

**FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT
CERTIFICATION SHEET**

The following report is submitted on behalf of __Bulgaria__
[name of the Party or the Signatory] in accordance with decision I/8

Name of officer responsible for submitting the national report:	Atanas Kostadinov, Deputy Minister, Ministry of Environment and Water
Signature:	
Date:	15 December 2007

IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

Party	Bulgaria
National Focal Point	
Full name of the institution:	Ministry of Environment and Water
Name and title of officer:	Nelly Ilieva, State Expert in Directorate “Strategies, Coordination on Issues of the European Union and International Cooperation”
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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.

Answer:

The Report was updated by the following experts of the Ministry of Environment and Water:

- *Nelly Ilieva, State Expert in Directorate “Strategies, Coordination on Issues of the European Union and International Cooperation”;*
- *Aneta Dzhorina, Junior Expert in Directorate “Strategies, Coordination on Issues of the European Union and International Cooperation”;*
- *Vanya Grigorova, Director or Directorate “Preventive Activity”;*
- *Irena Mochurova, senior legal adviser in Directorate „Legal Legislative and Administrative Servicing”.*

The non-governmental ecological organizations were invited to get involved in the development of the draft report. No proposals were received by the non-governmental organizations at this stage. The draft report was placed on the Internet site of the Ministry for comments and proposals from the public for a term of 30 days. The non-governmental organizations working in the sphere of preservation of environment were especially informed and were invited to present notes and proposals. The draft report was seen by 170 unique visitors to the site within the framework of the indicated term. Three comments were received with regard to the draft report – by the non-governmental ecological organization Infoecoclub – Vratsa, the American Chamber of Commerce in Bulgaria and a consultancy company .

The non-governmental organization Infoecoclub – Vratsa considers that the requirements of the Aarhus Convention were not appropriately transposed into the Bulgarian legislation as well as that its implementation is not effective. The standpoint was formed in the most general terms, there are no specific facts and examples which shall support the thesis of the organization, some of the statements are false and improper. The American Chamber of Commerce in Bulgaria proposes that the business should be actively involved in the preparation of the drafts of new legislative instruments, strategies, plans, programs in the sphere of environment. In principle the business as well as the other groups of the society were included in working groups and were informed in due time during the preparation of the drafts of the documents. The proposal of the organization shall be discussed, aimed at the more active involvement of the business in the process of decision-making about environment.

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).

Answer:

_ none

Article 3

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

Explain how these paragraphs have been implemented. In particular, describe:

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally;
- (e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

Answer:

3 a/

Legislative measures:

Access to Public Information Act - Art. 15 and Art. 16 require the public authorities to publish certain public information and make it available to the public.

Environmental Protection Act – Art. 22 (1)(*Amended – State Gazette. issue 77 of 2005*) - provides for the Minister of Environment to prepare annual state of environment report and present it to the Council of Ministers; *the Council of Ministers annually submits to the General Assembly a report on the state of the environment proposed by the Minister of Environment and Water, which it publishes after its acceptance as National Report on the State and Preservation of the Environment.*

Art. 24 and Art. 25 of the Environmental Protection Act obligate each manager of an administrative structure annually to publish data from the information arrays and resources of information about environment;

Art. 25a. (New - SG, issue 77 of 2005) (1) of the Environmental Protection Act - The competent authorities and the persons pursuant to Art. 21 (*Art. 21.*

(1) Competent authorities under this chapter shall be the central and territorial authorities of the executive power which collect and have information available about the

environment.

(2) Competent authorities within the meaning of Para. 1 shall also be the other authorities and organizations which dispose of the funds of the consolidated state budget and collect and dispose of information about the environment with the exception of the authorities of the legislative and judicial power.

(3) (New - SG, issue 77 of 2005) Each natural or juristic person who renders public services related to environment and who implements this activity under the control of the authorities and the organizations pursuant to Para. 1 and 2. shall be obligated to provide information about the environment in accordance with the procedure established by this chapter as well) shall create an Internet site and maintain through it information database about the environment which shall be gratuitous and publicly accessible.

