 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 website addresses, if available.**

#### **Article 9**

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

(a) French law is non-discriminatory (access to information, public inquiries, right to a remedy), and under the practice of the Council of State, non-resident aliens can bring proceedings in French courts.

French law distinguishes between judicial procedure, which guarantees access to the courts in the event of difficulties encountered in securing “environmental” information (art. 9.1), and administrative procedure, which guarantees access to “environmental” information (art. 9.2).

Under article L. 124-1 of the Environment Code and the Act of 17 July 1978, authorities which have environmental responsibilities must, subject to certain reservations specified in the law, communicate the environmental information they hold to anyone who so requests (cf. question 7).

Access to environmental information is provided free of charge or at low cost (cf. question 7).

The Act (art. 5) set up a Commission on Access to Administrative Documents whose task it is to monitor respect for freedom of access to administrative documents. The Commission is an independent administrative authority. Its independence is guaranteed by its membership (Decree No. 78-1136 of 6 December 1978).

Applicants who have been refused information and wish to challenge the refusal must bring the matter before the Commission within a period of two months. The Commission then sends a notice to the competent authority concerning the right of access to the requested information. On receiving the notice, the department must reconsider the request within a period of two months.

Concerning guarantees of access to environmental information, if the competent authority repeats its initial refusal, the applicant may institute administrative proceedings to have the decision annulled on grounds of illegality.

Ordinance No. 2003-1235 of 22 December 2003 and Decree No. 2003-1257 of 26 December 2003 abolished the stamp duty on applications lodged with the administrative courts. Moreover, no lawyer is required for proceedings for annulment of an administrative act for illegality, with the exception of proceedings before the administrative appeal courts (article R. 811-7 of the Code of Administrative Justice). Applicants whose financial resources fall below certain thresholds may benefit from legal aid, in pursuance of Act No. 91-647 of 10 July 1991, as amended, which guarantees them effective low-cost access to the courts. In addition, the assistance of a lawyer is never mandatory for applications for the enforcement of a final judgement.

Under article 7 §2 of the 1978 Act, the administrative court must hand down a ruling at the latest six months after the initiation of proceedings against a persistent refusal on the part of the administration.

While it is mandatory to consult the Commission on Access to Administrative Documents, its opinions are not binding on the administration. In practice, the administration complies with the Commission’s favourable opinions in 65 to 70 per cent of cases. These opinions are set out in writing and accompanied by the reasons therefor. Court decisions are also set out in writing and accompanied by the reasons therefor (article L. 9 of the Code of Administrative Justice).

(b) The administrative court liberally interprets the applicant's interest in seeking annulment of an administrative act for illegality. The interest is considered sufficient if the injury suffered is not excessively uncertain or excessively indirect. The Council of State also considers applications lodged on behalf of collective interests to be admissible (Council of State, 28 December 1906, in a case involving a hairdressers' union in Limoges).

The concept of "public concerned" does not exist in domestic law, which refers to persons having an interest in bringing an action.

The Environment Code sets out the scope of the right of environmental protection associations to bring proceedings:

- Under article L. 142-1, paragraph 1, any environmental protection association may bring proceedings in administrative courts for any complaint relating to its purposes;
- Under article L. 142-1, paragraph 2, recognized associations (L. 141-1) are granted a (presumed) interest in bringing proceedings against any administrative decision which has harmful impacts on the environment;
- Under article L. 142-2, associations have the right to exercise the same rights as those granted to applicants for criminal indemnification;

(c) The criterion applied in domestic law for any remedy is the interest in bringing proceedings (cf. previous paragraph);

(d) France, as a signatory of the European Convention for the Protection of Human Rights and Fundamental Freedoms, has an obligation to respect articles 6 and 13 of the Convention, which guarantee the right to a fair trial and an effective remedy.

In addition, court judgements are enforceable under article L. 11 of the Code of Administrative Justice.

The Code of Administrative Justice contains provision for "redress" procedures.

Firstly, article L. 521-1 provides that in urgent cases and where a serious doubt has been established as to the lawfulness of a disputed decision, the urgent applications court can suspend the enforcement of a decision or of some of its effects. A negative decision may be suspended.

Secondly, book IX of the Code of Administrative Justice offers beneficiaries of court decisions which have become final remedies enabling them to secure the enforcement of decisions which the administration has failed to enforce within a reasonable time.

Public access to the opinions of the Commission on Access to Administrative Documents and the decisions of the courts is guaranteed under French law: some of the Commission's opinions are published in the public report it is required to prepare under article 5, paragraph 3, of the Act of 17 July 1978. This report outlines in particular the main difficulties encountered in relation to the various categories of documents or archives.

The public nature of hearings, the public nature of judicial decisions and the free communication of court decisions and orders to anyone at his or her request, which are guaranteed under article 6 §1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, constitute fundamental safeguards secured by various provisions of domestic law: justice is done in the name of the French people (article L. 2 of the Code of Administrative Justice), proceedings take place in public (article L. 6 of the Code of Administrative Justice), and courts hand down their rulings in public (article R. 741-1 of the Code of Administrative Justice).

Moreover, publication of judicial decisions on the Internet is provided for in article 1 §3 of Decree No. 2002-1064 of 7 August 2002 relating to dissemination of the law via the Internet as a public service.

(e) Conditions governing the provision of information to the public concerning remedies are set out in article R. 421-5 of the Code of Administrative Justice, which states that “*deadlines for appeals against administrative decisions are enforceable only provided that they are mentioned, together with the remedies available, when the decision is notified*”. These provisions were supplemented by article 1 of Decree No. 2001-492 of 6 June 2001, under which any part of the administration must, when so requested, provide an acknowledgement mentioning the remedies against an implicit refusal and the deadlines therefor.

France has established a system of assistance designed to eliminate or reduce the financial obstacles impeding access to justice: the Act of 10 July 1991 and the implementing Decree of 19 December 1991 serve as a basis for legal aid, which is composed of two distinct legal arrangements. The first relates in particular to access to the courts, while the second is intended to facilitate the provision of legal advice and assistance in non-judicial procedures.

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

No special comments.

**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?**

Litigation relating to environmental information includes that involving the Commission on Access to Administrative Documents and the related administrative case law. To date, only overall statistics are available in this field. This is the case for the Commission’s progress reports. As an example, in 2002 the environment and town planning sectors accounted for 8.8 per cent and 12 per cent respectively of requests to the Commission for an opinion.

Statistics relating to litigation concerning breaches of environmental law are more significant and relevant, as can be seen from the number of convictions for damage to the

environment between 1998 and 2002 (ordinary or minor offences), as well as the number of substantive applications for damages or requests for interim relief for injury caused by an environmental nuisance lodged in civil courts between 1990 and 2002.<sup>1</sup>

**31. Give relevant website addresses, if available:**

Not applicable.

**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.**

Not applicable.

-----

---

<sup>1</sup> See the supplement to the implementation report, available on the site <http://www.unece.org/env/pp/reports%20implementation.htm> (in French only), part III.