

FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT

The following report is submitted on behalf of __Albania in accordance with decision I/8 and II/10

Name of officer responsible for submitting the national report:	Klodian Aliu
Signature:	
Date:	7.2.2011

IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

Party	Albania
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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

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 information was gathered from different stakeholders and with the assistance of REC Albania the NGO were invited to send relevant information to be used for the report. The report is finalised from the National Focal Point.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

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:

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF 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; including:
 - (i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, and the Almaty Guidelines, indicating whether the measures to coordinate are ongoing;
 - (ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which the access to information was provided;
 - (iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g. inviting NGO members to participate in the Party's delegations in international environmental negotiations or involving NGOs in forming the Party's official position for such negotiations) including the stages at which the access to information was provided;
 - (iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;
 - (v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;
- (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:

Legislative measures

Public access to environmental information is sanctioned by a relatively recent legal and institutional framework. In Albania, public information on environmental issues is regulated through:

- The Constitution of the Republic of Albania. Article 56, Chapter V "Social Objectives", provides that "Everyone has the right to be informed about the status of the environment and its protection," thus sanctioning that the right to be informed is a constitutional right.
- Law No. 8672, "On Albania's Adherence to the Aarhus Convention" dated 26.10.2000, (Official Journal 35/2000, page 1705, dated 20.11.2000), gives the Aarhus Convention the status of a binding normative act within the Republic of Albania (Constitution of the Republic of Albania, Article 116 (1/b)).

- Law No. 8934 "On Environmental Protection", dated 05.09.2002, (Official Journal 60/2002, page 1673, date of publication 16.10.2002), Article 54/1, defines what constitutes environmental data in Albania. Article 54 (2) provides that all environmental data must be accompanied by explanations about possible adverse effects on the environment and health, as s recommendations about how citizens should act in case such adverse effects are identified. Article 56 (1) defines how this environmental data shall be published, and requires that the information be provided in a form easily understandable by the public.
- Law No. 8503, "On the right of information on official documents", dated 30.06.1999, (Official Journal 22/1999, page 739, dated 26.07.1999), set out normative practices for public information within the Republic of Albania. Article 8 of the law identifies the official documents that shall be made available to the public routinely, without the need for a special request to that effect. (See Law 8503/1999 in Annex 4)
- Prime Minister Order No. 202, dated 16.12.2005, "On improving transparency through an increased use of the internet and improvement of existing websites", (see www.pad.gov.al), in letter "i" states, that the official websites of every Albanian administrative body must publish contact details for the person or organization dealing with information issue, and the deadlines for providing

Institutional measures in practice:

Public institutions with public information duties concerning the environment are:

- **The Environmental Institutional Network**, which was established pursuant to Article 64 of Law No. 8934, dated 05.09.2002, "On Environmental Protection" and comprises: The MoEFWA), the Environment and Forestry Agency (EFA), the Regional Environment Agencies (REAs), the Environmental Inspectorate (EI), environmental units that are part of central and local authorities, and interdepartmental bodies established and endorsed by the Council of Ministers, in charge of important environmental issues. The legal definition of this institutional network directly obliges these structures to undertake steps for the dissemination of environmental information at their disposal. Additionally, identification of the environmental institutional network helps make the public aware of the structures they need to approach to request environmental information.

Municipality of Tirana

The Directory on Environmental Management has two sectors: the City Cleaning Sector and the Waste Treatment and Environmental Education Sector. The Waste Treatment and Environmental Education Sector maintains a waste database with regard to the Sharra disposal site; statistics on the amount of waste in Tirana; and undertakes citizens awareness campaigns for deposit of waste in appropriate containers and to build respect for the environment.

- MoEFWA, through its Sector for Public Information and Information Technology (Albanian acronym SIPTI) ensures the collection of environmental information from all its structures and its dissemination to the general public. Information is disseminated in the following ways:

Passive dissemination of environmental information

The SIPTI responds to requests for information by interested members of the public. Written requests submitted to the MoEFWA Protocol office are passed on to SIPTI for processing. In the preparation of responses SIPTI cooperates with the other MoEFWA departments and subordinate structures. Responses to the public are regulated by Law No. 8672, dated 26.10.2000, and Law No. 8503, dated 30.06.1999. SIPTI also regularly receives visitors with requests for environmental information. Each visit is recorded for tracking purposes. In 90% of the cases, visitor requests for information receive an immediate response.

Active dissemination of information:

The MoEFWA website at www.moe.gov.al is regularly updated. Pursuant to the Prime Ministers Order No. 202, dated 16.12.2005, the MoEFWA website includes the entire body of environmental information available to the general public without the need for special requests. The posted information includes: the complete body of legislation related to the Ministry; draft acts under public consultation; strategic environmental documents; state of the environment reports; and services offered by the Ministry, including licenses, certificates, permits, etc.

A **Monthly Online Environmental Newsletter** produced by SIPTI is available to the public. The newsletter is delivered to more than 200 e-mail addresses, including Chapter 27- Environment Albania 332 8 environmental NGOs, information officers at all Ministries, Chambers of Commerce, Environmental Projects Offices, etc.

- The EFA, established by DCM No. 579, dated 23.08.2006, “On the establishment of the Environment and Forestry Agency”, drafts and publishes the Annual State of the Environment Report.
- **REAs** draft and submit a biannual State of the Environment Report to the Regional Council concerning their own areas of jurisdiction. Pursuant to Article 19 of Law No. 9890, dated 20.03.2008, “On Environmental Protection,” as amended, they make the report available to the public.
- **The Environmental Inspectorate**, pursuant to paragraph 10 of the DCM No. 24, dated 22.01.2004 (*Official Journal* 3/2004, page 76, date of publication 30.01.2004), displays the action plans it intends to implement during the year at the institution’s premises and in a easily visible location. Per Paragraph 16, of the Decision, the Inspectorate must disclose reports for inspections conducted at companies that have been issued an environmental permit, and publish the findings of such inspections and any sanctions imposed.
- **Ministries of the Government whose work is related to the environment** (Line Ministries), pursuant to Prime Minister Order No. 202, dated 16.12.2005, must publish on documents that serve to provide the public with environmental information on their websites. Contact points at the line ministries are used by SIPTI to obtain any environmental information they have at their disposal.
- **Local Governmental Authorities** also play an important role and have environmental information. Nearly all of the municipalities in the country have active websites, (including the Municipality of Tirana (www.tirana.gov.al); the Municipality of Shkodra (www.bashkiashkoder.gov.al); the Municipality of Kukës www.bashkiakukes.com); the Municipality of Korça (www.bashkiakorce.gov.al); the Municipality of Fier (www.bashkiafier.com); the Municipality of Pogradec (www.bashkiapogradec.gov.al); and the Municipality of Vlora (www.bashkiavlore.org).
- Environmental information structures receive the support of three Aarhus Information Centres (AICs) based in Vlora, Shkodra and Tirana, which were set up within the framework of the Memorandum of Cooperation between the MoEFWA and the OSCE office in Albania, “On Cooperation in the Field of Environmental Information and Implementation of the Aarhus Convention in Albania” signed in July 2006. The Aarhus Centre in Tirana is located in the premises of the MoEFWA, as part of the SIPTI. Other Centres assist in the dissemination of environmental information obtained from the SIPTI at the MoEFWA and other sources, as a way to speed up the information process for the public in their respective geographical areas. The public receives information in various ways, including publications produced by the Centers, from their website www.aic.gov.al or through the local media. **AICs** are also involved in training local authorities by raising levels of awareness and making sure that they fulfill their legal obligations with respect to the Aarhus Convention. Their advisory boards serve as liaison structures between the local and central authorities, environmental NPOs, and interested members of the public within respective local geographical areas.