(2) The database pursuant to Para. 1 shall contain at least the following information:

1. Texts of international contracts, conventions or agreements and legislation related to environment;

2. Strategies, plans and programs related to environment;

3. Reports on the progress or the implementation of the instruments and documents pursuant to items 1 and 2 if such were prepared or maintained in an electronic kind;

4. The national and regional reports on the state of environment as well as other reports on the state of environment anticipated in the law or in the subordinate legislation;

5. Data or generalized data incoming from the monitoring of the activities which exert or may exert impact over environment;

6. Public registers in accordance with the procedure established by this act or of other special acts in the sphere of environment.

(3) The information pursuant to Para. 2 shall be periodically updated.

Article 31 – national radio and TV operators are required to cooperate with the public authorities for the dissemination of environmental information.

Regulatory measures:

Orders of the Minister of Environment and Water:

Order N110/11.02.2003 on the Establishment of a Catalogue of Environmental Data Sources;

Order N 111/11.02.2003 – determines the obligations of certain administrative structures to provide environmental information, which shall be included in the Catalogue of Data Sources.

New Order No RD-953/18.12.2006 which shall not revoke the obligations under Order No 111/11.02.2003 on the Catalogue for Sources of Information about Environment but shall update the procedure for keeping the registers about the applications received for the provision of access to public information;

3(b): Ecological education:

A memorandum of understanding between the Ministry of Environment and Water and the Ministry of Education and Science has been signed.

3(c) Pursuant to Art. 8, Para. 3 of the National Budget Act for year 2007 funds were anticipated for financing projects of non-governmental organizations of general significance and one of the four priorities is the preservation of environment. The associations, organizations or groups working for the preservation of the environment may apply with projects under the operational programs for financing of Bulgaria on the part of the European Union. Representatives of non-governmental organizations are included in over 20 working groups, boards and committees with ministries related to the protection of the environment.

Describe any obstacles encountered in the implementation of any of the paragraphs of article 3 listed above.
<i>Answer:</i> -
Provide further information on the practical application of the general provisions of the Convention.
<i>Answer:</i> <p>Information centers for the public were created in the MOEW and its regional bodies <u>where each citizen may obtain information about the environment</u>. Considerable information is already available at the Ministry's website, as well at those of its regional authorities. A "one-stop-shop" service to register the filed applications for access to information was established in the MOEW in 2000, which allowed for proper file management and compliance with applicable deadlines. MOEW organized nationwide environmental public awareness campaigns targeting various interest groups. <u>With regard to the Communication Strategy for the European Union projects at implemented for getting the public and the local authorities acquainted with the requirements of the new European environmental legislation.</u></p> <p>Within the framework of several projects under the Stability Pact, guidelines have been developed and seminars have been held to familiarize various target groups with their rights deriving from the implementation of the Aarhus Convention in Bulgaria.</p> <p>The Ministry has built a partnership with nongovernmental organizations on the principles of equality and transparency. Environmental NGOs take part in the decision-making process as members of advisory bodies to and working groups of the Ministry. At the earliest possible stage the NGOs are provided with the opportunity to express their positions on legal acts, strategies, plans, and programmes drafted by the Ministry concerning the environment and sustainable development.</p>
Give relevant web site addresses, if available:
http://www.moew.government.bg http://nfp-bg.eionet.eu.int/cds_eng/main.htm

Article 4

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

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;

- (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
- (i) Provide for exemptions from requests;
- (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

➤ *Answer:*

Article 2 of the Convention

Definitions:

1. "Public Authority"- there is no definition in the Bulgarian legislation which fully transposes this definition of the Convention.

According to Art. 21, (1) and (2) of the Environmental Protection Act (EPA) “public authorities” are the competent authorities defined as follows:

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

3) (New - SG, issue 77 of 2005) Each natural or juristic person who renders public services related to the environment and who implements this activities under the control of the authorities and the organizations pursuant to Para. 1 and 2 shall also be obligated to provide information about the environment in accordance with the procedure established by this Chapter;

2. "Environmental Information"

The definition of “environmental information” is fully transposed in Art. 18 and Art.19 of the EPA

Art. 4 a/

According to Art. 17 of the EPA:

- anyone shall have the right of access to available information relating to the environment without having to prove a specific interest.

