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# Economic and Social Council UNITED NATIONS

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## ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Deleted: Distr. GENERAL ECE/MP.PP/2005/18/Add.24 17 May 2005

Deleted: (Second meeting, Almaty, Kazakhstan, 25-27 May 2005) (Item 6(a) of the provisional agenda)

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## IMPLEMENTATION REPORT

Slovenia\*/

Based on the reporting format annexed to decision I/8

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

The report was prepared by the Ministry of the Environment and Spatial Planning (MoE). In regard to content falling within the competence of other public authorities, the Environmental Agency was consulted. In the first phase of the consultation process the public was given possibility of sending suggestions regarding the content of the implementation report. In this phase MoE received two suggestions (one from the Legal Information Centre of Non-governmental Organizations and another one from the individual person). Both suggestions were considered when preparing this report. Later on the public was consulted through the publication of the report on the official website of the Ministry, which enabled comments to be submitted on the draft in a period of one month. During this period, only the Legal Information Centre of Non-governmental Organizations submitted comments.

As a base for the preparation of the report National legislation, comments on the legislation, the Internet, official sites and other literature were used.

2. Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

## ARTICLE 3

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

(a) In 2003, Slovenia adopted the Act on Public Access to Information (Official Gazette RS, No. 24/03, 61/05 and 28/06) as a general act governing the procedure which ensures everyone free access to information of a public character held by State bodies, local governmental bodies, public agencies, public funds and other public law entities, holders of public powers and public service contractors. These documents are made publicly available on an annual basis by the Government. Furthermore, article 9 of the Act requires that each body appoint one or more officials competent for the transmission of information of a public character. With respect to the environment, article 110 of the Environmental Protection Act (Official Gazette RS, No. 41/04 and 20/06; EPA) sets out the obligation for national and municipal authorities, public agencies, public trust funds and other bodies governed by public law, holders of public powers and providers of public services, to facilitate access to environmental data for all interested parties when prescribed by law or regulations governing access of the public to publicly available information. Furthermore EPA provides for the transmission of environmental data to the Internet. In accordance with the regulations governing access of public to the public information the ministry shall transmit to the Internet in particular the following:

1. municipal regulations concerning the environment that have not been published in the Official Gazette of the Republic of Slovenia.
2. National Environmental Action programme and environmental action programmes.
3. environmental premises,
4. environmental reports,
5. environmental monitoring data or summaries of environmental monitoring data.
6. environmental protection consents and permits, except data not available to the public under the regulations, or a reference to the authority from which consents or permits may be obtained, and
7. environmental reports and reports on impacts on the environment or a reference to the authority from which the reports may be obtained.

(b) Slovenia has adopted the National Programme on Environmental Protection, a general framework for the strategic orientation of environmental policy with the aim of improving the general state of the environment, quality of life and protection of natural resources during a four-year period (2004 – 2008). This programme establishes as one of the priorities the promotion of education and environmental awareness with the aim of furthering general knowledge of environmental issues. Furthermore the Resolution of National Programme of Environmental Protection 2005 – 2012 was adopted. Among the main features for the successful implementation of the Programme are the measures in the area of public communication and education of the environmental protection, which can consequently change social habits, system of values and way of life. In achieving this aim access to environmental information, public participation in shaping the environmental policy and informing of the public must be assured. There is also a need to improve cooperation and partnership among different social groups and non-governmental organizations among European states which can be achieved through:

- assuring access to information, participation and court with the ratification of Aarhus Convention by all the EU member states,
- support to the citizens in collecting of information regarding the state and trends of the environment in relation to social, economical and medical trends,
- general environmental awareness,
- further development of general rules and rules of conduct in regard to the environment.

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Furthermore, the Government adopted the Strategy of the Government for the Cooperation with Non-governmental Organizations, which further promotes different means for the cooperation with the nongovernmental organizations (NGOs) in the process of adoption and implementation of public policy (public participation in the adoption of legal acts and other strategical documents).