(III) Albanian environmental legislation also sets objectives for environmental education therefore at the paragraph “c”, Article 67 of the Law No. 8934, dated 5.09.2002 “*On environmental protection*”, states that the MoEFWA “studies the national need for specialists in environmental protection and coordinates with the Ministry of Education and Science concerning their qualification and specialization;”. Albanian education system is offering several diplomas on the environmental sciences.

- Faculty of Natural Sciences of Tirana
- Agriculture University of Tirana
- Faculty of Geology and Mines

The Environmental Cross - Cutting Strategy approved by DCM, No 847, dated 29.11.2007, lays out policies in the area of environmental protection. Article 67, Point ç, of Law No. 8934, dated 5.09.2002 “On environmental protection”, amended,) stipulates that: “**The Ministry of the Environment supports scientific research projects for improving the status of the environment, to introduce ecologically clean technologies, and to promote activities of environmental NGOs.**”

The MoEFWA is also engaged in training officials in the field of environment protection. Every year a variety of intellectual and practical events are planned and organized at the national, regional and local level to train employees engaged in environmental work. Many environmental field employees, especially among the younger generation, are engaged in individual post-graduate training both in and out of the country,

Main related activities and projects

1) The National Research and Development Programme, the MES has supported the “Biodiversity and the environment” programme for the period of 2003-2005 and for 2007-2009. Government funding for scientific research has increased from year to year, with special attention paid to environmental education and scientific research.

2) World Bank ongoing project

The World Bank’s International Development Fund (IDF), financing the Strengthening of Aarhus Convention Implementation Project in Albania, and covers the implementation period from January to December 2010. The Government of Albania has received a grant from the International Bank for Reconstruction and Development (World Bank/Institutional Development Fund grant (IDF) to finance the Strengthening of Aarhus Convention Implementation Project. The IDF Grant Agreement was signed by the World Bank in October 30, 2009 and countersigned by the Government of Albania on December 17, 2009. The Project became effective in mid January 2010. The Grant amount is equivalent to USD 370,000, and the project closing date is December 17, 2012.

The objective of the Project is to strengthen the Albanian institutions and civil society capacities to implement the Aarhus convention. The Project’s components are: (1) Strengthening institutional capacity and legal framework; (2) Dissemination of knowledge, training, and information and (3) Increasing transparency and accountability with specifies objectives to:

(i) Build and/or improve the capacity of the Aarhus Center, the regional environmental agencies, civil society, and other stakeholders in understanding the AaC requirements and in implementing an updated local AaC Strategy and Action Plan.

(ii) Enhance the interaction between the civil society and public authorities with respect to public participation and access to justice in government decision-making regarding national, and transboundary environment matters, fostering improved compliance with the relevant provisions of the Convention.

(iii) Improve civil society's watchdog role, by engaging them in a constructive manner with environment-related Government of Albania (GoA) planning processes, through improved monitoring of guidelines and requirements set forth in the Convention.

The project’s management: activities are being implemented by the Project Management Team (PMT), which is comprised of: (i) the Manager of Aarhus Center located within the Ministry of Environment, Forestry and Water Administration (MoEFWA), the Head of Environmental Impact Assessment Sector, MOEFWA as the official contact point for AaC; and (ii) the Central Financing and Contracting Unit (CFCU) within the Ministry of Finance (MoF).

Given the nature of the Project, the Aarhus Board (AaB) maintains an oversight role over the project. The Board includes the participation of high officials from the Ministry of Environment, Forestry and Water Administration, Ministry of Public Works and Transport; Ministry of Economy, Energy and Trade, Chamber of Commerce, as well as, 7 representatives from civil society organizations.

3) UNICEF has supported the “Child-Led Environmental Education Initiative” (CLEEN) project which aimed on equipping primary school children with knowledge and skills to take action to preserve conserve and protects the environment. As part of a school program on environmental awareness and responsibility, endorsed by the Ministry of Education and the Ministry of Environment, in 250 Albanian schools, children are learning new approaches on how to protect and make the environment cleaner, healthier and more pleasant to live in. The more children know about and appreciate the environment, the more likely they are to protect it. The Child Led Environmental Education Initiative (CLEEN) introduces environmental education in primary schools. It helps children to understand the importance of a protected environment, fosters positive attitudes and encourages related child led activities. An environmental curriculum has been developed; a campaign for better behaviors has started; and small grants will be provided to schools for specific activities. The Institute of Curriculum and Training has certified the relevant training program and 1,280 teachers have already been trained

4) The Regional Environment Centre (REC) for Central and Eastern Europe has contributed to environmental protection in Albania through a series of environmental projects. The project to “Support,

Strengthen and Empower the Institutions of Training and Curricula” (MES) introduced environmental educational curricula, the so-called “green package”, for grades 5-9. Finally, the data and recommendations provided by scientific institutions and NGOS contribute to the development of many national strategic and policy documents in the environment area, and support environmental plans, programmes, and environmental monitoring projects.

5) Main Projects of the recent years:

- Trust fund for Local Environmental Initiated Projects – The Embassy of the Kingdom of the Netherlands in Tirana, 2003-2007, 2008-2010
- Promotion of networks and exchanges in the countries of South Eastern Europe, Shkodra Lake - Swiss Agency for Development and Cooperation (SDC), 2000-2009.
- Promotion of Public Awareness and Involvement, AECI 2006-2009
- Local Environment Action Plans for Municipalities in Korca region, - Swedish International Development Agency (SIDA), 2003-2007
- Raising environmental consciousness through environmental education and information program - The Embassy of the Kingdom of the Netherlands, 2003-2007
- Raising Awareness on Environmental Legislation - A Precondition of Effective Enforcement - Open Society Foundation for Albania- SOROS Foundation, 2004-2007.
- Promoting MDG 7 principles in Albania through Awareness and Volunteerism - UNV, 2007
- Waste Communication Strategy: drafting and implementation – Interco operation / SDC 2008

