

**FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT  
SYNTHESIS REPORT OF BELGIUM**

The following synthesis report is submitted on behalf of the Federal Authority, the Brussels-Capital Region, the Walloon Region and the Flemish Region of the Kingdom of Belgium in accordance with decision I/8

<b>Name of officer responsible for submitting the national report:</b>	ISTASSE Maud
<b>Signature:</b>	
<b>Date:</b>	8 December 2010

**IMPLEMENTATION REPORT**

Please provide the following details on the origin of this report

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

*Answer:*

In Belgium the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters is a “joint” convention, meaning that several authorities are responsible for implementing it : the federal authority and the three federal entities (Walloon Region, Brussels-Capital Region and Flemish Community). Each authority therefore replied internally to this report on matters within its own remit.

This document is a synthesis of all four Belgian reports. Belgium considers it not as its official report but only as a document reflecting the major new points emerging in the third reporting cycle reports.

This third national report was coordinated by the Aarhus network which decided to hold two types of consultation: firstly, a coordinated national consultation of the four major federations active in the field of environment in Belgium (which therefore covers all the Belgian reports) and, secondly, a public consultation by each authority on its own report.

- A letter was sent by the federal authority to the NGO’s informing them about the national public consultation (the federal + the 3 regional’s).
- The public consultation was organised separately by each authority but also on the national portal by the Federal authority (national node) [www.aarhus.be](http://www.aarhus.be).

#### **Results of the public consultation:**

##### **1. Federal authority: summary of the comments made by the four federations of NGOs for environmental protection**

The 4 Belgian federations of associations active in the field of environment protection<sup>1</sup> (IEW, BBLv, IEB and Bral) submitted joint comments on the federal draft implementation report. Natagora<sup>2</sup>, an association for the protection of Nature, also submitted comments (exclusively regarding access to justice). No other comments from the public were received.

The complete comments are available on line on [www.aarhus.be](http://www.aarhus.be). Here is a sum-up of the main points:

#### **Structure and method of reporting**

- The NGO’s does once again underline the fact that the questionnaire is not user-friendly. It is considered to be too complicated for the citizen and it limits itself to taking stock of the situation regarding the application of the Aarhus Convention, this only from an administrative point of view.
- It is recommended that the opinion of the public in general, including that of the NGOs, be taken on board before the relevant authority drafts its report in order to take into account the observations made while drafting the report, rather than allocating a slot in the report for public observations.

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<sup>1</sup> Opinion of the four regional environmental protection federations on the federal draft report on the implementation of the Aarhus Convention – 9 November 2010.

<sup>2</sup> Public consultation on the application of the Aarhus Convention in Belgium – Comments on the reports of the Federal State and the Wallon Region / Natagora – 10 November 2010.

*General provisions*

- As far as awareness and communication campaigns are concerned, although several initiatives have been taken in this direction over the last few years, doubts prevail about their impact in the light of the low public participation in the decision-making process at the federal level.
- It is fundamental to make the information available to the public as it is: existing statistics, reports, studies commissioned by authorities, coordinated legal texts etc. The quality of the information (the legibility, clarity and accessibility etc.) as a pre-requisite to public participation is also underlined.
- It is important to dissociate access to information from releases of environment-related information, which are two distinct objectives that must be pursued in a complementary way by public authorities.
- The updating of the web portal of the FPS Health and Environment is commendable. However, certain sites to which there is a link from the web portal must be presented in a clearer and more transparent way, given their technical and complex nature (phytowebe, for example). The measures planned by the public authority to simplify this set up are an initiative that is heading in the right direction.
- There is need for stable political and financial support to associations active in the field of environment protection, as they are not properly recognised at present. This is in total contrast with regard to the importance of environmental issues currently at stake. The means presently allocated are insufficient to ensure effective participation in the various consultation processes launched by public authorities (including the activities of advisory panels at the federal level).
- Serious thought must be given to the improvements to be made in matters of NGOs participation within certain working groups of the Coordination Committee for International Environment Policy (CCIEP).

*Pertaining to access to information*

- The entry into force of the law of 2006 as well as the circulation of brochures to the general public informing them of their rights in this matter constitutes a step towards the attainment of the objectives of the Aarhus Convention.
- The mechanism providing support to the public must, however, be assessed in practice, in order to determine how it is actually applied.
- Access to information in certain fields of activity (nuclear technology and industry-wise agreements, pesticides, biocides) is almost inexistent and the systematic use of the confidentiality exception's rule by certain public authorities has been observed.
- Certain types of information, such as studies commissioned by the public authority are never even made public. It would be useful to set up a central system that gives a list of all the studies and documents drawn up.
- The federations hail the publication in the report of statistical data regarding requests for access to information handled by the information service of the FPS, Health and Environment as well as the data concerning the processing of the same. However, they express their surprise at the fact that only a minority of them fall under the scope of the Aarhus Convention.

*Pertaining to public participation*

- Low mobilisation rate of the public during federal public consultation is quite remarkable and raises a number of questions, especially, on the manner these consultations are publicised among citizens. Measures must be taken to stimulate participation of citizens in decision-making, at the federal, regional as well as local levels.

- The participation of environment protection associations is often sought in connection with public consultation but due to lack of human and financial means, their in-depth involvement in all consultations is impossible. Consequently, some important topics are left behind.
- There is clearly an imbalance between various sectors represented in different advisory panels in which the environment sector is not present, as opposed to the industrial sector and trade unions.

*Pertaining to access to Justice*

- The third pillar concerning access to justice is considered to be a field where significant improvement must be made both in matters of legal as well as administrative procedures before the Council of State (“Conseil d’Etat”).
  - It is fundamental that the new government, once it is formed, revalidate the bill in order to amend the coordinated laws of the Conseil d’Etat, so that associations are given the right to take action in the collective interest.
  - The bill amending the law of 12 January 1993 regarding the right of action in the field of environmental protection must also be reintroduced either by the government or by the parliament, in order to improve access to justice for environmental NGO’s, especially, in view to amending article 2 which currently lays down extremely restrictive conditions.
  - It would be useful to revise the Judicial Code in order to regulate the right to take action in the collective interest for environmental associations which find it very difficult to justify an interest as defined by articles 17 and 18 of this Code. For this purpose, a legal framework of action in the collective interest must be set up.
  - Environmental associations do not have legal aid facility and this is considered to hinder access to justice.
  - Legal statistics must be precise and complete: not only the number of cases introduced must be made known, but also information regarding the outcomes of various cases must be available.

*GM-related amendment*

- The possibility given to the public to make observations only through the internet about the placing on the market of products is questionable although this restriction does not apply to deliberate release in the environment.