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(c) The Environmental Protection Act represents the legal basis for the recognition of NGOs undertaking environmental protection activities in the public interest. The Act, which sets out detailed conditions and measures for recognition, was adopted in 2006, NGOs fulfilling the criteria set in this Act is given the right to act in administrative and judicial procedures without having to claim a legal interest, which is conferred upon them *ex lege*. The Nature Conservation Act contains the procedure for the recognition of associations performing nature conservation activities in the public interest. These associations are given the *ex lege* right to represent the interests of nature protection in all administrative and judicial procedures;

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

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

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

Since the adoption of the Act setting forth more detailed conditions and measures for the recognition of NGOs undertaking environmental protection activities in the public interest in November 2006, no NGO has been conferred the status yet. In the procedure of its adoption various NGOs were consulted. According to Legal Information Centre of Non-governmental Organizations the conditions and measures for the recognition of the NGOs are too stringent and unfounded in contents, which prevents the recognition of NGOs in practice. Remarks of different NGOs were mostly pointed to the condition for the revision of audited report on financial management, which in practice prevents most of the NGOs for recognition due to their bad financial situation. For this reason the draft of amended EPA added the following new sentence: «If the NGO is granted the status of the NGO in public interest, Ministry pays 50 percent of the actual cost for the revision of audited report on financial management:«. According to the Legal Information Centre of Non-governmental Organizations the conditions in EPA are unfounded, as the actual activities of the NGOs are not stressed enough in regard to formal conditions, as for example a number of employed workers in the NGO sector (in 2004 there were on average only 0.77 worker per NGO in Slovenia in non-governmental sector).

Furthermore, the Legal Information Centre of Non-governmental Organizations points out the inconsistency between NGOs in public interest which are conferred status on the basis of Environment Protection Act and Nature Conversation Act. The interpretations of the Ministry and Environmental Agency are different in regards to the area of NGO acting. Ministry holds that these NGOs have an active legitimation for commencement of all administrative and judicial procedures, when Environmental Agency limits the active legitimation only to the procedures of environmental consent and environmental permit. For clarifying the situation a decision of Constitutional Court would be needed.

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

The promotion of environmental education and awareness is undertaken through governmental co-financing of environmental NGOs and of different projects for the promotion of environmental protection that indirectly contribute to public environmental awareness.

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

www.sigov.si/mop

**ARTICLE 4**

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

(a) Article 13 of the Environmental Protection Act applies the principle of accessibility according to which environmental information shall be made public and every person have the right to access environmental information in accordance with the law. Furthermore, article 5 of the Act on Public Access to Information, applicable as a *lex generalis*, sets forth the free access principle which entitles applicants to have free access to information of a public character. Each applicant has, upon request, the right to acquire information from the relevant body for on-site consultation or by receiving a transcript, copy or electronic record. The novel of the Act on Public Access to Information additionally confers to every applicant, under the same conditions as all other persons, to acquire the right to re-use information for commercial or non-commercial purposes. The body shall make its public information available through electronic means where possible and appropriate though this shall not imply an obligation, for the purpose of the re-use of information, to provide transformation of one form into other or provide extracts from documents, where this would involve disproportionate effort, going beyond a simple operation, nor continue with the provision of certain information only for the purpose of re-use by other bodies or other persons.

(b) Article 24 of the Act on Public Access to Information provides that the competent body must decide on the applicant's request immediately, and at the latest within 20 working days from the receipt of the full request. In cases when the body requires more time for the transmission of the requested information due to the volume of the information, the deadline may not be extended for more than 30 working days. When the applicant in his request appeals to the prevailing public interest for the disclosure, the liable body shall submit a decision proposal to the competent body within the time limit of 15 working days after the receipt of request, with the competent body deciding on the request within the time limit of further 15 working days, after the receipt of the decision proposal.

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

Exceptions relate to:

1. information which, pursuant to the Act governing classified data, is defined as classified;
2. information which is defined as a business secret in accordance with the Act governing companies;
3. personal data the disclosure of which would constitute an infringement of the protection of personal data in accordance with the Act governing the protection of personal data;
4. information the disclosure of which would constitute an infringement of the confidentiality of individual information on reporting units, in accordance with the Act governing Government statistics activities;
5. information the disclosure of which would constitute an infringement of the tax procedure confidentiality or of tax secret in accordance with the Act governing tax procedure;

**Deleted:** are not able to exercise the rights that are conferred upon them under the Environmental Protection Act. The Legal Information Centre of Non-governmental Organizations commented that this matter is not adequately regulated by the law, which requires in practice that respective NGOs take it up themselves (NGOs claim that the criteria on recognition found in the proposal of the act are too stringent).