Other past projects

- Environment in my city” environmental education program for Tirana - UNDP and UN Office in Albania
- Water quality survey in the frame of “Development Plan of Sewerage System and Sewage Treatment Plant for the Greater Tirana” – JICA
- Support on Preparation of Millennium Development Goals Regional Reports for Korca and Lezha, UNDP Albania
- Preparation of Local Environmental Plans for 17 communes in Korca District, UNDP
- Local Environmental Action Program (LEAP) Support for South-East Europe (SEE), USEPA
- Raising awareness on forestry activities in Albania - Chemonics/USAID project Public Involvement and Participation for Lake Ohrid Conservation Project - World Bank
- Capacity building for biodiversity and protected areas management - GEF/SGP
- Support and facilitation of LEAP for Lezha district - SOROS Foundation

As the institution responsible for environmental protection, MoEFWA supports research and scientific development in the environmental area. The environmental cross-cutting strategy approved by DCM, No 847, dated 29.11.2007, lays out policies in the area of environmental protection. Article 67, Point ç, of Law No. 8934, dated 05.09.2002 “On environmental protection”, amended,) stipulates that: “The Ministry of the Environment supports scientific research projects for improving the status of the environment, to introduce ecologically clean technologies, and to promote activities of environmental NGOs.” Point 1, letter c, of Article 87 stipulates, that out of the environment funds, “revenues from penalties are to be used to provide financial support for scientific and research work, and the development of studies and personnel training.” In this context, MoEFWA annually provides 200.000 Euro in financial

support to scientific institutions engaged in the environmental monitoring programme. The output of this programme assures the necessary environmental monitoring data for situation assessments, and helps define. MoEFWA has also cooperated with individual NGOs and NGO groups throughout the course of last three years, and some 42 contracts have been awarded for environmental assessments, and to raise awareness concerning the environment.

Legal measures

Albanian legislation recognizes the right of the persons either individuals or organized subjects to exert their role and interests. Below is given the most related legal provisions to enable and protect the persons or organization that also demand and act compliant with the Convention.

Article 42 of the Constitution of the Republic of Albania guarantees that “in order to protect his/her constitutional and legal rights, freedoms, and interests, or in the case of charges against him/her, everyone has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.” While **Article 44** provides that “Everyone has the right to be Rehabilitated and/or indemnified pursuant to the law, if he is damaged because of an unlawful act, action or failure to act on the part of state bodies.” **Article 48** of the Constitution emphasizes that “Everyone, on their own or together with others, may address requests, complaints or comments to public bodies, which are obliged to answer within the time and terms provided by law.”

Article 45 (3) of the Code of Administrative Procedures provides that associations acting to protect the interests of the general public are entitled to initiate or participate in administrative processes. Findings from collected data and respective analyses show that there is a low level of implementation of the right for public access to justice in Albania, a fact that has also been noted in internal country reports or the ones requested by foreign bodies. For instance, the report on compliance with the Aarhus Convention, third pillar “Access to Justice”, shows a lower level of implementation than the two other pillars, i.e. “Environmental Information” and “Participation in Decision Making.”

Law no.8788, date 7.5.2001”For non profitable organizations” This law sets out rules for the establishment, registration, functioning, organization and activity of non-profit organizations, which follow purposes in the good and interest of the public. Article 4, 5 6,7 and 8 of this law are related below: **Article 4** (The Right to Establish and Participate). Every natural or juridical, local or foreign person has the right to establish a non-profit organization, to be a member of it or to take part in its management organs or in the administrative personnel of the non-profit organization.

Article 5 (The Principle of Protection and Respect for Human Rights) Non-profit organizations base their activity on the principle of respecting, protecting and implementing the fundamental human rights and freedoms provided in the Constitution, laws and international agreements ratified by law. **Article 6** (The Principle of Independence from the State) Non-profit organizations exercise their activity in a manner independent from state organs and interests. **Article 7** (Relationships of Non-profit Organizations with State Organs). The state supports and encourages the activity of non-profit organizations. The realization by the state of conditions and facilities for non-profit organizations to achieve the purpose and object of their activity is done by law. State organs do not interfere in the activity of non-profit organizations. A prohibition or limitation of the activity of non-profit organizations is done only in the cases and the manner specified by law. **Article 8** (Civil Rights and Duties) Non-profit organizations have rights and carry out duties in conformity with the provisions of the Civil Code, except when it is provided otherwise in this law or other legal provisions.

Practical arrangements

The Ombudsman

The institution of the National Ombudsman is a recent creation in the Albanian legal and state system. The Ombudsman may undertake investigations and formulate reports based on citizen complaints of actions taken by public authorities, including discrimination on any grounds.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

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

Answer:

- The low level of environmental awareness of the developers in general for the Conventions.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

Provide further information on the **practical application of the general provisions of article 3**.

Answer:

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

Give relevant web site addresses, if available:

Ministry of Environment: www.moe.gov.al; Council of Minister: www.keshilliministrave.gov.al;
Albanian Chamber of Commerce: root@ccitr.tirana.al

The Ministry of Environment, Forestry and Water Administration of Albania. www.moe.gov.al :

Aarhus Information Centre www.aic.org.al

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN 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:

Public access to environmental information is sanctioned in a relatively recent legal and institutional framework.

In Albania, information of the public on environmental issues is regulated through:

- **The Constitution of the Republic of Albania**, Article 56, Chapter V "Social Objectives", provides that "Everyone has the right to be informed on the status of the environment and its protection," thus sanctioning the right to be informed on the state of the environment as a constitutional right.
- **Law No. 8672, "On Albania's Adherence to the Aarhus Convention"** dated 26.10.2000, (*Official Gazette* 35/2000, page 1705, date of publication 20.11.2000), grants the Aarhus Convention the status of a binding normative act in the Republic of Albania (Constitution of the Republic of Albania, Article 116 (1/b)).
- **Law No. 8934 "On Environmental Protection"**, dated 05. 09.2002, (*Official Gazette* 60/2002, page 1673, date of publication 16.10.2002), Article 54/1 defines what constitutes environmental data in Albania. Article 54 (2) provides that all these environmental data must be accompanied by explanations on possible adverse effects on the environment and health, as well as recommendations on how the citizens should act in case such adverse effects are identified. While Article 56 (1) defines how these environmental data shall be published. This Article requires that the information is provided in a form easily understandable by the public.
- **Law No. 8503, "On the right to information on official documents"**, dated 30.06.1999, (*Official Gazette* 22/1999, page 739, dated 26.07.1999). This law sets out the everyday practices for the provision of official information in the Republic of Albania. Article 8 of this law identifies the official documents that shall be made available to the public without the need for a request to that effect.
- **Prime Minister's Order No. 202**, dated 16.12.2005, "On improving transparency through an increased use of the internet and improvement of existing websites", letter "i" (www.pad.gov.al). Pursuant to this Order the official websites of every Albanian Administration body must publish contact details of the person or the structure dealing with information issues and the deadlines for providing responses. In addition, the order lists fundamental documents must be included mandatorily in the websites. Such information is provided to the public without the need for the latter to request it.