**2. Walloon Region: Summary of the comments made by the Walloon federation of NGOs for environmental protection**

The Walloon federation of associations for environment protection recognizes the dynamism of the authority when applying the Aarhus principles. It welcomes also this public consultation process on the report but regrets like in 2007 that it only present the legal transposition of the Convention rather than explaining how it happens in practice. This doesn’t encourage a wide and rich public involvement.

Regarding access to information, the remarks made by the Federation, Natagora and the association Vent de Raison underline a.o. the following:

- need to distinguish popularization and sensitization policies
- need for adequate and sustainable financial support for the NGOs
- need to inform the public about their rights without an interest to be stated
- remaining unjustified restrictions or refusal for public access to information
- need for awareness towards local authorities
- some information still not accessible electronically
- need for statistics as regards requests for information
- need to further develop access to information on delivered permits or emissions through internet

Concerning the second pillar, the public should have more possibilities to intervene in the decision process to require an environment impact assessment study. A lack of relay between the public and the authority is also pointed in the public participation process. Information to the public on the organisation of consultative meetings or follow up after any consultation process or step should be improved.

Finally, a need for reinforcing the links between the bench and the administration in charge of repressive measures as well as for improving of the legislation on town planning as regards appealing procedure have been identified

The complete text of the interventions is annexed to the full report.

### **3. Flemish Region:**

Number of reactions received: 1 of an expert.

### **4.Brussels-Capital Region:**

They were no comments made during the public participation, even not from the Brussels federation of environmental NGO'S.

*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:*

§ unchanged in comparison with previous reports

## Article 3

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

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

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

*Answer:*

**Federal authority:**

**a)**

A new law relating to public access to information on environmental matters came into existence on 5<sup>th</sup> August 2006. Within its framework, a special information desk for the public was set up.

**b)**

Awareness campaigns and educational aids on subjects that come under the Federal State's environmental remit are developing.

**c)**

§ unchanged with comparison with the previous reports for what concern financial support to NGO's.

In accordance with the Aarhus Convention, environmental protection associations have legally the right to participate as members of the public during the decision-making process with relation to plans and programmes.

**d)**

An in-depth analysis was carried out in 2008 by external contracting parties on the implementation of the guidelines by Belgium as well as on the formulation of recommendations. The outcome has been released through the Coordination Committee for International Policy (CCIEP) and to stakeholders (NGO's, Federations representing industries and to Trade Unions).

**e)**

Unchanged § in comparison with previous reports.

**Walloon Region:**

**a)**

The Civil Service Code (Book I, Title 1, Art. 2) stipulates that the officials from Public Service of Wallonia are required to observe the laws and regulations that are in effect as well as the Charter of Good Administrative Behaviour.

One of the main tools of this policy is the website, which provides the public with a full range of information related to the environment in Wallonia.

**b)**

The Environment Code (Book I, Part III, Title II) made it possible to set up a string of Regional Environmental Initiation Centres (CRIEs) for the purpose of promoting general knowledge of the environment in the public at large.

The DGARNE and minister in charge of environmental affairs often conduct various environmental awareness-raising campaigns. In addition, they provide financial, technical and/or logistic support (e.g., housing websites) to various activities carried out by NGOs or the public authorities to raise environmental awareness.

c)

Several advisory boards have been set up by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development (CWEDD), water policy (Water advisory Commission), and so on. If the public authority does not heed these opinions, it must give in some cases the reasons for this. These commissions are composed of representatives of the region's business federations, trade unions, associations, and NGOs.

Several framework agreements link the DGARNE to various bodies representing civil society.

The minister in charge of environmental affairs and DGARNE subsidize a series of NGOs each year via the budget act..

d)

As a rule, the Foreign Ministry heads the Belgian delegation.

In matters that come under the region's jurisdiction, Wallonia strives to ensure that NGOs are informed and participate through prior internal coordinating activities

e)

Labour laws and the principles of the Constitution (freedom of expression) are federal powers. See the Federal Government's report <http://www.belgium.be>

**Brussels Capital-Region:**

a)

- **The Info-environment service** (general): by telephone or e-mail.
- **Reception of the public for consultation of certain documents** (permits, incident studies, etc.): directly in certain departments.
- **Training in communications for civil servants who deal with the public**, i.e. park wardens, provides information to the public concerning the parks or the environment in general.
- **Consultation of the public via representative organizations on the Brussels Environment Council**, that issues opinions on draft legislation as well as on draft plans and programmes adopted by the Brussels government.

**Information on the right of appeal** such information against the decision accompanies all administrative decisions (article 10 Ordinance of 18 March 2004 on access to environmental information).

b)

- **General awareness tools: a free monthly newspaper** (via subscription or Web site), **a very complete Web site** (information for the public or businesses), many **publications** for the public at large or on scientific topics (often free-of-charge), the annual organization of the **Environment Festival** (an event open to the public, with many environmental professionals in attendance. Counting more than 100 info stands and more than 20,000 visitors in 2007 each year).

Raising awareness in school : information for teachers and school managers through training, the website of Brussels Environment - part of which is devoted entirely to educational information made available to schools -, a newspaper, a mailing list information. Creation and provision of educational tools ready to use (books for teachers, parents and students ...). Activities in primary schools, secondary schools and colleges.

- Awareness Tools Business : a quarterly journal of information and a monthly electronic newsletter for professionals are available free by subscription or on the website – part of which is entirely devoted to information for professionals. Specialists (energy, green building, etc..) called “Faciliators” are also made available to the public. Brussels Environment also awards the “Eco-dynamic company” label to businesses that get involved in a voluntary environmental management plan.
- The organization of different **seminars, workshops and training sessions**, either for the public or a group of specialists or companies.

c)

- **The Environment Council of the Brussels Capital Region (ECBCR)**, on the initiative of the regional government or the Brussels environment minister, has the task of issuing a reasoned opinion on any regional topic dealing with the environment (Decree of 15 March 1990).
- **Subsidies are granted to association active in environmental matters** for information missions relating to energy, social economy and in order to organize activities focusing on nature education.

d) No particular measures were taken by the region.

e) The constitutional guarantees are being observed.

### Flemish Region

(a)

The principle of customer-friendly service and assistance is incorporated in the code of professional conduct.

(b)

Every public authority has to inform the public about the rights on access to information. Within the Environmental Administration, a specific service continues working on citizen’s responsibility regarding nature and environmental issues.

(c)

The recognition and subsidisation of environmental associations is regulated by law.

(d) The environmental policy is coordinated at the Flemish and the Belgian level by permanent bodies.

(e)

See Articles 19 and 23 of the Constitution.

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

*Answer:*

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

*Answer:*

### Federal authority:

The [www.health.belgium.be](http://www.health.belgium.be) portal was launched nationally on 18 September 2006. It offers general information relating to the Aarhus Convention and its implementation in the European Union and Belgium. In March 2007, this website was voted “Best National Node (2007) of the Aarhus Clearinghouse Mechanism”.