According to Art. 26 and 27of the Access to Public Information Act:

- access to public information shall be granted in the following forms: examination of the information - original or copy; verbal explanation; paper copy; copy on technical bearer. The bodies shall comply with the requested form of access to public information, with certain exceptions.

Art. 4b/

According to Art. 20 (2) of the EPA:

- information relating to the environment shall be provided within fourteen days after the date on which the applicant was notified about the decision of the competent authority to provide access to the information requested.

According to Art. 28 (1) of the Access to Public Information Act:

- each request for access to public information shall be considered within the shortest possible time, but not later than 14 days as of date of registration.

Art. 4 c/

According to Art. 20 (1) of the EPA:

- access to information relating to the environment may be denied where the request is for:

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

According to Art. 33. of the Access to Public Information Act:

- if the body does not hold the requested information and is not aware of its location, it shall notify the applicant accordingly within 14 days.

According to Art. 29. (1) of the Access to Public Information Act:

- where it is not clear what information is being requested or it is too broadly defined, the applicant shall be advised accordingly and shall be provided an opportunity to specify the requested information.

According to Art. 20(4) of the EPA:

- upon making a decision to refuse provision of any information covered under Paragraph (1), the competent authority shall take into account the public interest served by disclosure of any such information.

According to Art. 14/2(3) of the Access to Public Information Act:

- the authorities shall be obliged to announce information, which has been collected, or came to their knowledge during the performance of their activities, where such information is, or could be, of interest to the public.

Art. 4 d/

According to Art. 32. (1) of the Access to Public Information Act:

- when the body does not hold the requested information, but is aware of its location, it shall re-sent the application within 14 days as of receipt of the request and shall notify the applicant

of the re-sending.

Art. 4 e/

According to Art. 20/5 of the EPA:

- in case of restricted access, the available information relating to the environment shall be provided in the part therein as can possibly be separated out from the restricted information.

According to Art. 37 (2) of the Access to Public Information Act:

- partial access may be granted to such parts of the information, access to which is not restricted.

Art. 4f/

According to Art. 38 of the Access to Public Information Act:

- a decision refusing access to public information shall state the legal and factual grounds for the refusal under this act, the date of the decision and the procedure for its appeal.

According to Art. 28 (2) of the Access to Public Information Act:

- the competent authorities, or persons explicitly authorized by them, shall decide on whether to grant or deny access to public information and shall notify in writing the applicant about the decision.

Art. 4 g/

According to Art. 20. (1) of the Access to Public Information Act:

- the access to public information shall be free of charge. The expenses incurred for granting access to public information shall be recovered in accordance with tariffs determined by the Minister of Finance, and shall not exceed the actual costs incurred. A justification of the expenses shall be provided to the applicant upon request.

- According to Art. 22 of the Access to Public Information Act:

- no additional expenses shall be charged for corrections and/or addendum to the granted public information in cases where the information is incorrect or incomplete and this has been requested by the applicant on stated grounds.

According to Art. 29 of the EPA:

- the charge made for provision of expressly processed information shall be negotiated in each particular case.

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

Answer:

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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?

Answer:

In the Ministry of Environment and Water and its regional authorities there is a very well organized access-to-information system that is subject to constant development.

The access to information procedure in the Ministry of Environment and Water and its bodies is regulated by three ministerial orders regarding the establishment of a register of access-to-information requests, a list of issued legal and administrative acts, and a request processing procedure. A “one-stop-shop” service has been introduced, whereby all access-to-information requests are filed and allocated for consideration.

Pursuant to Art. 15, Para. (2) (Amended - SG, issue 24 of 2006) of the Access to Public Information Act :

Each manager of an administrative structure within the system of the executive power shall prepare an annual report on the applications received for access to public information which shall also include data about the rejections made and the reasons for that. The annual report shall constitute a part of the annual reports pursuant to Art. 62, Para. 1 of the Administration Act.