The public institutions carrying out public information duties with regard to the environment are:

- The Environmental Institutional Network, which was established pursuant to Article 64 of Law No. 8934, dated 05.09.2002, "On Environmental Protection" and comprises: The Ministry of the Environment, Forestry and Water Management (acronym in Albanian MMPAU), Agency for the Environment and Forestry, Regional Environmental Agencies, the Environmental Inspectorate, environmental bodies that form part of central and local authorities, as well as interdepartmental bodies established and endorsed by the Council of Ministers, in charge of important environmental issues. The legal definition of this institutional network directly obligates these structures to undertake steps for the dissemination of the environmental information they have at their disposal. In addition, the identification of such an environmental institutional network helps to make the public aware of the structures where they can go to request environmental information.

- The Ministry of Environment, Forestry and Water Management, through its Division for Public Information and Information Technology (acronym in Albanian SIPTI) ensures the collection of environmental information from all its structures and its dissemination to the to the general public. The information is disseminated in the following ways:
 - a. **Passive dissemination of environmental information**
 This division has as its primary obligation to respond to requests for information made by interested members of the public. The written requests submitted to the MMPAU Protocol are passed on to SIPTI to process them and respond to the public. In the preparation of the response this Division cooperates with the internal MMPAU departments, or even subordinate structures. Responses to the public are regulated by Law No. 8672, dated 26.10.2000, and Law No. 8503, dated 30.06.1999.

 The Division constantly receives visitors requesting environmental information. The visits are recorded for reporting purposes. In 90% of the cases, the visitors' requests for information receive an immediate response.
 - b. **Active dissemination of information is carried out:**
 - Through the website of the Ministry www.moe.gov.al, this is regularly updated. Pursuant to the Prime Minister's Order No. 202, dated 16.12.2005, the MMPAU website must include the entire environmental information to be provided to the general public without the need for a request on their part. The information includes: the complete body of legislation related to the Ministry, draft acts currently under public consultation, strategic environmental documents and those under public consultation, state of the environment reports, services offered by the Ministry, such as licenses, certificates, permits, etc.
 - Through a Monthly Online Environmental Newsletter, produced by the Division for Public Information and Information Technology. The newsletter is sent to more than 200 email addresses, including environmental NPOs, information officers at all Ministries, Chambers of Commerce, Environmental Projects Offices, etc.
- The Agency for Environment and Forests, established by Decree of the Council of Ministers No. 579, dated 23.08.2006, "On the establishment of the Agency for Environment and Forestry", drafts and publishes the Annual State of the Environment Report.
- *Regional Environmental Agencies* (Albanian acronym ARM) compile and submit to the Regional Council a biannual report on the state of the environment in the region they cover. Pursuant to Article 19 of Law No. 9890, dated 20.03.2008, "On Environmental Protection," amended, they make the report available to the public.
- *The Environmental Inspectorate*, pursuant paragraph 10 of the Decree of the Council of Ministers No. 24, dated 22.01.2004 (*Official Gazette* 3/2004, page 76, date of publication 30.01.2004 must display the action plans it intends to implement during the year in an obvious place in the institution's premises. In addition, according to paragraph 16, it must disclose reports of inspections of companies in possession of an environmental license and publish the findings of such inspections as well as any sanctions imposed.
- *Ministries of the Albanian Government whose work is related to the environment (the Line Ministries)*. Pursuant to Prime Minister's Order No. 202, dated 16.12.2005, all the line ministries must publish on their website documents that serve to provide the public with environmental information. In addition, the contact points in charge of public relations are used by SIPTI to obtain any environmental information they have at their disposal.
- *Local government authorities* are also very important structures possessing environmental information. Nearly all the municipalities in the country have active websites, such as the Municipality of Tirana (www.tirana.gov.al), the Municipality of Shkodra (www.bashkiashkoder.gov.al), the Municipality of Kukës (www.bashkiakukes.com) the Municipality of Korça (www.bashkiakorce.gov.al); the Municipality of Fier (www.bashkiafier.com), the Municipality of Pogradec (www.bashkiapogradec.gov.al); the Municipality of Vlora (www.bashkiavlore.org), whose pages are an important source of

information.

- Environmental information structures receive the support of three Aarhus Information Centres (AIC) based in Vlora, Shkodra and Tirana, which were set up in the framework of the Memorandum of Cooperation between the MMPAU and the OSCE presence in Albania: “On Cooperation in the Field of Environmental Information and Implementation of the Aarhus Convention in Albania” signed in July 2006. The Aarhus Centre in Tirana is located in the MMPAU building, as part of the Public Information Division. Other Centres assist in the dissemination of environmental information obtained from the Public Information and Information Technology Division at the Ministry and other sources, as a way to speed up the process of informing the public in their respective geographical areas. The public receives information in various ways, such as through publications produced by the Centres, their website www.aic.gov.al, or through with the local media outlets.

AICs are also involved in the training of local authorities, by raising their awareness and making sure that they fulfil their legal obligations with respect to the Aarhus Convention. Their advisory boards serve as liaison structures between the local and central authorities, environmental NPOs, and interested members of the public in the geographical area they cover.

In 2010 these Centres in cooperation with World Bank Project “Strengthening Implementation of the Aarhus Convention”, which, among other things, aims to link the Public Information and Information Technology Division, the Tirana Aarhus Centre and RECs into a network which will ensure real-time exchange of information.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

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

Answer:

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

Provide further information on the **practical application of the provisions on access to information in article 4**, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

Answer:

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

Give relevant web site addresses, if available:

Ministry of Environment: www.moe.gov.al;
Council of Minister: www.keshilliministrave.gov.al;
Albanian Chamber of Commerce: root@ccitr.tirana.al
Aarhus Information Centre www.aic.org.al
National licensing centre. www.ncl.gov.al

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN 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:

Firstly, the authorities responsible for protection of environment and its components are at first line such as the Ministry of Environment, Forestry and Water Management, Regional Environmental Agencies, (ii) Environmental Inspectorate and other inspectorates, Inter-ministerial Council for implementation of action plans of health and environment, the Group for keeping desertification under control, etc.

(ii) Secondly, other central authorities with assigned responsibilities to manage environmental resources, such as natural resources and minerals are at the second level. Within this group Line Ministries and respective structures are included.

(iii) Thirdly, there are inter-sector authorities at central and local level, which manage the territory and/or water resources, such as the TAC-s of all levels, national Waters and Basins Council, National Committee of

Tourism, whose decision-making is directly related to environment.

(iv) In emergencies the information will be disseminated immediately from the National Committee for Emergencies and the cross border project.

According to paragraph (3). The web site of the ministry is always available to the public, and the REC web site.

According to paragraph (4) The Ministry of the Environment is charged to publish the national State of the Environment report each 2 years. The last report was published in 2003-2004 available on hard copy and the Internet. The next report is planned to be released in April 2006.

According to paragraph (5) In addition, the "The Law for Environmental Protection", in article 56, all the details that relate to obligations of governmental authorities for making public the environmental information, are specified at wider scale.