**Brussels Capital-Region:**

There is a pre-existing legal framework in light of: (1) ordinances on access to information, disclosure of administrative acts, regular publication of the state of the environment, etc. (2) [www.brusselseenvironment.be](http://www.brusselseenvironment.be), (3) the organization of public surveys on draft environmental plans and impact studies (4) consultation on the granting of certain environment permits issued jointly with building permits.

**Flemish Region :**

[www.aarhus.be](http://www.aarhus.be)

[www.lne.be/themas/regelgeving/aarhus](http://www.lne.be/themas/regelgeving/aarhus)

Give relevant web site addresses, if available:

- [www.health.belgium.be](http://www.health.belgium.be)
- <http://www.aarhus.be>
- [www.belgium.be](http://www.belgium.be)
- [www.environnement.wallonie.be](http://www.environnement.wallonie.be)

**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:*

**Federal authority:**

**a)**

The new law of 5/8/2006 aims to transpose the provisions of the Aarhus Convention as regards access to information. It does not lay down any conditions linked to nationality, domicile or registered office.

-The *rationae personae* scope is very broad: It now covers not only all the federal public services but also private persons who exercise (a) public duties or (b) provide public services related to the environment.

-The *rationae materiae* scope covers all information in an environmental authority's possession, regardless of the medium or the material form, concerning the environment, defined in a very broad sense.

-The principle of access to information is contained in article 18, § 1.

(i) The law does not require the statement of an interest in the request.

(ii) The right to consult an environmental information by an environmental authority is guaranteed.

(iii) If the environmental information is available or can be reasonable made available on the medium, in a given electronic form or format, the law provides for the distribution of the copy according to the request.

**b)**

The time limit laid down by the law is 30 calendar days, which can be extended to a maximum of 45 calendar days.

**c)**

(i) The law also provides for three possibilities for refusing to disclose information, as laid down in article 4.3 of the Aarhus Convention.

(ii) See point 2 above

**d)**

Article 21, §2, paragraph 2, provides for an obligation to automatically transfer the request as quickly as possible to the authority that possesses or is presumed to possess the information. The person who has made the request must be informed immediately.

**e)** Article 31 of law 5/8/2006.

**f)** According to Article 22, §5, the environmental authority must notify the person making the request of its decision as well as the reasons for rejecting the request within 30 days at the latest (45 days in the case of an extension). The reason must, in any case, be concomitant with the decision to reject the request.

Furthermore, in accordance with Article 8 of the law of 5/8/2006, information on the right to appeal must accompany all federal notification.

g) The Royal Decree of 17/08/2007 determines the payment system for the copy of an administrative document or the copy of a piece of environmental information. It states that a fee may be requested as from the 51<sup>st</sup> copy. The payment is fixed at EUR 0.05 and reduced to EUR 0.02 as from the 101<sup>st</sup> page. A payment at cost price is applied when a medium other than paper is used. The payment is payable to the public service in cash, on site, if the copy is given directly to the person making the request. However, the payment is made beforehand if the copy has to be sent by post.

**Walloon Region:**

Access to environmental information in Wallonia is governed by decree since 1991 and has been recently reinforced by the decree of 16 March 2006 amending the Environment Code. This decree fully transposes European Directive 2003/4 of 23 January 2003 on public access to environmental information into regional law.

The terms “public authority” and “environmental information” are defined therein in compliance with the Convention.

**a)**

Access to information shall be given, as the applicant prefers but subject to the conditions set in Art.4.1.b of the Convention, via on-site consultation, free of charge, or either the delivery of copies or by email, the actual cost of which being borne by the applicant.

Information held by public authorities must be easily accessible by telecommunications networks or other electronic means.

**b)**

the information shall be made available to the applicant as soon as possible and within one month from the date on which the request was received or no later than two months if importance or complexity of such information requires to do so.

In any case, the applicant will be informed within one month if the time limit must be extended or if the request needs further clarification from the applicant.

**c) d)**

Request may be refused under conditions set in Art.4.3 of the Convention.

Grounds for refusal are interpreted in a restrictive way, taking into account the public interest served by disclosure.

A public authority that is not in possession of the information, point the requester towards the appropriate public authority that hold the information and transfer the request to it.

Public authority sees to establish registers indicating where environmental information accessible to the public is available. Access to those registers is free of charge.

**e)**

Request may be refused under conditions set in Art.4.4 of the Convention except for information related to emissions for which items a, d, f, g and h are not valid.

Grounds for refusal are interpreted in a restrictive way, taking into account the public interest served by disclosure.

When it is possible to separate information covered by the scope of the derogations from the rest of the information that is requested, the public authority makes part of the information that has been requested available to the applicant. All refusals to communicate part of the requested information are duly explained and made in writing.

*f)*

a written answer spelling out the reasons for refusing a request for information must be accompanied by the possible courses of action that are open to the applicant.

Since 1991, an Appeals Commission has been appointed by the Walloon government

This commission is tasked with handling complaints concerning access to information held by Wallonia's public authorities and if necessary revising the positions taken by these authorities. This Appeals Commission is an administrative procedural review board. Its decisions override those of the authority originally empowered to take the decision.

*g)*

free on-site or online consultation. For the delivery of copies, the actual cost can be borne by the applicant.

**Brussels Capital-Region:**

Ordinance of 18 March 2004 on access to environmental information. (published in the Moniteur Belge of 30 March 2004).

**Definitions in art.2:** see Ord , Art.3

**Art.3 §9:** Ord, art.4: no discrimination

(a) §1: see Ord, art.4

(b) §2: see Ord. art.8

(c) §3 and 4: see Ord. art.11,§1 to 3

(d) §5: see Ord. art.12

(e) §6: see Ord. art.11,§5

(f) §7: see Ord. art.13

(g) §8: see Ord. art.5.

**Flemish Region:**

Non-discrimination principle: Art. 11 Constitution.

Decree on open government (DOB)

([http://www.emis.vito.be/wet\\_ENG\\_navigator/index.htm](http://www.emis.vito.be/wet_ENG_navigator/index.htm)).

(a)

The applicant is under no obligation to prove an interest. He can ask for inspection, explanation or a copy. The document must be provided in the form requested if available or reasonably available (Art. 17 § 2, 7 and 20 § 1 DOB).

(b) Time limits: reply: fifteen days; implementation: thirty days. A fifteen days extension is possible. The applicant can propose a shorter term; when this period is exceeded, it must be justified (Art. 20 § 2 and § 3, 17 § 1 and 20 § 1).

(c)

In comparison with the Convention, the grounds for refusal are more restricted (Articles 10, 11 and 15).