Order No 111/11.02.2003 was also updated in relation to the preparation of these reports and the optimization of the work by signed new Order No RD 953/18.12.2006 of the Minister of Environment and Water;

The applications registered for access to public information in the Ministry of Environment and Water, sector “One-Stop-Shop” Service”, for the time period from 01.01.2005 to 30.06.2007 added in total to: 348 nos. Respectively in conformity with the applicants they were: journalists - 8; citizens - 114, NGOs – 86, others - 148.

The resolutions for rejection for the provision of access to public information were prepared for 6 of the applications filed as:

- The requested information refers to instruments which are not completed and which do not have their independent significance in conformity with the provisions of Art. 13, Para. 2, item 1 of the Access to Public Information Act;
- Owing to disagreement on the part of third persons for the provision of the information on the grounds of Art. 37, Para. 1, item 2 of the Access to Public Information Act.

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

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

Give relevant web site addresses, if available:

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

Article 5

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

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;
- (f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;
- (g) Measures taken to publish and provide information as required in **paragraph 7**;

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

Art.5a/

According to Art. 24 of the EPA:

- on an annual basis, each head of an administrative structure in the system of the executive branch of government shall publish data for the arrays and resources of processed environmental information

- According to Art. 25(1) of the EPA:

- the Minister of Environment and Water shall issue an order determining the description of the information arrays and resources.

In conformity with Art. 25a of the Access to Public Information Act (New - SG, issue 77 of 2005) (1) The competent authorities and the persons pursuant to Art. 21 shall create an Internet site and maintain through it information database about the environment which is gratuitous and publicly accessible.

(2) The database pursuant to Para. 1 shall contain at least the following information:

1. Texts of international contracts, conventions or agreements and legislation related to environment;

2. Strategies, plans and programs related to environment;

3. Reports on the progress or the implementation of the instruments and documents pursuant to items 1 and 2 if such were prepared or maintained in an electronic kind;

4. The national and regional reports on the state of environment as well as other reports on the state of environment anticipated in the law or in the subordinate legislation;

5. Data or generalized data incoming from the monitoring of the activities which exert or may exert impact over environment;

6. Public registers in accordance with the procedure established by this act or of other special acts in the sphere of environment.

(3) The information pursuant to Para. 2 shall be periodically updated.

- According to Art. 23 of the EPA:

- in the event of accidental or other pollution, where the limit values for pollutants discharge in the environment as established by a legislative act or an individual administrative act are exceeded, the polluters, as well as the persons responsible for observance of the limit values shall be obliged to notify immediately the competent regional governors, mayors of the municipalities concerned, the relevant RIEWs, the basin directorates, and the authorities of the Ministry of State Policy for Disasters and Accidents, and, in case of change of the radiation level, the Nuclear Regulatory Agency as well.

Pursuant to Art. 23, Para. 2 of the Access to Public Information Act the competent authorities covered under Paragraph (1) shall be obliged to notify immediately the Ministry of Health and the affected community about the occurrence of pollution in excess of the emission limit values, suggesting measures for protection of human health and of property.

Art. 5 b/

According to Art. 15 (1) of the Access to Public Information Act:

- in order to achieve transparency of the administration's activities, and for the purpose of maximum facilitation of access to public information, every chief officer of an administrative structure within the system of the executive power shall publish on a regular basis up-to-date information containing:

1. description of his/her powers as well as data on the organizational structure, functions and responsibilities of the administration led by him/her;

2. list of the acts issued within the scope of its powers;

3. description of the data volumes and resources, used by the respective administration;

4. the name, the address, the telephone number and the working hours of the respective administration's office which is authorized to receive requests for access to public information.

According to Art. 24 of the EPA:

- on an annual basis, each head of an administrative structure in the system of the executive branch of government shall publish data for the arrays and resources of processed environmental information.

- According to Art. 25(1) of the EPA:

- the Minister of Environment and Water shall issue an order determining the description of the information arrays and resources, when they contain environmental information.