1. Governmental authorities that collect environmental information make them public to the media or newspapers or to whatever appropriate opportunities, so that public understands.
2. Once the governmental authorities, physical and legal persons notice environmental pollution or damage, they inform public on the negative impact, on measures taken to preventing those negative effects, in order to protect people and make them protect their health and safety.
3. Buyers or consumers should be orally informed, or in written documents by physical or legal persons on the negative impacts of the service delivered regarding to health and environment components.
4. Classification of confidential data for national security is administered according to requirements of the Law nr. 8457, date 11.02.99 "For governmental secret classified information"

In order to have a general public familiar with the environmental information and requirements, the information Center of the Ministry of Environment disseminate the Environmental Bulletin and distributes it free, available on the web site for all public interested in etc.

Another group of publications are: "Compendium of Environmental Legislation of Albania", info packages for different issues (energy, land use, legislation, forestry and other legal documents that provide data to public and guidelines for procedures. For instance, in the environmental field, the official documents for public access are strategies, action and management plans, monitoring programs, State of Environment Reports, registers' content, licenses and group inspection reports, all the environmental Directive of the BE in Albania Language the "Red book" we have published the "Environmental protect area in Albania" The management Plan from different area in Albania (Narte, Llogara etc).

The same standards apply for governmental structures responsible for water, land and territory planning, forests and meadows, mineral resources, etc. When we reach this level of transparency and communication, the relations between the government-public on environmental related issues will be developed to another qualitative stage.

As far as many actors have contributed to the publication and information related activities, especially REC- and, other NGO-s like Milieu Contact, "Mass media and the Environment" etc.

According to paragraph (6) Other operators are the Albanian Chamber of Commerce and Industry which inform the public for activities and products.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

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

Answer:

The Ministry of Environment publishes its own magazine on environment, the compendium of

Albanian environmental legislation (Albanian and English versions) and other stakeholders publish leaflets, posters, newspapers or other kind of publications on specific occasions. There are no statistics on the amount of publications on environmental matters.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

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:

The Ministry of Environment publishes its own magazine on environment, the compendium of Albanian environmental legislation (Albanian and English versions) and other stakeholders publish leaflets, posters, newspapers or other kind of publications on specific occasions. There are no statistics on the amount of publications on environmental matters.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

Give relevant web site addresses, if available:

Ministry of Environment: www.moe.gov.al; Council of Minister: www.keshilliministrave.gov.al;
Albanian Chamber of Commerce: root@ccitr.tirana.al

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN 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:

In order to ensure public participation in environmental impact assessment processes, the Law "For Environmental protection", cites:

1. Within the process of environmental impact assessment and strategic environmental assessment, all the interested groups do participate, especially local authorities, general public and non-governmental organizations.
2. Throughout decision-making process, the responsible authority puts on public's disposal the documentation on the information required, within a certain timeline.
3. While making the decision, the responsible authority takes under consideration the opinion of local authorities, public and non-governmental organizations.

However for processes less important than EIA, such as for instance drafting of management plan for protected areas, the Law for "Protected Areas", assigns the Ministry of Environment to consider "the results generated from cooperation and advising activities with civil society groups, especially with community groups inside or around the respective protected area, including a summary of comments and their feedback on the proposal".

According to paragraph (2) In The Law for "Environmental Impact Assessment", this has entered at the implementation phase, including public participation, public discussion and consideration of its opinion, according to the article 6 of Convention. The article requires public participation to decide on certain activities, as having been provisioned in the Annex 1 of Convention and other unlisted activities, which might have negative impact on environment. The practical use of these requirements is main objective of Ministry of Environment, Forestry and Water Administration and Regional Environmental Agencies. Since a while, it has been asked the community opinion about any subject under licensing procedures. A discussion is going on with the community of Vlora and other interested groups at national level on the possibility of building a Thermo Power Plant and oil tankers at the seaside. Based on such experiences, it is expected a more intensive debate among the Ministry, local government and community for the coming

years.

In response to the Vloera case the Ministry of Environment, Forests and Water Administration has undertaken a series of steps that create the possibility for the fulfillment of the commitments of the country in the framework of the Aarhus Convention.

(1) Public participation in decision-making relating to the environment is one of the national principles of environmental protection. Framework Law No. 8934, dated 05.09.2002, "On Environmental Protection" (Official *Official Gazette* 60/ 2002; p 1673; date of publication 16.10.2002), Article 4, letter "f" says that, "Environmental protection is based also on the principle of public awareness and participation in environmental protection." In order to meet the requirements of the Aarhus Convention, to which Albania has been party since 1998, and which it ratified with Law No. 8672, dated 26.10.2000 (*Official Gazette* 35/2000, p 1705; date of publication 10.11.2000), "The Strategy and Action plan for 2005-2010 for the implementation of the Aarhus Convention" was drafted and endorsed in Decree No. 469 of the Council of Ministers, dated 23.06.2005 (*Official Gazette* 56/2005, p. 2018, date of publication 05.07.2005).

With the assistance of the project "Albanian Legislation and Environmental Planning in Albania (ELPA for EC Europe Aid/118904/C/SV/AL; *Official Gazette* 152/2006, page 6163, dated 19.01.2007), it was possible to draft the Cross-Sectoral Environmental Strategy, adopted in the Council of Ministers Decree No. 87, dated 29.11.2007 (*Official Gazette* 174/2007, p. 5349; date of publication 22.12.2007), which pursuant to the general principles and objectives of the Sixth Community Environment Action Programme (Decision No. 1600/2002/EC of the European Parliament and of the Council, of 22 July 2002, *OJ L 242, 10.9.2002, p. 1-15; CELEX 32002D1600*), Article 2, points 1 and 9/1, sets forth as a vision and as a priority the information of the public and the involvement of the civil society in the drafting of legislation related to environment as well as in its implementation and monitoring (Point 10 (2.2).

Pursuant to the requirements of the relevant EC Directives, the existing laws on environment have devoted considerable attention to the public participation in decision-making on environment. Framework Law No. 8934, dated 05.09.2002, "On Environmental Protection", Article 10, lays down the need for public participation in the drafting of plans and programs for environmental protection, while Article 77 of this law defines the rights of individuals and environmental and professional NGOs to be informed, have access to, and be involved in decision-making related to environment. Article 78 of this law also requires and sets forth that state bodies shall ensure the active participation of the public and the NPO-s in the decision-making process, aiming at enhancing the public contribution to decision-making, whereas Article 79/1 asserts the right of the NPOs to take issue and cooperate with the environmental bodies in the drafting of environmental legislation.