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6. information acquired or drawn up for the purposes of criminal prosecution or in relation to criminal prosecution, or misdemeanors procedure, and the disclosure of which would prejudice the implementation of such procedure;

7. information acquired or drawn up for the purposes of administrative procedure, and the disclosure of which would prejudice the implementation of such procedure;

8. information acquired or drawn up for the purposes of civil, non-litigious civil procedure or other court proceedings, and the disclosure of which would prejudice the implementation of such procedure;

9. information from the document that is in the process of being drawn up and is still subject of consultation by the body, and the disclosure of which would lead to misunderstanding of its contents;

10. information on natural or cultural value which, in accordance with the Act governing the conservation of nature or cultural heritage, is not accessible to public for the purpose of protection of (that) natural or cultural value;

11. information from the document drawn up in connection with internal operations or activities of bodies, and the disclosure of which would cause disturbances in operations or activities of the body.

The novel of the Act on Public Access to Information (Official Gazette RS , No. 61/05) provided for a complete conformity with the Convention with the addition of the prevailing public interest for the disclosure. The access to the requested information shall be allowed, if public interest for disclosure prevails over public interest or interest of other persons for restricting access to information, except in the following cases:

- for information which, pursuant to the Act governing classified data, is denoted with one of the two highest levels of secrecy;

- for information which contain or are prepared on the basis of classified information of foreign country or international organization, with which the Republic of Slovenia concluded an international agreement on the exchange or transmission of classified information;

- for information which contain or are prepared on the basis of tax data, transmitted to the bodies of the Republic of Slovenia by a body of a foreign country.

Without prejudice to these provisions, the access to the requested information shall be allowed:

- if it concerns the data on the use of public funds or information related to the execution of public functions or employment relationship of the civil servant

- if it concerns the data related to environmental emissions, waste, dangerous substances in factory or information contained in safety report and also other data in relation to which the Environment Protection Act so stipulates.

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

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

(f) The Act provides that the decision must be made within 20 working days from the day of the receipt of the full request or, in exceptional circumstances, not more than 30 days. Pursuant to its article 27, the applicant has the right to appeal against the decision by which the body has refused the request. The applicant has the right of appeal also in the case if the applicant deems that the information obtained is not the public information he had stated in his request or when the information received is not in the form he requested.

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

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The Commissioner for Access to Public Information shall decide on the appeal. Appellate proceeding shall be implemented in accordance with the provisions laid down in the Act governing general administrative procedure.

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

The novel of the Act on Public Access to Information enabled the body to charge for the re-use of information for commercial purposes, except in case of re-use for the purpose of providing information, ensuring the freedom of expression, culture and art and media's re-use of information.

However, the price may not exceed the costs of collecting, producing, reproducing, and disseminating, together with a reasonable return on investment. The price must be adjusted for cost-effectiveness, set within a common accounting period and consistent with applicable accounting principles of the body concerned. The cost calculation method for the price is itself public information, and the body must in accordance with this Act, transmit it to every applicant which so requests.

The body does not charge for the re-use of information if it transmits the same information to the internet free of charge

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

The provisions of the Convention are fully transposed into national legislation with the novel of the Act on Public Access to Information (Official Gazette RS, No. 61/05 and 28/06).

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

The substance of decisions are published on the official page of the person authorized to disclose information of a public character ([www.dostopdoinformacij.si](http://www.dostopdoinformacij.si)) and on the official page of the Environmental Agency, where the statistics for the year 2006 on the state of affairs in the procedures of request for the access to public information is published:

- in 2006 there were 55 requests for acquiring public information, which were all approved;
- in 2006 there were no complaints regarding the public information given by the Ministry or Environmental Agency,
- in 2006 there were no administrative disputes against final provisions of the Ministry or Environmental Agency. The Commissioner for Access to Public Information intervened seven times due to the silence of the body. All the requests were finally approved and the public was given the required information.

Source: [http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/kijz/kijz\\_porocilo\\_2006.pdf](http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/kijz/kijz_porocilo_2006.pdf)

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

[www.dostopdoinformacij.si](http://www.dostopdoinformacij.si)

[http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/kijz/kijz\\_porocilo\\_2006.pdf](http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/kijz/kijz_porocilo_2006.pdf)

<http://www.arso.si/o%20agenciji/katalog%20informacij%20javnega%20zna%c4%8daja/Clen>

#### **ARTICLE 5**

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

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(a) Article 96 of the Environmental Protection Act obligates the State to carry out the monitoring of natural phenomena, the state of the environment and environmental pollution. Article 27 contains measures applicable to environmental accidents. An entity having caused an environmental accident has to immediately inform the authority responsible for disseminating information as designated under regulations on the protection against natural and other disasters;

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(b) Article 106 of the Act applies to the disclosure of environmental data to the public through an environmental report. In cooperation with other ministries, the MoE draws up a report on the environment at least every four years. Every other year, the Ministry prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and are available to the public;