Art. 5 c/

According to Art. 25 (3) of the EPA:

- the description of the information arrays shall be published on the Internet site of the Ministry of Environment and Water.

Art. 5 d/

In conformity with Art. 22. (1) of the Environmental Protection Act (Amended – SG, issue 77 of 2005) the Council of Ministers annually submits to the General Assembly a report on the state of the environment proposed by the Minister of Environment and Water, which it publishes after its acceptance as National Report on the State and Preservation of the Environment.

(2) The report pursuant to Para. 1 shall be submitted to the National Assembly within a three-month's term after the provision of the data and the information by the National Statistical Institute.

- **Art. 5 e/**

According to Art. 19/2/ of the EPA:

- "information relating to the environment" shall mean any information in written, visual, aural, electronic or other physical form regarding.....,as well as the activities and/or measures, including administrative measures, international agreements, policies, legislation, plans and programmes impacting or capable of impacting the environmental media.

According to Art. 25 (1) of the EPA:

- the Minister of Environment and Water shall issue an order determining the description of the information arrays and resources, where the said arrays and resources contain any information covered under Article 19 of the EPA.

Art. 5f/

According to Art. 133 (1) of the EPA:

- by applying the National Eco-management and Audit Scheme, a sustained improvement in the performance of the various organizations is achieved in terms of both environmental protection and provision of relevant information to the public and other parties concerned.

Art. 5 g/

In conformity with Art. 22. (1) (Amended – SG, issue 77 of 2005) of the Environmental Protection Act the Council of Ministers annually submits to the General Assembly a report on the state of the environment proposed by the Minister of Environment and Water, which it publishes after its acceptance as National Report on the State and Preservation of the Environment.

- **Art. 5h/**

According to Art 137 of the EPA:

- the objective of the National Eco-label Award Scheme shall be to promote development, production, distribution and use of products which have the potential to reduce adverse

environmental impacts in comparison to other products of the same product group. The National Eco-label Award Scheme shall be implemented by means of provision of accurate, non-misleading and scientifically based information to consumers on such products.

Art.5 i/

According to Art. 130(1) of the EPA:

- the Executive Environment Agency shall keep a public register of the results of emissions monitoring as provided for in the integrated permits. The data of the register shall be transmitted to the European Register of Noxious Substance Emissions.

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

Answer:

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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?

Answer:

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

In conformity with the ratified by the Minister of Environment and Water Rules for acceptance and issuance of electronic documents in the administration of the Ministry of Environment and Water since the beginning of year 2005 it has been possible to file applications signed by universal electronic signature (UES) through the input for acceptance of electronic documents on the Internet site of the Ministry of Environment and Water.

The Executive Environment Agency (ExEA), jointly with the Ministry of Environment and Water, and with the technical assistance of the Austrian Environmental Agency, has developed a Catalogue of Environmental Data Sources in Bulgaria.

In conformity with the requirements of the new ecological legislation the Ministry of Environment and Water and the Executive Environment Agency shall maintain about 20 registers and databases related to the environment.

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

I Pursuant to Art. 22, Para. 3 (New - SG, issue 77 of 2005) of the Environmental Protection Act the Regional Inspectorates for Environment and Water annually within a term of up to 30 April shall prepare a regional report on the state of the environment on their relevant territory for the preceding year. The contents and the scope of the regional report shall be defined by instructions of the Minister of Environment and Water.

Information on accidents and disasters in Bulgaria is provided to the public by the Civil Protection Agency, MOEW and ExEA.

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

A “List of Conventions to which Bulgaria is a Party” is published in the “*International Cooperation*” section of the Ministry’s website.

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

The main policy documents such as strategies, programs and action plans, can be found in the Ministry’s information center, as well as in the respective sector departments.

There is a special section “*Dialogue*” at the Ministry’s website, where all important new draft laws, strategies, plans, and programs are published for comments and where respective policy implementation reports are also provided.