Albania has made constant efforts to strengthen the role of the public in environmental legislation by constantly increasing their participation in this process. Further to the recommendations of the Compliance Committee of the Aarhus Convention (CCAC, Ref. ECE/MP.PP/2008/2/Add. 9), which recommends measures for the enforcement of the requirements of this Convention regarding the public participation in environmental legislation, the Council of Ministers has adopted Decree No. 02.07.2008 "On the public participation in environmental legislation" (*Official Gazette* 117/2008, p. 5139; date of publication 24.07.2008). This decree which reflects the requirements of the EC Directive 2001/42 "On the assessment of the effects of given environmental plans and programmes" *OJ L 197, 21.7.2001, p. 30-37, CELEX 32001L0042*", Directive 85/337/EEC "On the assessment of the effects of some public and private environmental projects" (*OJ. L. 175, 5.7.1985, p. 40; CELEX 31985L0337*) and its amendments, and Directive 2003/35 "Providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Directives 85/337/EEC and its amendments (*OJ L 156, 25.6.2003, p. 17-25; CELEX 32003L0035*), requires that the state bodies invite the public to participate in decision-making related to environment in respect of policies and strategic documents of development, the drawing up of various normative acts, and in the environmental impact assessment process. Further to the enforcement of the requirement of the Report of the Compliance Committee of the Aarhus Convention (CCAC) for consolidating the enforcement of legislation on public participation, the Ministry of Environment, Forestry and Water Management (MMPAU) endorsed in 2009 Instruction No. 1, dated 03.03.2009, "On the duties of environmental bodies to ensure the participation of the public and the environmental NPOs in the process of environmental impact assessment." The instruction explicitly identifies the bodies involved in the decision-making on the environment, their roles in involving the public in the

environmental impact assessment, the promotion, cooperation, evaluation of the public opinions, and the need to consider such opinions in the decision-making.

(2) Albania has drafted and adopted a consolidated legal framework on the assessment of the environmental impact, which lays down that in respect of activities that have an impact on the environment; it is advisable to consult the public opinion prior to their adoption by the licensing bodies. Framework Law No. 8934, dated 05.09.2002, "On Environmental Protection", in compliance with the requirements of Article 6 of Directive 85/337/EEC and its amendments (*OJ L 156, 25.06.2003, p. 17-25; CELEX 32003L0035*), in Article 26/2 provides for the developer to involve the public and the NPOs in the process of the environmental impact assessment. Article 33 of this Law stipulates that sufficient time should be granted for consultation and, based on the role their opinions may play in the final decision-making. Article 39 stipulates that the Ministry of Environment should grant equal opportunities to all the parties to become acquainted with the documents submitted by the applicant.

In respect of the above-mentioned, as a member of the Espoo Convention, in the national legislation drafted in implementation of the requirements of this Convention, Albania has foreseen also the right of the neighbouring countries' public participation (DMC No. 1429, dated 29. 01. 2009, "On the endorsement of the rules and procedures for the assessment of activities and projects with considerable adverse impact on the environment of the neighbouring countries," par. 4), in the event of activities with a transboundary impact.

Pursuant to the requirements of Article 6 of Directive 85/337/EEC, Law No. 8990, dated 23.01.2003, "On the environmental impact assessment" (*Official Gazette 5/2003, p. 135, date of publication 19.02.2003*) lays down as a procedural condition the public participation at all the stages of the environmental impact assessment and beyond. Article 26 asserts that the public and the NPOs have the right to complain to the Ministry in the event of irregularities observed in the course of this process. In respect of the above, the law stipulates important and binding links for the relevant bodies in relation to the public participation in environmental decision-making. Specifically, Article 20 sanctions the public debate, Article 17 sanctions the meeting of the authority for taking the decision, while DMC No. 884, dated 02.07.2008, "On the participation of the public in environmental decision making", Chapter V, requires the monitoring of the activities even during the operational phase. Also pursuant to the requirements of Article 20 of this law, the public debate shall be organized by the Ministry of Environment, Forestry, and Water Management, and the local authorities during the process of the environmental impact assessment, enabling the public to have access to the documents submitted by the applicant and to make comments that, under the requirements of Article, 17 shall be the criteria for the final decision-making that, as is further defined in Article 17/2, shall be open to the public and the media. With the view to take the public opinion into consideration in the final decision, the developer of the activity should submit evidence and documents about the consultations with the stakeholders, and the public. The evidence of public participation in the process of environmental impact assessment shall be attached in full to the relevant documents on environmental decision making, pursuant to the requirements of Instruction No. 1, dated 07.01.2008, "On the documents needed when applying for an environmental permit" (*Official Gazette 7/ 2008, p. 198; date of publication 30.01.2008*).

With the view to implement in practice the legal requirements linked to the public participation in environmental decision-making and based on the recommendations of the Compliance Committee of Aarhus Convention 2008 Report (CCAC), Decree No. 994, dated 02.07.2008 "On public participation in the environmental decision making" has been adopted. This decision, drafted also in compliance with the requirements of Article 6 of Directive 85/337/EEC, sets out that the state bodies should actively involve the public in the process of environmental impact assessment, by creating the necessary logistic facilities and granting them the necessary time for consultations and for voicing their opinions. Furthermore, pursuant to the requirements of Article 6/5 and Article 6/6 of Directive 85/337/EEC and the relevant amendments, Instruction No. 1, dated 03.03.2009, has been adopted. It determines the bodies that are directly responsible in the enforcement of the requirement for the public participation in the process of environmental impact assessment as well as their relevant roles regarding the promotion, active participation, cooperation, assessment of the public opinions, as well for taking them into consideration during the decision-making. The instruction requires that the relevant environmental bodies and the local and central structures involved in this process should demand and monitor the public participation in the process of environmental impact assessment and not proceed with their decision-making if in the course of the process the public participation did not occur according to the defined deadlines and phases. The instruction also requires that the body that shall make the final decision on an activity with an environment impact should take into consideration the public opinions about the environment and reflect them in its decision, if it deems them fair, otherwise it should provide written arguments for disregarding

public opinions.

(3) The existing environmental legislation envisions the right of the public to participate in the process of legislation and in the endorsement of plans or programmes in various sectors when they have a potential impact on the environment, as well as in the plans and programs prepared for the protection of the environment (Law No. 8934, dated 05.09.2002, "On environmental protection," Article 10/3). This law, in Article 33, sets forth that the public should be involved during the strategic environmental assessment, which should be carried out for assessing the environmental impact of the said plan or programme. Ratification of UNECEFE Protocol of the Espoo Convention with Law No. 9424, dated 06.10.2005, "On the ratification of the Protocol for Strategic Environmental Assessment" (*Official Gazette* 77/2005, p. 2553, date of publication 28.10.2005) represents another binding legal instrument for Albania, which requires the participation of the public in the assessment of plans and programmes related to, or with an impact on, the environment, Article 8. Fulfilment of all the obligations stemming from this Protocol makes it necessary that all its requirements for transparency are to be taken into account by all policies and legislation, as laid down in Article 13.