Balance of interests: Art.10 and 15 § 1.

(d)

The application has to be forwarded as soon as possible to the competent authority; the applicant will be informed immediately (Art. 17, § 3).

(e)

See Art. 9 DOB

(f)

Time limits: see (b).

Each application rejection must explicitly be stated (Law 29 July 1991).

(g)

The right to inspection of and explanation on administrative documents is free of charge. On the basis of a reasonable cost price, payment may be charged for the provision of a copy (Art. 20, § 3).

Practical information:

The application of the rules on access to information was thoroughly evaluated in 2010.

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 4.*Answer:***Federal authority:**

Within the framework of the practical application of the provisions relating to access to information (also see the following question), it appears that it is not always easy to determine whether a question must be considered or not as a "request for environmental information" in the sense of the Convention (and if the procedure described must or not be applied).

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

*Answer:***Federal authority:**

The Environment information desk is accessible by post, fax, telephone, e-mail or using a form which has been created on the [www.health.belgium.be/infoarhus](http://www.health.belgium.be/infoarhus) website. It was officially launched in September 2006 via a press release and a leaflet describing the procedure to follow to obtain the environmental information in the possession of the federal authority ("Do you have a question about the environment? Ask, and we'll reply!").

All the requests received and the answers given are recorded in an electronic database. Statistics concerning the quantity and type of requests are collected on a monthly basis. On average, the information desk receives around 140 requests (2010) a month (without taking orders for publications into account), mainly from citizens. A large part of the requests concerns matters that fall under the scope of other environmental authorities (the majority concerns the Regions). The themes that are most often the subject of a request are "clean cars" (concerning the financial benefit when purchasing a car that emits less CO<sub>2</sub>, LPG and biofuel), chemical products (like biocides, dangerous products and detergents, this very often from firms), "asbestos" and "mobile phones and radio waves". The average time to obtain an answer is currently less than 15 days.

**Brussels Capital-Region:**

Statistics from the Info-Environment Department: 15,238 calls and 8,411 e-mails were received in 2006. The Web site is also a widely used source of information; the number of visitors increases constantly.

Give relevant web site addresses, if available:

**Federal authority:**

[www.health.belgium.be/infoarhus](http://www.health.belgium.be/infoarhus): Environment Information Desk page, including an electronic form and explanations on the procedure, in accordance with the law of 5 August 2006.

**Flemish Region:**

[www.vlaanderen.be/openbaarheid](http://www.vlaanderen.be/openbaarheid)

[www.lne.be/themas/regelgeving/aarhus](http://www.lne.be/themas/regelgeving/aarhus)

**Walloon Region:**

[www.environnement.wallonie.be](http://www.environnement.wallonie.be)

**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:*

**Federal authority:**

***a)***

i) see article 12 of the new law of 5/8/2006.

ii) At federal level, the information relating to the environment can be found essentially in two documents : (1) in the Federal Plan for Sustainable Development and (2) in the federal report on the environment which has been published for the first time in 2010.

Besides these public reports, environmental data is collected and processed further within the framework of compulsory and voluntary reports aimed at international authorities.

iii) *In emergencies, appropriate information is disseminated immediately and without delay*

Crisis management procedures are defined. A particular procedure is elaborated for the North Sea.

***b)*** see article 12 of the new law of 5/8/2006

***c)*** see article 14, § 1 of the new law of 5/8/2006

***d)***

For the first time, the new federal law of 5/8/2006 provides for the establishment of a federal report on the status of the federal environmental policy as well as the status of the marine environment in marine areas under the jurisdiction of Belgium. This report will complete the three regional reports that already exist on the status of the environment. The first report on the federal status of the environment has been published in 2010 and transmitted to Parliament by the Minister competent for the Environment.

***e)*** see article 14, § 1 of the new law of 5/8/2006

***f)***

The question relating to the manner, in which the authorities encourage farmers to inform the public about their activities that have a significant impact on the environment, essentially falls under the remit of the regional policy. As regards the information policy on products, see the answer in question 8.

***g)***

Via the communication policy, the information campaign on public rights as regards the environment ([www.aarhus.be](http://www.aarhus.be) and the leaflet on the information desk), the law of 2006 and the publication of annual reports.

***h)***

In connection with the policy on product standards, several mechanisms currently exist at the Belgian federal level which are aimed at improving public information, like economic instruments, legal instruments and communication tools.

i)

This matter is not federal but regional in its remit. The federal authority has however ratified the PRTR Protocol on 16 February 2009 (ratification by Belgium on 12 March 2009).

**Walloon Region:**

The Environment Code (Book I, Part V) stipulates that an assessment of the environmental plans and programmes subject to public inquiries be done in the course of developing a plan or programme and before it is adopted or submitted for legislative approval, depending on the case.

The decree of 21 April 1994 on environmental planning within the framework of sustainable development and which has been integrated into the environment code (Book I, Part IV), provides for the drafting of an annual report on the state of the Walloon environment, called The Environmental Scoreboard, to be put on line on the DGARNE's website. This reference puts special emphasis on the constant assessment of the policies that are being implemented as well as public information, awareness raising, and participation.

When it comes to environmental monitoring, Wallonia has also set up various monitoring networks. The public authority is responsible for keeping the data up to date.

The decree of 11 mars 1999 on environmental permits and its implementing orders regulate the procedure for issuing operating permits for activities that are likely to have an environmental impact.

This decree organizes the conduct of an impact study prior to the filing of a permit application for activities likely to have significant environmental impacts. The permits that are granted must include environmental impact surveillance obligations.

For emergencies, Wallonia has set up an environmental incident watch and intervention service within the Environmental Police and Control Division called "SOS Pollutions" that is accessible to everyone around the clock.

Environment code stipulates also that the following information must be made available to the public a.o. by electronic means and where relevant:

- international treaties, conventions and agreements as well as national, regional and local legislation and policies, plans and programmes related to environment;
- implementation reports on those items when hold by authorities on electronic form;
- environmental scoreboards;
- datas (or a summary) collected within the framework of activities having an impact on environment;
- permits for activities having an impact on environment and impact assesment sudies concerning state of the environment or an indication where the information can be accessible;

(b)

Creation of the DGARNE website [www.mrw.wallonie.be/dgrne](http://www.mrw.wallonie.be/dgrne) or [www.environnement.wallonie.be](http://www.environnement.wallonie.be)  
**Decree of 16/03/06 amending the Environment code on public access to environmental information (see also the answer concerning Art. 4).**

**One of the objectives of DGARNE's operational plan for 2009-2013 is to improve by 2013 the availability through electronic databases of documents and decision in relation to environmental permits.**

**Another objective is to establish one stop shops for the industry, local authorities and the public.**

(c) - (d) - (e)- (g)

**Creation of the DGARNE website: [www.environnement.wallonie.be](http://www.environnement.wallonie.be)**



(f)

**Roll-out of annual environmental reporting to the public authority via the Walloon Government's draft.**

The decrees of 11 September 1985 organizing environmental impact assessment, as integrated in the environment code, and of 11 March 1999 concerning the environment permit both cover the procedure for granting permits to establishments engaged in activities that have environmental impacts.