Give relevant web site addresses, if available:

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

<http://nfp-bg.eionet.eu.int/ncsd/index.html>

Article 6

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

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

(b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;

(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;

(d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;

(e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

(f) With respect to **paragraph 6**, measures taken to ensure that:

(i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;

(ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

(g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

(h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

(i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

(j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

Article 6, paragraph 1 of the Convention

The List of activities enclosed as Annex I to the Convention is completely transposed in Annex I of the Environmental Protection Act.

Article 6, paragraph 1 (b) of the Convention is transposed with the provisions of:

- Article 93 of the EPA ;
- Article 2 of the Regulation on the Conditions and Terms for Carrying Out Environmental Assessment of Plans and Programs (SG 57/2004).

Article 6, paragraph 2 of the Convention is transposed with the provisions of:

- Articles 87, 95, 97 of the EPA;
- Articles 19, 20, 21, 22 of the Regulation on the Conditions and Terms for Carrying Out

Environmental Assessment of Plans and Programs;

- Articles 9, 16 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessment .

Article 6, paragraph 8 of the Convention is transposed with the provisions of:

- Articles 87 and 99 of the EPA;
- Article 18 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessment of Investment Proposals for Construction, Activities and Technologies;
- Article 26 of the Regulation on the Conditions and Terms for Carrying Out Environmental Assessment of Plans and Programs.

Article 6, paragraph 9 of the Convention is transposed with the provisions of:

- Articles 88 and 99 of the EPA;
- Article 27 of the Regulation on the Conditions and Methods for Carrying Out Environmental Assessment of Plans and Programs.

Article 6, paragraph 10 of the Convention is transposed with the provisions of:

- Articles 85 and 93 of the EPA..

Article 6, paragraph 11 of the Convention

Pursuant to Art. 50. (1) of the Law on Genetically Modified Organisms the Ministry of Environment and Water shall organize public discussion which shall be held not later than 45 days.

(2) The summary of the technical dossier, the summary of the assessment of the risk pursuant to Art. 43 and the standpoint of the Commission pursuant to Art. 49, Para. 5 shall be presented at the public discussion.

(3) The information determined as confidential in accordance with the procedure established by Chapter Six may not be subject to discussion.

(4) The subject-matter of public discussion and the location where the needed information is at the disposal of the interested persons shall be announced not later than 30 days prior to the date of the discussion in a central daily paper, through the local information mass media, through placement of announcements in the relevant town-halls within the region of release of GMO in environment, as well as on the Internet site of the information system pursuant to Art. 4, Para. 2. The date and the location where the public discussion shall be held shall also be announced in the notification.

(5) Each person may present a standpoint on the subject-matter of the discussion in writing or in electronic form.

(6) The applicant or his representatives and the members of the Commission shall also be invited for participation in the public discussion.

(7) Minutes shall be kept at the public discussion which shall be applied to the documents for the issuance of the permit.

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

Answer:

The legislation regarding the environmental assessment is in force since 1 July 2004 and practice is not enough for summarizing the difficulties.

Regarding the procedure on the environmental impact assessment, the publicity and the public concerned are involved in the whole decision-making process – from the first announcement for an

investment proposal (beginning of the process) till the announcement for the decision taken (end of the process). The identification of the public concerned which is involved in the consultation process during the environmental impact assessment is an obligation of the investor (according to the legislation). In some cases it complicates the procedure when there are other persons who would like to participate in the consultations at a later stage of the process.

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 defense purposes.

Answer:

Summarized statistic data on the public participation (number of participants) in the decision-making process is not available. Bigger activity of representatives of the local publicity can be noticed in the process on the environmental impact assessment especially when private interests are concerned. The representatives of the environmental NGOs are usually more active in cases of big infrastructure projects or when the protected areas are concerned.

Give relevant web site addresses, if available:

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

<http://www.riosv-pd.hit.bg/>

<http://www.riosv-vt.hit.bg/>

<http://riosvmon.net-surf.net/>

<http://riosvsz.dir.bg/>

<http://www.rioswpz.hit.bg/>

<http://www.vracakarst.com/riosv/>

<http://riewpleven.hit.bg/>

<http://www.riosv.icon.bg/>

<http://www.riew-varna.org/>

<http://riosvrs.hit.bg/>

Article 7

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.