Decision No. 994, dated 02.07.2008, Chapter II, and requires that all the planning authorities should identify, organize, and facilitate the public participation during the phase of drafting sector policies, strategies or plans of a regional or national character. In actual terms, it conditions the endorsement of the planning documents with the realization and identification of the public participation. At the same time, in compliance also with the requirements of Article 6 of Directive 2001/42/EC, this decision requires the participation and the inputs of the public also during the drafting of the environmental normative acts. It explicitly states that normative acts for environmental protection may not be adopted if they have not met the requirements of this chapter for drawing the public opinions.

Adoption of Law No. 10119, dated 23.04.2009, "On land use planning" (*Official Gazette* 56/2009, p. 2591, date of publication 08.05.2009) sets out the carrying out of a strategic environmental impact assessment, which in itself includes also the procedure for public participation in the planning process as a condition for drafting the national land use planning at all levels.

In the context of drafting a consolidated legislation on the protection of the environment against various development plans and programs, pursuant to the requirements of Article 108 of the SAA, the plan is to transpose in 2010 Directive 2001/42/EC, by means of a special law that will detail and strengthen the enforcement of the requirement for public participation in the assessment of specific plans and programs, subject to the Directive requirements.

(4) Approval of development permits is the competence of the governing bodies, depending on their relevant functions. In the process of the approval of development permits, the Ministries, as organs of the central government, shall be assisted also by the structures under their jurisdiction at a local level. The Ministry of Environment, Forestry and Water Management is included in the procedures for granting development permits only for those activities that under the law are considered to have an environmental impact or that are crosscutting with the objectives for the protection of the environment. The licensing bodies which have a stake in environmental issues on a central level are the Ministry of Economy, Trade and Energy for mining activities and energy and for power generating activities; the Ministry of Public Works, Transport and Telecommunications for activities in the infrastructure and land use management (roads, etc.); the Ministry of Agriculture, Foodstuffs and Consumer Protection, for projects linked with the development of agriculture and auxiliary irrigation works, etc. The Albanian Government, in the context of reforms for the improvement of the business climate, set up in 2009 the National Licensing Centre (QKL), which was established based on the "One stop shop" principle and serves as a coordination body between the developer and the licensor for the effective implementation of the legislation in force.

(5) The environmental bodies operating on a regional and central level are the Regional Agencies for Environment (ARM), which are involved in the procedures for the approval of development permits through direct representation, as members in collegial bodies on a central and local level such as the local councils of land use planning at the level of the region, municipality, and commune; through the approval of environmental permits for a given activity, as part of the decision-making procedure for granting the final developmental permit; by means of the consultation mechanism by virtue of their functions, or, by way of combining all of the above. The Ministry of Environment, Forestry and Water Management is involved in the process of license granting through the same mechanisms.

Government mechanism of institutional procedural consultation

Law No. 9000, dated 30.01.2003, "On the organization and functioning of the Council of Ministers (CM)" in Articles 24 and 25 lays down the procedure for the coordination and collection of all the

feedbacks from every interested institution, including the Ministry of Environment, Forestry and Water Management, on the draft laws submitted to the CM for approval. The procedure requires that the institution proposing the draft law should coordinate and consult with the Ministry of Environment, Forestry and Water Management. The latter, after reviewing the document, shall evaluate its compatibility with the objectives of and the legislation on environment, asking the proposing institution to reflect in it the requirements related to the environmental protection. The proposing institution shall make the necessary reflections in relation to the environmental protection and the document shall then be submitted to further adoption procedures (e.g. the concessionary agreements that the GA signs with the investors).

(6) The rights of the public to review the regularity of a procedure for an environmental decision-making are set out in the existing environmental legislation and the Code of Administrative Procedures. Law No. 8990, dated 23.01.2003, Article 23, guarantees the right of appeals to the court of the decree (act) of the Ministry on granting an environmental permit (or the decision taken on the environmental impact assessment) within 30 days from the day of the proclamation of the decision, whereas Article 26 foresees the right of the public or the NPOs to complain to the Minister in cases when they note or observe irregularities during the environmental impact assessment process, and also sanctions the obligation of the Ministry to respond to such complaints within 20 days from receipt of such a claim.

Law No. 8485, dated 12.05.1999, “On the Code of Administrative Procedures,” whose requirements and principles apply also to the activity of private entities, when their activities affect the public interest, guarantees the right of the affected parties to complain against the procedures used for the approval of the administrative acts. Specifically, Article 45 of this law lays down that, *“The holders of rights and lawful interests, which are affected by the decisions taken during the administrative procedures, have the right to institute administrative procedures and to participate in them. The abovementioned rights rest also with the associations and organizations.”* Article 51 of this law foresees the right of every person to be informed in relation to the development of procedures for which he or she is directly interested. The information provided to the interested person by the administration within 10 days, contains data on the administrative body that carries out the procedure, the concrete steps undertaken by this body, the decisions taken, and any other information. Further, Article 116 sets forth that an administrative act shall be considered invalid if it is issued in contravention to the form and procedure required under the law. In respect of public participation in environmental decision-making, the definition “public” shall be used according to Article 1 of Law No. 9890, dated 20.03.2008, “On some supplements and amendments to Law No. 8934, dated 05.09.2002,” while the definition “interested public,” shall be used according to Chapter I of DMC No. 994, dated 02.07.2008, in conformity also with the terminology of the Aarhus Convention.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

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

Answer:

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

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.

Answer:

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

Give relevant web site addresses, if available:

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO 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, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

The existing environmental legislation envisions the right of the public to participate in the process of legislation and in the endorsement of plans or programmes in various sectors when they have a potential impact on the environment, as well as in the plans and programs prepared for the protection of the environment (Law No. 8934, dated 05.09.2002, "On environmental protection," Article 10/3). This law, in Article 33, sets forth that the public should be involved during the strategic environmental assessment, which should be carried out for assessing the environmental impact of the said plan or programme. Ratification of UNECEFE Protocol of the Espoo Convention with Law No. 9424, dated 06.10.2005, "On the ratification of the Protocol for Strategic Environmental Assessment" (*Official Gazette* 77/2005, p. 2553, date of publication 28.10.2005) represents another binding legal instrument for Albania, which requires the participation of the public in the assessment of plans and programmes related to, or with an impact on, the environment, Article 8. Fulfilment of all the obligations stemming from this Protocol makes it necessary that all its requirements for transparency are to be taken into account by all policies and legislation, as laid down in Article 13.

Decision No. 994, dated 02.07.2008, Chapter II, and requires that all the planning authorities should identify, organize, and facilitate the public participation during the phase of drafting sector policies, strategies or plans of a regional or national character. In actual terms, it conditions the endorsement of the planning documents with the realization and identification of the public participation. At the same time, in compliance also with the requirements of Article 6 of Directive 2001/42/EC, this decision requires the participation and the inputs of the public also during the drafting of the environmental normative acts. It explicitly states that normative acts for environmental protection may not be adopted if they have not met the requirements of this chapter for drawing the public opinions.

Adoption of Law No. 10119, dated 23.04.2009, "On land use planning" (*Official Gazette* 56/2009, p. 2591, date of publication 08.05.2009) sets out the carrying out of a strategic environmental impact assessment, which in itself includes also the procedure for public participation in the planning process as a condition for drafting the national land use planning at all levels.