A prior impact study is required for a series of activities that can potentially have significant environmental impacts. Information meetings are to be held at the start of the impact study process and a public inquiry is required as part of the environmental permit investigation process.

In addition, a decree of 22nd November 2007 amending the decree of 11 mars 1999 on environmental permits, adopted in 2007, has established a mandatory annual reporting on environmental datas for the installations concerned by the PRTR Protocol.

(g)

**See under a) for the plans and programmes and for the annual report on the state of the Walloon environment**

(h)

An agreement has been signed with a non-profit association of consumer defence and environmental protection associations to set up an "ecological consumption network" to raise consumer awareness and inform and help consumers to make more environmentally friendly and healthier consumption choices..

(i)

Implementation of the Regulation 166/2006 implementing PRTRs in the EU and the PRTR protocol .In Belgium this is done by the Regions and the information is made available through the E-PRTR website of the EEA, the websites of each regional authority and the national node Aarhus.be.

The Walloon Parliament has ratified the PRTR Protocol on 30/05/07 and transposition through the decree of 11 March 1999 concerning the environment permit.

Implementation and streamlining of reporting for the industry through an integrated form called Referential Environment: Integrated Management of Enterprises (REGINE): <http://bilan.environnement.wallonie.be>

In addition, a decree of 22nd November 2007 amending the decree of 11 mars 1999 on environmental permits, adopted in 2007, has established a mandatory annual reporting on environmental datas for the installations concerned by the PRTR Protocol, by using the integrated electronic form described here above.

**Brussels Capital-Region:**

See Ordinance of 18 March 2004 on access to environmental information (published in the Moniteur Belge of 20 March 2004).

**Paragraph 1:**

(i)

- see Ord. art.16,§1
- The environmental observatory has the task of collecting, analyzing and disseminating all information that may be useful in understanding the state of the environment and promoting good management by the responsible authorities.

(ii) see Ord. art.16,§2

**(iii)**

- see Ord. art.18
- Alerts sent out to the public via the mass media if certain air pollution thresholds are exceeded.
- A “pollumeter” (air quality indicator in Brussels) is available 24/7 on [www. brusselenvironment](http://www.brusselenvironment.be) and via a telephone answering machine.
- The population is informed of events that may generate pollution, e.g. risks of a fire at a former industrial site, via the Brussels EnvironmentIBGE , press releases and social networks (Twitter, Facebook).

**Paragraph 2:** see Ord. art.10

**Paragraph 3:**

- see Ord. art.16, §1 al.1 and 3
- see Ord. art.16,§2
- Practically speaking, this means:
  - Publication on [www. brusselenvironment.be](http://www.brusselenvironment.be) of plans and programmes (also published in printed form), reports on the results of public surveys and progress reports on plans and programmes, data on the state of the environment (regularly updated) and many reports on studies
  - Legal texts on [www.moniteur.be](http://www.moniteur.be) and [www.brucodex.be](http://www.brucodex.be) provide lists of environmental legislation.

**Paragraph 4:** see Ord. art.17

**Paragraph 5:** see Ord. art.16 § 2

**Paragraph 6:** see Ord. art.16 § 2

**Paragraph 7:** see Ord. art.10 and 16

**paragraph 8:**

- see Law of 21 December 1998 (published in Moniteur Belge of 11 February 1999) on product standards designed to promote sustainable production means, environmental protection and public health, art.5, §1, 6°.
- Practically speaking, this means: awareness of the public of the need to behave in such a way and buy products that damage to the environment is kept to a minimum (see above).

**Paragraph 9:** v.Ord. art.16, §2, e

**Flemish Region:****(a)****(i)**

Art. 30 DOB: The environmental information must be categorised, accurately, comparably and up to date.

**(ii)**

The “environmental management information system” aims at a step by step development of a general and integrated environmental information system in which all available and relevant environmental data of all public environmental authorities can be consulted on the Internet. Environmental information from companies are retrieved by the ‘Integrated Annual Environmental Report’.

**(iii)**

Several authorities are involved, with regulations on:

- exchange of information about projects with cross-regional environmental effects
- controlling the hazards of major accidents which involve dangerous substances
- civil protection
- reporting and warning obligation in accidental emissions and breakdowns.

Up-to-date information about flooding danger and air quality is available on the Internet.

(b)

- The Flemish government must develop a common database, containing signposting information and first line information, which is free of access (Art. 29, § 1 DOB).
- Officials must support anyone in seeking access to information (Art. 7 DOB).
- The right to inspection of environmental information in lists, registers or files is free of charge (Art. 20, § 3 DOB).

(c)

A lot of environmental information is available via electronic web databases, as required by the Decree of 28.10.2005.

(d)

Decree of 05.04.1995 on the general provisions regarding environmental policy (DABM): drawing up a two-yearly environmental report, with a description of:

- the state of the environment
- the environmental policy
- the expected environmental development.

The report is published in book form and widely announced.

Decree on nature conservation: drawing up of a two-yearly nature report, available on the web site (<http://www.nara.be>) and in book form.

Indicators on the state of the environment and nature: <http://indicatoren.milieuinfo.be> and <http://www.vlaanderen.be/aps>

(e)

New legislation: publication in the Belgian Official Gazette (B.S.). Flemish co-ordinated environmental legislation: available through the Flemish Environmental Legislation Navigator. Policy documents: [www.vlaanderen.be](http://www.vlaanderen.be)

Every authority is under the obligation to inform the population in a systematic, correct, balanced, timely and understandable manner on its policies, regulations and service (art. 28, § 1 DOB).

The regional environmental policy plan is announced in the B.S. and is available for public inspection at the provinces and municipalities (art. 2.1.10 DABM).

(f)

European Regulation 761/2001 (EMAS): companies must supply information on the environmental impact of their activities.

For certain categories of plants, an environmental audit and integrated annual environmental report is obliged according to the "Internal Corporate environmental care".

(g)

Information on access to environmental information, public participation and access to justice is published in the annual reports of the environmental authorities, the Flemish Ombudsman, ...

Information relating to public services: see the preliminary Acts of the environmental authorities and their web sites.

Registration and monitoring environmental complaints: see environmental complaints database.