Answer:

- According to Art. 75(3) of the EPA the process of elaboration and public discussion of the National Environmental Strategy shall furthermore involve representatives of the research community and of non-governmental environmental and branch organizations.

➤ Definitions:

1. "Public"

The definition of “public” is transposed in item 24 of the Supplementary Provisions of the EPA:

“Public” shall be one or more natural or juristic persons and the associations, organizations or groups thereof, established in accordance with the national legislation.

2. "Public concerned"

The definition of “public concerned” is fully transposed in item 25 of the Supplementary Provisions of the EPA (Supplemented – SG, issue 77 of 2005):

- 1) "Public concerned" shall be the public referred to in item 24, which is affected or is likely to be affected, or which has an interest in the procedures for approval of plans, programmes, development proposals, and in the decision-making process on the issuance or updating of permits according to the procedure established by this Act, or in the conditions set in the permits, **inclusive of the ecological non-governmental organizations created in compliance with the national legislation;**

3. "Environmental Information"

The definition is transposed in Art. 18 of the EPA:

The information relating to the environment shall be:

1. available primary information;
2. available pre-processed information;
3. expressly processed information.

and Art. 19 of the EPA:

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

1. the state of the environmental media as follows: ambient air, atmosphere, water, soil, bowels of the earth, landscape, natural sites, mineral diversity, biological diversity and the components therein and the interaction between them;
2. **(Supplemented - SG, issue 77 of 2005) the factors pursuant to Art. 5, as well as the activities and/or measures, inclusive of the administrative measures, international contracts,, policy, legislation in the sphere of the environment, plans and programmes, which exert or are in a position to exert impact over the components of the environment;**
3. the state of human health and safety, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in Item 2;
4. cultural and historical heritage sites, buildings and installations, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in Item 2;
5. costs-benefit analysis and other economic analyses and assumptions used within the framework of the measures and activities referred to in Item 2;
6. emissions, discharges and other harmful impacts on the environment.

4. "Public authority"

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

- central and local executive authorities that collect and hold information relating to the environment;

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

According to the definition given in the Access to Public Information Act, Art. 3, (1) and (2), “public authority” means:

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

The requirement of Article 3 paragraph 9 is set up as main principal in the **Constitution of the Republic of Bulgaria:**

Article 26 (1)of the Bulgarian Constitution states that: “The citizens of the Republic of Bulgaria, wherever they are, have all rights and obligations referred to in this Constitution.

(2) The foreigners who are residents in Republic of Bulgaria have all rights and obligations referred to in this Constitution with the exception of those rights and obligations for which the Constitution and the Law require Bulgarian citizenship.”

According to the **Access to Public Information Act**, Article 4 (1) “Any citizen of the Republic of Bulgaria is entitled to access to public information subject to the conditions and the procedure set forth in this act, unless another act provides for a special procedure to seek, receive and impart such information..

(2) Foreign citizens and individuals with no citizenship shall enjoy the right under paragraph 1 in the Republic of Bulgaria.

(3) Legal entities shall also enjoy the right under paragraph 1.”

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

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

Answer:

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

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

Answer:

There is still not enough practice.

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

Answer:

A public discussion on the Draft National Environmental Strategy 2005-2014 was organized and a lot of the proposals made during the discussion have been reflected. The draft Strategy has been also up-loaded to the Ministry's website for comments and proposals.

Give relevant web site addresses, if available:

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

Article 8

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.

Answer: [Pursuant to Art. 75, Para. 3 of the EPA representatives of the scientific circles and non-governmental ecological and branch organizations also participate in the process of development and public discussion of the National Strategy for Environment.](#)

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

Answer:

-

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

Answer:

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

Give relevant web site addresses, if available:

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

Article 9

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

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

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
 - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
 - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
- (b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
- (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- (d) With respect to **paragraph 4**, measures taken to ensure that:
 - (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
 - (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

ANSWER:

Art. 9 a/i: The basic piece of Bulgarian legislation, relating to the access to information is the Access to Public Information Act (APIA). According to articles 40-42 of the APIA, the decisions for provision or refusal of information can be challenged before court, the Supreme Administrative Court or the **administrative courts**, depending on the authority which has issued the decision. Chapter II of the Environmental Protection Act (EPA) is applied for access to environmental information, but the procedure of the general APIA is applied. Therefore the Bulgarian legislation meets the requirements of the Aarhus Convention and provides every person, who considers that his or her request for information has not been dealt with in accordance with the provisions of Art. 4 of the Convention, with the right to a review procedure before a court of law. The Bulgarian legislation provides also that only a judicial procedure is applicable, which guarantees the independence of the decision made, as well as that the respective decision shall be mandatory for the administrative body. The courts efficiently apply these provisions of the Bulgarian legislation and judicial practice is already established.

Art. 9 a/ii: According to the Bulgarian legislation, there is only judicial review procedure for the decisions relating to access to information (article 40, par.1 of the APIA). As it relates to an administrative decision, the file is submitted through the respective administrative authority, which has made the decision and therefore it can reconsider its own decision. On the other hand, the taxes are paid according to fixed tariffs, established for all courts. As those cases are administrative cases, the respective taxes are relatively small.

Art. 9 a/ iii: As there is only a judicial review procedure, the court decisions are binding to all public authorities, natural or legal persons. The court decisions, concerning refusal of information, are binding also for all persons who have the obligation to provide access to public information and are given in article 3 of the APIA.

Moreover, factual and legal reasons for refusing access to public information shall be stated in writing, according to article 28, par.2 and article 34, par 1 of the APIA, as well as according to the rules on access to public information established by the MOEW.

Art. 9 b.: This issue is not explicitly regulated by the Bulgarian legislation, but the members of the public concerned undoubtedly have the right to challenge any decision made by the administrative bodies. **The Administrative Procedure Code (APC) (promulgated State Gazette issue 30/11.04.2006 in force since 12.07.2006 shall be applied with regard to the administrative proceedings and the representatives of the public may appeal resolutions of the administrative authorities.**

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

Art.9 c/: Members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of the national law relating to the environment; this is provided by the Constitution of the Republic of Bulgaria, according to which everyone has right to healthy environment. This ensures the constitutional grounds for challenging all acts and omissions of public authorities and private persons, relating to the environment.

On the other hand, chapter XI of the EPA provides for a civil liability to anyone, who has

inflicted environmental pollution or damage. Article 171 of the EPA explicitly provides the possibility for the affected parties to bring action against the offender for cessation of the violation and for elimination of the consequences of pollution occurred.

Art.9 d: Bulgarian legislation provides a variety of options for the public to participate in the judicial process. There are provisions for the right to file administrative, civil or a criminal case, relating to environmental matters. Court decisions, relating to environment, are mandatory to all administrative bodies, as well as to every natural or legal person. On the other hand, the judicial procedures are slow, so other options for speeding up the process shall be regarded to settle the environmental disputes. Unfortunately the public itself does not seem to show a great interest in using the access to justice possibilities in the settling of environmental disputes. Seminars and projects have been organized and they will assist in future for the public awareness raising as far as the environmental cases are concerned. At present the administrative and legal prerequisites for effective access to justice have been created.

Art.9 e: With regards to providing information for the review procedures – a lot of activities have been carried out to raise the public awareness regarding the Aarhus convention (publishing information on the MOEW website, holding seminars for different target groups, publishing of information materials). That by all means will lead to public awareness towards the possibilities for access to justice and the opportunities of the public to file law suits for the cases relating to environment. On the other hand, art. 15 of Administrative Proceedings Act requires that the relevant terms and competent body for review procedure shall be included in the decisions of the administrative bodies (which constitute an administrative act).

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

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

Answer:

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

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?

Answer:

No statistics available.

Give relevant web site addresses, if available:

<http://www.moew.government.bg> - Ministry of Environment and Water

<http://www.mjeli.government.bg/> - Ministry of Justice

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

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

Articles 10-22 are not for national implementation.

General comments on the Convention's objective:

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.

Answer:

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