(c) Article 108 of the Act provides for the uploading of environmental data on the Internet in accordance with the Act on Public Access to Information. The Ministry makes available on the Internet environmental studies, reports, monitoring data or summaries of monitoring data and reports on environmental impacts, or a reference to the authority from which the reports may be obtained (article 108 of the Environmental Protection Act);

(d) Article 106 of the Environmental Protection Act provides for the disclosure of environmental data to the public through environmental reports. In cooperation with other ministries, the MoE prepares a report on the environment at least every four years. Every other year, the Ministry prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and made available to the public;

(e) Art. 10 Act on Public Access to Information, [amended with a novel \(Official Gazette RS, No. 61/05 and 28/06\) provides transmission of information to the World Wide Web.](#) Each body is obliged to transmit to the World Wide Web the following public information:

1. [consolidated texts of regulations relating to the field of work of the body, linked to the state register of regulations on the Web;](#)
2. [programmes, strategies, views, opinions and instructions of general nature or important for the interaction of the body with natural and legal persons or for deciding on their rights or obligations respectively, studies, and other similar documents relating to the field of work of the body;](#)
3. [proposals for regulations, programmes, strategies, and other similar documents relating to the field of work of the body;](#)
4. [all publications and tendering documentation in accordance with regulations governing public procurements;](#)
5. [information on their activities and administrative, judicial and other services;](#)
6. [all public information requested by the applicants at least three times;](#)
7. [other public information.](#)

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[Each body should facilitate access to information referred to in the preceding paragraph free of charge. The Ministry also enables access to information from the first paragraph also via the joint government portal e-uprava.](#)

The Environmental Protection Act provides for the availability of acts as mentioned under subparagraph (d);

(f) Article 104 of the Environmental Protection Act compels the Ministry to maintain an environmental protection register containing the records of persons having environmental protection permits, records of providers of environmental public utility services and records of persons having authorizations or certificates for performing environmental protection activities;

(g) Article 105 of the Environmental Protection Act requires the Ministry to ensure the establishment and management of an environmental information system on the performance of State tasks in the field of environmental protection, including the disclosure of environmental data to the public;

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(h) Article 32 of the Environmental Protection Act provides for a system of environmental management in order to promote more appropriate management and public information on the impacts of activities on the environment. These organizations are also included in the environmental protection register;

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

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

The provisions of the Convention are fully transposed into national legislation. Legal Information Centre of Non-governmental Organizations suggests more active role of Ministry of the Environment in informing the public. In the past the NGOs were better informed about all the relevant issues (consultation on legal drafts, open calls, etc). From the time Ministry changed the web site, information to the public is given under different columns, which can be time-consuming and hard to follow.

Furthermore, Legal Information Centre of Non-governmental Organizations also points out that information on the Ministry web site regarding integral environment assessment is not up-to-date, as the last published data is from 2006.

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environmental information system is established, the only obstacle being that the data are not¶ horizontally connected. This project is currently being undertaken by the Agency for the¶ Environment.

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## 13. Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

A public relation office has been established at the MoE as a point of contact, and the MoE maintains a website where all required information is available. In addition, it releases every month an information bulletin in English and Slovenian, which is targeted at raising awareness and the level of knowledge among various groups of the public. Environmental Agency set up the information system comprising sistematically linked data regarding the environment. Catalogue of information sources on the environment represents overview of data collected from state and other institutions. A report on environmental indicators has been prepared in accordance with article 106 of the Environmental Protection Act. It comprises 51 environmental indicators which are further divided into nine different topics, such environmental substances (water, air), environmental problems (ozone layer, climate changes, waste treatment) and integrated indicators on sectoral policies (agriculture, tourism, energy).

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

[www.sigov.si/mop](http://www.sigov.si/mop)

[http://eionet-si.arso.gov.si/kazalci/index.html?Sku\\_naziv=UVOD&tip\\_skup=1&Sku\\_id=12](http://eionet-si.arso.gov.si/kazalci/index.html?Sku_naziv=UVOD&tip_skup=1&Sku_id=12)

<http://kpv.arso.gov.si/welcome>

[http://www.arso.gov.si/o%20agenciji/knji%C5%BEnica/publikacije/ARSO\\_publicacija\\_slo.pdf](http://www.arso.gov.si/o%20agenciji/knji%C5%BEnica/publikacije/ARSO_publicacija_slo.pdf)