(i) The integrated environmental report of the companies contains information on emissions, waste, water pollution and groundwater extraction and forms the basis for a PRTR. The 6 July 2007, Flemish Parliament Act adopted the PRTR-Protocol.
Describe any <b>obstacles encountered</b> in the implementation of any of the paragraphs of article 5.
<i>Answer:</i> <b><u>Federal authority:</u></b>  The main obstacles encountered are inherent in the very nature of administrations. The implementation of the concrete measures in the Aarhus Convention regarding access to environmental information demands significant funding, which must be mobilised every year.  It is also difficult to check what citizens think of the Environment DG's communication strategy.
<b>Provide further information on</b> the practical application of the provisions on the collection and dissemination of environmental information in article 5, <b>e.g. are there any statistics available on the information published?</b>
<i>Answer:</i> The Environment DG has figures relating to the number of web pages and the number of news items published on the portal site. These figures are used internally to develop the communication strategy.
Give relevant web site addresses, if available:
See above

### Article 6

<p><b>List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>(a) With respect to <b>paragraph 1</b>, measures taken to ensure that: <ul style="list-style-type: none"> <li>(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;</li> <li>(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;</li> </ul> </li> <li>(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 <b>paragraph 2</b>;</li> <li>(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of <b>paragraph 3</b>;</li> <li>(d) With respect to <b>paragraph 4</b>, measures taken to ensure that there is early public participation;</li> </ul>
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- (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:*

**Federal authority:**

See previous report for points (a) to (j) which are unchanged.

(k) Belgium has transposed Directive 2001/18/CE on the deliberate release of genetically modified organisms through the Royal Decree of 21 February 2005. Furthermore, Regulation (EC) 1829/2003 of 22 September 2003 concerning genetically modified food and feed is directly applicable to Belgium and also contains provisions regarding information and public consultation before authorising the marketing of genetically modified food and feed. The conformity of these provisions with the amendment to the Aarhus Convention on genetically modified organisms will allow Belgium to take care of the ratification. This ratification procedure was launched at federal level in the second half of 2007.

**Walloon Region:**

a)

The Environment Code, and the decree of 11 March 1999 on the environment permit cover the procedure of granting permits to establishments that are engaged in activities that have environmental impacts. In accordance with these decrees, prior impact assessments are required for a series of activities that are liable to have significant environmental impacts. The other activities must append an environmental impact assessment sheet (notice) to their permit applications.

These decrees regulate the public information and participation procedures in these areas, including the matter of deadlines.

The public is defined in these decrees as follows: one or more natural or legal persons, as well as their associations, organizations, and groups.

The Environment Code (Book I, Part V) also provides for public participation when it comes to the environmental plans and programmes that are developed by the public authority.

A new decree of 31 May 2007 concerning public participation fully transposes the Directive 2003/35, in compliance with the Convention.

This decree reorganise public participation for elaboration of certain plans and programmes relating to environment by harmonising and making uniform rules and procedures applying to public enquiries.

This ensures simplifications and results in better regulation, simplification and transparency.

(b)

When an impact assesment is required information meetings at the start of the process of conducting the impact assessment and a public inquiry as part of the environmental permit investigation.

(c)

Fifteen-day deadline for submitting remarks after the information meeting that is part of the impact assessment.

Thirty-day deadline for submitting remarks after the request for a public inquiry has been submitted under the environmental permit procedure.

(d)

See paragraphs (b) and (c).

(e)

In the case of carrying out an impact assessment, the applicant must publish an announcement specifying the nature of the project at least fifteen days before the information meeting.

(f)

Under the public inquiry the local administration that is in charge of issuing the permit must inform the residents and post an announcement that spells out the project consultation procedures.

(g)

See c).

(h)

The decree of 11 March 1999 concerning the environmental permit includes an obligation to take decisions on the basis of the opinions and comments that have been received and the possibility of appealing the decision.

(i)

The decree of 11 March 1999 concerning the environmental permit specifies the measures to take to publicize the decisions that are taken by the authority responsible for granting the permits.

(j)

The same procedures apply as for granting a new permit.

**Brussels Capital-Region:**

**Paragraph 1:**

- AGRBC of 9 April, 2004 adopting the Brussels land use code, title IV, chap III, section III, art 149 to 152 (published in Moniteur Belge of 26 May 2004).
- Ord. of 22 April 1999 setting the list of installations classed as 1A (published in the Moniteur Belge of 5 August 1999).
- AGRBC of 4 March 1999 setting the list of installations classed as 1B, 2 and 3 (published in the Moniteur Belge of 7 August 1999).

**Paragraphs 2, 3, 4, 5, 7, 8, 9, 10:**

- AGRBC of 9 April 2004 adopting the Brussels land-use code, title IV, chap III, section III, art 149 to 152 (published in Moniteur Belge of 26 May 2004).

**Paragraphs 2, 3, 4, 9:**

- Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in Moniteur Belge of 30 March 2004)

**Flemish Region:**

(a)

An environmental licence is required to operate or change hazardous installations listed in Vlare I, which contains more activities than Annex I of the Convention.

A town planning licence is required for various activities (construction, deforestation, cutting down trees, relief modifications, ...)

(b) (g)

The information requirement within the participation procedure is regulated in the “public inquiry” procedures.

The application is available for public inspection and is announced by posters. For some plants, all inhabitants living within a radius of hundred metres are informed and the public inquiry is announced in the press. When an environmental impact report or a safety report is required, an information meeting is organised.

Content of the publication: subject of the application, short description of the plant, the municipal authority services, the possibility to submit objections and remarks, place and time of the information meeting.

A similar public consultation will be organised on certain applications for a town planning licence.

(c)

The public consultation runs up to thirty days. During this period the information is available for inspections and objections can be formulated.

(d)

After the declaration of completion and admissibility of the environmental application, the public consultation starts within ten days.

(e)

Currently, the Flemish environmental legislation does not contain an overall regulation regarding the contact between potential applicants and the public concerned.

The notification phase of the environmental impact reporting process gives the initiator the chance to clarify the project objectives at an early stage.

(f)

When an environmental impact report is required, it contains: a detailed description of the project, the main characteristics of the production processes, the probably significant environmental effects for man and environment and in another country, the intended measures to avoid, restrict and possibly remedy major environmental effects, a prognosis of the expected emissions and residues, a draft of the main alternatives, a description of the knowledge gaps, a report regarding employment, investments, the goods to be produced and a non-technical summary.

Other legislation requires another description of the existing state of the air, the water, the noise level, the flora and fauna in the areas that may be affected by the plant, reports, advices and all other relevant information.

(h)

There is a general obligation to state reasons (Act of 29.07.81). Apart from this Act, specific obligations to state reasons exist.

(i)

Within ten days, the decision on environmental licence and the service where the decision is open to public inspection, are made known through posting.

The applicant of an urban development licence must post the decision immediately.