In the context of drafting a consolidated legislation on the protection of the environment against various development plans and programs, pursuant to the requirements of Article 108 of the SAA, the plan is to transpose in 2010 Directive 2001/42/EC, by means of a special law that will detail and strengthen the enforcement of the requirement for public participation in the assessment of specific plans and programs, subject to the Directive requirements.

For the preparation of the National Strategy for Socio-Economic Development, we have four years' experience in gathering the opinions of the civil society on the environmental issues of this strategy. NGOs and other groups interested in the environment are invited to discuss these issues and their opinions are taken into consideration.

- For the drafting of the legislation package several NGO-s have participated in it. Also, for the preparation of the Strategy for the Implementation of the Aarhus Convention, the process has been open to all NGO-s for expressing their opinions on this matter. Probably the biggest consultation held by Albanian Ministry for drafting the National Environmental Strategies (NES)
- 672 NES Information Packs, 890 CDs and 370 printed versions of 'Draft NES' were circulated.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:

Decision No. 994, dated 02.07.2008, Chapter II, and requires that all the planning authorities should identify, organize, and facilitate the public participation during the phase of drafting sector policies, strategies or plans of a regional or national character. In actual terms, it conditions the endorsement of the planning documents with the realization and identification of the public participation.

Draft law on SEA will be adapted within 2011

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

The lack of a special law on the SEA and the extension of the implementation period of the law on the territorial planning hamper the proper consulting procedure.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

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

Answer: During 2010 more than 10 consulting meetings were organized from the Ministry of EFWA to consult with the stakeholders and NGO draft legislation in the process.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

Give relevant web site addresses, if available:

Ministry of Environment: www.moe.gov.al;
Aarhus Information Centre www.aic.org.al

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO 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, pursuant to article 8. 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:

As such, the public participation has deserved long and detailed address in the national environmental legislation. Almost in every piece of environmental legislation, public information, organization of public debates, evaluation of suggestions and requirements, and involvement of the public in decision-making have also been considered in details. In particular in COM Decision no.994, dated 2.7.2008 “On attracting the views of the public opinion in decision-making related to environment”, published in Official Journal no 117, page 5139; publication date: 24-07-2008, which transposes Directive 2003/35/EC of the Parliament and Council of Europe, 26 May 2003 “On the public participation in the context of the formulation and realization of plans and programs related to environment, and improvements related to public participation and the right “to address the court” OJ L 156,25.6.2003, in one of the Headings provides particular details regarding the rules, procedures, forms for their implementation in practice, together with the communication channels, and deadlines that state bodies should respect in order to attract the public opinion and that of the NGOs. Some of the rules that can not be underestimated or bypassed include: the obligations of the persons in charge with the formulation or the proposal of a plan or program for informing the public in terms of the content of the draft plan, to engage in public debates and to reflect the suggestions and requirements thereof in the draft document. Furthermore, in point 9 of Heading II, the decision clearly determines that: “the documents stipulated in point 1 of Heading II of this decision can not be approved if they do not meet the requirements of this Heading in terms of getting the views of the public opinion.”

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

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

Answer:

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

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

Answer:

During 2010 more than 10 meetings were held from the Ministry in cooperation with INPAEL project to consult the draft legislation under adaption.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

Give relevant web site addresses, if available:

Ministry of Environment: www.moe.gov.al;
Aarhus Information Centre : www.aic.org.al

**XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING
THE PROVISIONS ON ACCESS TO JUSTICE IN 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:

The new legislation has been attentive, supportive to public complaining right, by creating the necessary spaces for administrative environmental complaining. For instance, in the law for Environmental Protection, is stressed :“anyone has the right to complain for activities that threaten, damage and pollute environment, and to ask for closing the activity down, in case of risk“. Apart to the measures taken, the authorities are obliged to respond the request within one month from receiving it. Besides, this general confirmation has been detailed in a separate law, for concrete cases. It has also been completed a more

inclusive framework of cases for administrative complaining.

For the right to environmental information exist the following normative acts:

- The Code for Administrative Procedures (art. 20 and 51-55)
- Law no. 8934, 05/09/2002 on “Environmental Protection” (art. 1/2dh, 10/3, 77, 78)
- Law no.8503, 30/06/1999 on “The right to information on official documents”.

(a) According to paragraph 1:

(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. He may press charges on the Ministry or other public institution to the Court of First Instance of the Region where he lives.

(ii) There is only the possibility that the Ombudsman takes in charge the question. This is the only attorney who is free of charge. The Ministry of Environment has not available funds to pay an attorney (so the person has not to pay the expenses for the review before the court of law) for following the question of complains from the public.

(iii) The decision of the court for giving the information is binding for the public institutions that have refused the information.

(c) With respect to paragraph 3: according to the 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, but the criteria to be met by the public are not defined in the national legislation.

(d) According to paragraph 4: there is no distinction between normal judicial procedures and the environmental ones. The law provides the basic rights for such procedures in general for all procedures which are meant to be fair and with reasonable costs and time limits. The decisions of the court are written, published and available to the public. The people who press charges take one copy of the court’s decision.

There are efforts to inform the public on the right to have access to the court of law, but there are no mechanisms to minimize or omit the financial obstacles to this purpose

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

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

Answer:

XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9

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:

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

Give relevant web site addresses, if available:

www.avokatipopullit.gov.al

Articles 10-22 are not for national implementation.

XXXII.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:

While having been definitively positioned on the road of democracy, the public and Albanian Government identify with the Convention, their rights and obligations, and opportunities for involvement and inclusions. They also consider the existing possibilities for reaching agreements and cooperation, to develop alternatives and solutions for a contemporary consideration of the environment, and find support for vital intentions and aspirations, not only for today, but also for the future.

XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON GENETICALLY MODIFIED ORGANISMS PURSUANT TO ARTICLE 6bis AND ANNEX I bis

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

- (a) With respect to **paragraph 1** of article 6 bis and:
 - (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
 - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;
 - (iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market, as well as the assessment report where available;
 - (iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;
 - (v) **Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:
 - a. The nature of possible decisions;

- b. The public authority responsible for making the decision;
- c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
- d. An indication of the public authority from which relevant information can be obtained;
- e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;

(vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;

(vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;

(viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;

(b) With respect to **paragraph 2** of article 6 bis, how the requirements made in accordance with the provisions of annex I bis are complementary to and mutually supportive of the Party's national bio safety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

Answer:

The MoEFWA in cooperation with the Ministry of Agriculture are preparing a draft law on the Bio safety. The law will also followed by an action plan. The obligations are also stipulated in the national plan for implementation of SAA.

XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6 bis and annex I bis.

Answer:

XXXV. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

Provide further information on the practical application of the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, e.g. are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?

Answer:

**XXXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE
6bis**

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

www.mie.gov.al