## ARTICLE 6

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

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

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out and the draft decision on the environmental permit, and allow the public to give its opinions and comments. Article 65 provides that the Ministry informs the public that the environmental permit has been granted within 30 days from the adoption of the decision through a locally established method, on the Internet and in one of the daily newspapers covering the whole territory. The announcement must include in particular:

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

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

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

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

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

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

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

(h) Article 31 of the Act regulates the granting of eco-labels. In order to promote the production of products or provision of services that have a less detrimental impact on the environment throughout their life-cycle than other products of the same kind, and thus contribute to the efficient use of environmental components and a high level of environmental protection, the Ministry can award eco- labels. Article 32 applies to a system of environmental management of organizations which aims to promote more appropriate environmental management and public information on the impacts of their activities on the environment. For this purpose, the Ministry can enable companies, traders, institutes and other organizations or parts or associations thereof to participate in the Community Eco-Management and Audit Scheme (EMAS);

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

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

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

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

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

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

[www.sigov.si/mop](http://www.sigov.si/mop)

[www.arso.gov.si](http://www.arso.gov.si)

**ARTICLE 7**

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

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

Article 37

During the procedure for the preparation of the national environmental action programme and operational environmental protection programmes, the Ministry must make the draft programmes available to the public for comment. Through a public announcement on the Internet and in one of the daily national newspapers, the Ministry must inform the public of the location of the programme and of the procedure for submitting comments. Access to the drafts and the possibility to provide comments must cover a period of at least 30 days. The ministry shall consider the opinions and comments of the public and take them into account, as appropriate, in the drawing-up of the programmes. It must notify the public of the adoption of the programme on the Internet and in one of the daily national newspapers. Such notification must include the reasoning for the decisions adopted and information on public participation in the drawing-up of the programme.

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Article 40

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

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report for the EIA is determined to be appropriate and the developer of the plan must, within the adoption procedure, make the plan, environmental report and its revision available to the public during at least 30 days and ensure public discussion. The developer of the plan publishes in one of the daily national newspapers, through a locally established method and on the Internet a public announcement indicating the place and time of the public display and discussion of the plan, and procedure for submitting comments. Where the developer is the competent authority of the municipality, the public announcement has to be published in a newspaper covering the territory of the municipality instead of the territory of the State.

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

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

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

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

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

[Legal Information Centre of Non-governmental Organizations noted difficulties in practice regarding the adoption of the Resolution on National Developmental Projects 2007-2023 adopted by the Government. In some parts the Resolution contains very specific plan of projects regarding the environment. In the process of adoption Government did not carry out environmental impact assessment despite the protest of the NGO Umanotera. The resolution was adopted with a decision \(despite resolution being a general implementation act\). According to Umanotera the resolution was adopted by the incompetent body \(Government instead of the Parliament\), what consequently enabled public participation in the legal procedure.](#)

[Legal Information Centre of Non-governmental Organizations also notes the lack of efficient legal remedy for the NGOs to act in the environmental impact assessment procedures as none of the NGOs has been conferred a legal status of the NGO acting in public interest according to the Environmental Protection Act.](#)

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

www.sigov.si/mop

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**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 nondiscrimination requirement in article 3, paragraph 9.**

The public has the possibility to effectively participate in the preparation by the public authorities of executive regulations and other legally binding rules. On a regulatory basis, the MoE has an internal guidance document as an operational tool by which the public is given the opportunity to

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submit comments and remarks on generally applicable legally binding rules and other documents concerning environmental matters. It can also participate in public discussions that are announced in advance through the Ministry's electronic network and Bulletin. During the adoption process of secondary legislation, cooperation with different segments of interested members of the public (for example, the Chamber of Commerce and Chamber of Craftsmen) is also foreseen.

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

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

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

Remark received from the public during the consultation process concerns public participation during the preparation of environment legislation and executive regulations (Aarhus Convention Article 8). Public participation is currently limited to an e-mail based public discussions. Public actors, interested to participate on-line, can send their comments, suggestions and amendments on e-mail address either from Ministry of the Environment and Spatial Planning main office or responsible officials. This kind of public e-participation is not transparent (comments provided by the public are usually not published in the web site nor feedback from the public authorities is available), its lacks of in-depth deliberative debate (usually, only 2 weeks are usually available for sending comments) and is technologically outdated. What is more, the Ministry of the Environment and Spatial Planning e-mail based consultations are available in the Press centre section of the website, indicating public relation understanding of the political democracy [http://www.mop.gov.si/si/novinarsko\\_sredisce/vabila\\_k\\_sodelovanju/](http://www.mop.gov.si/si/novinarsko_sredisce/vabila_k_sodelovanju/).