(j)

Reasons for a modification or addition to the environmental licensing conditions, must be justified (Art. 21 Decree on Environmental licences, Art. 45 Vlarem I).

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

*Answer:*

**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:*

Give relevant web site addresses, if available:

**Federal authority:**

<http://www.mumm.ac.be>

<http://fanc.fgov.be>



### Article 7

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

*Answer:*

**Federal authority:**

Article 7 of the Convention was transposed via the law of 13 February 2006 relating to the assessment of the effects of certain plans and programmes on the environment and public participation in the elaboration of the plans and programmes relating to the environment. This law includes a unique chapter on public participation, which is valid both for consultations that must take place within the framework of the Aarhus Convention and those planned within the framework of the strategic assessment of the effects on the environment of the federal plans and programmes (Directive 2001/42/CE). Therefore, this law harmonises the public participation procedures for plans and programmes at federal level. From 2006 to 2009, 8 public consultations have been carried out for plans and programmes relating to the environment: Plan on coastal waters management, Environment and Health Programme, Plan on products, Federal Plan against air pollution, National Strategy on biodiversity, Sector-based Biodiversity Plan, Plan on marine protected areas, Plan on persistent organic pollutants. In general, the public participation was rather low. The question which must be considered is therefore whether such public participation is really effective and why people don't participate.

**Walloon Region:**

The Environment Code (Book I, Part V) provides for public participation when it comes to plans and programmes that are developed by the public authority and affect the environment.

The definition of "public" in this code is the one given in the Aarhus Convention.

Several advisory bodies have been created by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development (CWEDD), water policy (Water advisory Commission), and so on. The public authority must in some cases give its reasons for failing to follow the opinions that such bodies give. These advisory bodies are composed of representatives of business federations, trade unions, associations, and NGOs.

The Environment Code (Book I, Part V) provides for public participation when it comes to plans and programmes that are developed by the public authority and affect the environment.

If a plan is likely to have significant impacts on the environment, its author must append thereto an impact report. A public inquiry is organized and the author is required to issue an environmental statement summing up how the environmental considerations and opinions submitted were integrated into the plan.

See also answer under Art6.a

**Brussels Capital-Region:**

- See Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in Moniteur Belge of 30 March 2004), art. 11 and 13.
- See Ord. of 7 March 1991 on the prevention and management of waste (art 5) and Ord. of 17 July 1997 on noise abatement in urban settings (art 5 §§ 2 to 8), which provides explicitly for the obligation to organize a public survey on draft waste plans and noise abatement plans.

Public inquiries are held during the preparation of each plan and program directed by Brussels Environment. For example, Brussels Environment held in 2008 a series of public inquiries on “Rain Plan” “Waste Plan”, “Pollution peaks”, “Noise Plan” ... An average of 11,000 responses were received and analyzed. In 2010: A public inquiry in terms of water management and public consultation on environmental conventions concerning the obligation to purchase certain types of waste are being developed.

(Nota bene: the Brussels Capital Region has around 1 million inhabitants.)

**Flemish Region:**

In accordance with DABM, an ‘Environmental Policy Plan’ is laid down every five year, linked with an ‘Annual Environmental Programme’, which is submitted for advice to SERV (Flanders’ Socio-Economic Council) and the Mina-Council (Environment and Nature Council of Flanders).

Next to this, there are more detailed plans at sectoral, compartmental or thematic level containing detailed provisions on participation.

The draft environmental policy plan is made available for public inspection in the municipalities for sixty days. During this period everyone can submit remarks. One information and participation meeting is organised per province. This procedure is announced in the press, on the radio and television (Art. 2.1.9 DABM).

A ‘consideration document’ explains how the remarks were taken into account. The plan is published both on paper and electronically and is announced by extract in the B.S.

The regional spatial structure plan is subjected to a public consultation(Art. 2.1.3., § 3 and 2.2.7, § 2 of the Flemish Spatial Planning Codex ), with announcement through posting, B.S., newspapers and radio and television; provision of information; opportunities to formulate remarks and objections. The regional spatial structure plan is subjected to one information and participation meeting in each province (Art. 2.1.3, § 4 of the Flemish Spatial Planning Codex).

For the determination of the provincial and municipal environmental planning and spatial policy there are the same participation opportunities.

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

*Answer:*

**Federal authority:**

The term "policy" is covered, at federal level, in the concept of plans and programmes (see above).

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

*Answer:*

**Federal authority:**

Given the distribution of competences in particular, the plans and programmes are most often elaborated at federal level from a “meta-strategic” point of view, and therefore with contents whose immediate impact on the daily lives of citizens is difficult to assess and express. This could be one explanation why the percentage of the public who participates is very low.

**Provide further information on the practical application of the provisions on public participation in decisions on plans and programmes in article 7.**

*Answer:*

**Brussels Capital-Region:**

A lack of consistency in the texts of laws (Ord. and implementing regulations for each public inquiry) makes the implementation of public inquiries quite cumbersome and costly. This does not however constitute a real obstacle in the implementation of the article (for the public).

Give relevant web site addresses, if available:

**Federal authority:**

<http://www.aarhus.be> which features the public consultations on plans or programmes that are organised at federal and/or regional level. It is also possible to find former consultations that were organised.

**Flemish Region:**

[www.milieubeleidsplan.be](http://www.milieubeleidsplan.be)

**Article 8**

**Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

*Answer:*

**Federal authority:**

§ unchanged in comparison with previous reporting

**Walloon Region:**

See answer art 7 and Art6.a

**Brussels Capital-Region:**

Public participation is guaranteed by representative organizations brought together in the Brussels Environment Council. See AERBC of 15 March 1990 regulating the creation, functions and composition of the Environment Council for the Brussels Capital Region (published in the Moniteur Belge of 6 July 1990).

**Flemish Region:**

Draft regulations are submitted for advice to the MINA-council, the SERV and the Strategic Advisory Council Spatial Planning,, mainly composed of social groups and experts. There is a similar regulation at provincial and municipal level.

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

*Answer:*

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

*Answer:*

**Brussels Capital-Region:**

The opinions of the Environment Council are not binding on the public authorities, who must nevertheless justify any decision running counter to the Council's opinions. These opinions are available on [www.cerbc.be](http://www.cerbc.be) in addition to the schedule and agendas of the Council's meetings.

Give relevant web site addresses, if available:

**Federal authority:**

<http://www.belspo.be/frdocfdd>: web site of the Federal Council for Sustainable Development

<http://www.info-durable.be>: all the latest Belgian news on sustainable development

### 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:*

**Federal authority:**

*a)*

(i) The law of 5/8/2006 created a Federal Appeal Committee for access to environmental information. It exercises its mission independently and neutrally. Since 2008, 5 appeals have been brought in before the Federal Appeal Court for what concerns the following matters: biocides, pesticides, carbon market, retaining fees from the nuclear sector, data relating to nosocomial infections.