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

[www.sigov.si/mop](http://www.sigov.si/mop)  
[http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/ministrstvo/pdf/navodilo\\_akti.pdf](http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/ministrstvo/pdf/navodilo_akti.pdf)

**ARTICLE 9**

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

others still need further implementation. Accordingly, the legislator has amended the relevant legislation (Environmental Protection Act and Act on Public Access to Information) to be more in compliance with the Convention. It is hoped that ratification of the Convention will lead to efficient solutions and accelerate Access to justice is fully regulated in matters concerning the refusal or dismissal of requests for the disclosure of environmental information. Article 27 of the Act on Public Access to Information regulates appellate proceedings. The applicant has the right to appeal against the decision by which the body refused the request, as well as against the order by which the body dismissed the request. The applicant has the right of appeal also in the case if the applicant deems that the information obtained is not the public information he had stated in his request or when the information received is not in the form he requested. A person authorized to access information of a public character decides on the appeal. This procedure is implemented in accordance with the provisions laid down in the Act governing general administrative procedure. Judicial protection is also guaranteed under article 31, which provides the opportunity to initiate an administrative dispute against the decision by the person authorized in accordance with the

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statute. Article 157 of the Constitution provides that every person who considers that concrete administrative act violated his rights or legal benefits can start a procedure before administrative court. This is concretized by Administrative Dispute Act, which provides that administrative dispute assures judicial protection of rights and legal benefits of individuals and organizations against decisions and acts of state bodies, local community bodies and holders of public authorization. The administrative court decides upon legality of final administrative acts which interferes with the legal status of the complainant. Administrative dispute can only be initiated after all legal remedies in administrative procedure were used. The Environmental Protection Act also applies to parties to a proceeding relating to the granting of an environmental permit. Permanent residents of the area affected by the environmental impacts of the project have a legitimate interest in line with the regulations on administrative procedure if the impacts cause a disproportionate environmental burden or danger for human health or if the person owns or possesses real estate, and thus are granted the status of accessory participants to the procedure. The public announcement relating to the environmental permit must include an invitation to all persons whose legitimate interests are affected by the planned activity and who have the status of accessory participant.

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

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

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

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

The act which regulates in detail the granting of the status of an NGO operating in the public interest in the environmental area was adopted in 2006, however no environmental NGOs has been granted the status so far, which consequently prevents NGOs to make use of the relevant provisions of the Environmental Protection Act (see above).

**30. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?**

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

Legal Information Centre of Non-governmental Organizations is concerned about long lasting procedures in granting the status of side-participant in procedure of environmental consent to NGOs. It points out the example of Association of birds observers of Slovenia (Association) which has been trying to get the status of side-participant in the particular procedure of environmental consent for building a power plant since 2004. The Environmental Agency rejected its participation three times on ground that EPA explicitly articulates entities with status of side-participant in the procedure of environmental consent, among others also NGOs operating in the public interest in the environmental area. At the time the Association applied for the status of a side-participant the Act which regulates in detail the granting of the status of an NGO operating in the public interest in the environmental area was still not adopted, therefore the Association has not even have objective possibility to apply for the status. According to the opinion of the complainant the Agency was too restrictive in interpreting the provisions of EPA with regard to recognition of the status to the Association when this Association could get the status of side-participant also on the grounds of Nature Conversation Act. The relation between the status of the NGOs acting in public interest on grounds of Environmental Protection Act and Nature Conversation Act is therefore not clear.

Legal Information Centre of Non-governmental Organizations holds that despite the transmission of the third pillar of the Convention is in place, an actual implementation of the pillar is vague due to the fact that no NGO has been conferred the status so far. The main reasons are following: lack of financial resources of NGOs, lack of experts working in this field and too stringent criteria in EPA.

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

[www.sigov.si/mop](http://www.sigov.si/mop)  
[www.dostopdoinformacij.si](http://www.dostopdoinformacij.si)

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

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

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

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

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

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

**30. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice**

**and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?**

Despite the general compatibility of the legislation with the third pillar of the Convention, further

development and possibilities for strengthening the effective implementation of the Convention

provisions shall be envisaged in parallel with regional and international developments.

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

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**protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.**

By ratifying the Convention, Slovenia has proved its commitment to the promotion of civil

society and sustainable development, and to the better enforcement of environmental legislation

in our country and in Europe. The review of the state of implementation of the Convention

indicates that some areas of environmental protection are already regulated consistently with the

Convention while