(ii) § unchanged in comparison with previous reporting

(iii) unchanged in comparison with previous reporting

*b)*

§ unchanged in comparison with previous reporting

*c)*

§ unchanged in comparison with previous reporting

*d)*

§ unchanged in comparison with previous reporting

*f)*

§ unchanged in comparison with previous reporting

**Walloon Region:**

\* §1: see the answer under the Art. 4 regarding the Appeals Commission for access to information

Besides this body, the petitioner can take his claim to exercise his rights to the various courts and jurisdictions of the judicial system.

(b) – (e)

See the federal government's report [www.belgium.be](http://www.belgium.be) concerning appeals to the Court of Arbitration and Conseil d'Etat (Council of State – highest administrative authority, functions as the administrative tribunal of last resort).

**Brussels Capital-Region:****Paragraph 1:**

- (iv) Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in the Moniteur Belge of 30 March 2004) .
- (v) Ord. of 30 March 1995 on disclosure by the administration (published in the Moniteur Belge of 23 June 1995).

**Flemish Region:**

(a)

An appeal, free of charge, with an independent administrative appeal body is possible, against any decision, after the expiry of the decision period, or in the event of the decision being carried out reluctantly. Higher appeal with the Council of State.

The decisions are binding: the authority has to implement the decision as soon as possible and at the latest within forty calendar days (Art. 20, 22, 24, § 3 and 26 DOB).

(b)

An administrative and judicial appeal is possible for the environmental and town planning licence.

(c)

Challenging acts and omissions by private persons and public authorities which contravene environmental law, is possible via various administrative and judicial appeal procedures when the above-mentioned administrative appeal procedures are exhausted.

(d)

If the appeal body complies with the appeal, publication is granted. If the public authority does not implement the decision, the appeal body will carry out the decision itself as soon as possible.

The appeal body informs the applicant of its decision in writing, by fax or by e-mail within a period of thirty days. Decisions of the appeal body are public.

(e)

In principle, each decision mentions the possibilities of appeal, otherwise the submission term of the appeal does not commence (Art. 35 DOB).

Decisions on licences mention the possibilities of appeal. Similar provisions were also included in other sectoral environmental legislation.

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

*Answer:*

**Federal authority:**

On 10 March 2005, the federation of Flemish environmental associations (Bond Beter Leefmilieu - BBL) presented a communication to the Compliance Committee for the respect of the Convention's provisions to contest Belgium's application of the pillar relating to access to justice. The Compliance Committee issued its conclusions in June 2006; they reveal a potential violation by Belgium of the Convention's provisions as regards the right of environmental protection associations to appeal to the Council of State. For the Committee, it is clear that the Council of State must clearly establish a new jurisprudence as regards access to justice for environmental organisations.

With a view to helping Belgium fully meets its obligations in terms of access to justice, the Committee recommended that it should initiate two specific measures:

1/ take the appropriate legislative measures (laws coordinated according to the Council of State) so that environmental protection associations no longer have to endure a restrictive jurisprudence;

2/ promote knowledge of the Aarhus Convention; in particular, its provisions in terms of access to justice, within the Belgian legal system.

In order to meet the recommendations of the Compliance Committee, various initiatives were launched by the Federal Minister of the Environment in 2006:

1/ as regards the promotion of the Aarhus Convention within the legal system, the training programme for magistrates and legal trainees for the years 2006, 2007, 2008 and 2009 included a part dedicated exclusively to the Aarhus Convention in its thematic training on the environment, with an emphasis on the pillar relating to access to justice. In 2010, the annual meeting of the European Union Forum of judges for the Environment ([www.eufje.org](http://www.eufje.org)) took place in Brussels under the auspices of the Belgian presidency and with the support of the federal Belgian Minister competent for the Environment.

2/ as regards the part relating to the adaptation of Belgian standards, two legislative initiatives were taken, both initiated thanks to the behest of the Federal Minister of the Environment. However, it should be noted that it has not yet been possible for Parliament to approve this law given that it was dissolved on 1<sup>st</sup> May 2007, just before the federal elections. Therefore this private bill should be reinstated at the level of the federal government or the new parliament.

The bill's proposal concerning the right to take action in the collective interest (and amending the law on the Council of state) has been reintroduced before the Parliament by the Government on 3 April 2009. Unfortunately this project could not go through the parliamentary procedure as the Government stepped down on 6 May 2010. The new government (not yet set up at the date of this report) will therefore have to consider whether it would or not reintroduce this proposal.

**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:*

The Federal Public Justice Service draws up annual statistics of courts and tribunals, including for environmental dossiers: the number of environmental cases registered by the office of the civil court, the number of environmental cases referred to examining magistrates, and so on.

Give relevant web site addresses, if available:

<http://www.just.fgov.be>

**Articles 10-22 are not for national implementation.**

**General comments on the Convention's objective:**

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

*Answer:*

***Federal authority:***

§ unchanged in comparison with previous reporting





**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 biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

*Answer:*

As a general remark, Belgium ratified the GMO's amendment on 17 June 2009.

- (i) See Royal Decree of 21/02/2005 (for deliberate release: art 17 and annexes VIII A en VIII B and for placing on the market: art 32).
- (ii) See article 7 of directive 2001/18/EC (deliberate release) and article 16 (placing on the market)
- (iii) See Royal Decree of 21/02/2005 (for deliberate release: art 17.3 and art 21, §1er and for placing on the market : Dossiers introduced in Belgium : art. 32, §1er of the Royal Decree and for Dossiers introduced in other Member States : art 25 of directive 2001/18/EC )
- (iv) See Royal Decree of 21/02/2005 (for deliberate release: art 43,§4 and and for placing on the market : Dossiers introduced in Belgium. Dossiers introduced in other Member States : art 25 of directive 2001/18/EC )
- (v) All requirements set up in § 5 of annex Ibis are reflected in the royal Decree of 21/02/2005.
- (vi) See Royal Decree of 21/02/2005 : by post or internet for deliberate release: art 17, §6 and comments made on the phone are also accepted and by internet only for placing on the market
- (vii) See Royal Decree of 21/02/2005 : art 18, §1er for deliberate release en art 33, §1er for placing on the market. The synthesis is transmitted to the ministers competent for Public health and for Environment and to the regional ministers as well.
- (viii) The current legal and administrative framework at national level, as well as the legal provisions applicable at EU level which are totally compatible with the amendment on GMO's, integrates on a coherent manner the legal provisions of the protocol.

#### **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: See <http://www.ogm-ggo.be>*

#### **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:

*Answer: See <http://www.ogm-ggo.be>*