

AARHUS CONVENTION IMPLEMENTATION REPORT

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

**Name of officer responsible for submitting the national report:
Mrs. Evdokia Maneva, Deputy Minister, Ministry of Environment and Water**

Signature:

Date: December 2010

Implementation report

Party - Bulgaria

National Focal Point

Full name of the institution:

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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

Year: 2010

1. This report is updated by experts, representing:

Ministry of Environment and Water (MoEW);

Ministry of Justice (MoJ);

Ministry of Economy, Energy and Tourism (MoEET).

2. Environmental NGOs were informed and invited by letter to submit comments and proposals on updating the report for 2010. Proposals from NGOs were not obtained.

3. The draft report was placed on the website of the Ministry of Environment and Water for comments and suggestions to the public for 30 days. The draft report was seen by 105 unique visitors within that period. Comments and suggestions on the report wasn't received.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

Year: 2010

4. None.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

Year: 2010

Art. 3, para. 2 of the Convention

5. Chapter Two of the Environmental Protection Act (EPA) regulates access to environmental information and raises a number of requirements to public authorities and other competent persons with regards to promotion and facilitation of the the public to reach environmental information.

6. The Access to Public Information Act (APIA) in detail regulates access to public information, including environmental information and guide the public on what procedures may obtain information and if not satisfied with the decision on access to information, how and under what procedures to appeal the decision before the competent authority.

Art. 3, para. 3 of the Convention

7. Memorandum of Cooperation in the field of environmental education is signed between the Ministry of Environment and Water and the Ministry of Education, Youth and Science.

Art. 3, para. 4 of the Convention

8. The Bulgarian legislation is not regulated enough support to associations, organizations or groups promoting environmental protection.

Art. 3, para. 7 of the Convention

9. There is a practice NGOs to be involved in the preparation of Bulgaria's position on issues related to the environment at international level.

10. Guidelines for applying the principles of the Aarhus Convention in international forums has been submitted to the national coordinators of conventions related to the environment.

Art. 3, para. 8 of the Convention

11. The Bulgarian legislation has no explicit text that meets the requirements of Article 8, para. 8 of the Convention

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

Year: 2010

12. None.

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

Year: 2010

13. Public information centers are created in the MoEW and its structures, where any citizen may obtain information on the environment. Significant amount of environmental information is placed on the websites of the MoEW and its structures. A "One-stop-shop" service has been introduced in the MoEW in the year 2000 for administrative services of citizens, including submission of applications for access to information. Through the "One-stop-shop" service other ministries and local authorities, having environmental information also provide information to the public.

14. There is a special section for environmental education on the website of the MoEW. Information campaigns have been organized on raising environmental awareness and culture of various groups of the public.

15. Within a few projects under the Stability Pact for South Eastern Europe have been developed guidelines and organized seminars for introducing the various groups of the public with their rights arising from the implementation of the Convention in Bulgaria.

16. MoEW has established partnerships with NGOs, on the basis of equality and transparency. Environmental NGOs participate in the process of decision - making as members of more than 20 advisory bodies and working groups. Through websites at the earliest possible stage MoEW provides the opportunity to the public and NGOs to express their views on draft regulations, strategies, plans and programmes, created by the Ministry in the field of environment. The above-mentioned practice is also applied by other ministries (MoEET, Ministry of Agriculture and Food, Ministry of Health) and local authorities having competences on issues related to the environment.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE

3

Year: 2010

17. www.moew.government.bg, <http://nfp-bg.eionet.eu.int/eng/index.htm>,
<http://www.mi.government.bg/eng/index.html>, [http://www.mzh.government.bg / mzh /
bg / Home.aspx](http://www.mzh.government.bg/mzh/bg/Home.aspx), <http://www.mh.government.bg/>.

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

Year: 2010

Definitions:

Art. 2, para. 2 of the Convention (definition of "Public authority")

18. There is no definition in the Bulgarian legislation which fully transposes the definition of the Convention for "Public authority". " According to Art. 21, para. 1 and 2 of the EPA, for the purposes of this Act "Public authority" are the competent authorities specified as follows:

(1) central and territorial executive authorities, which collect and hold information related to the environment;

(2) Bodies and organizations that administer funds from the consolidated state budget and which collect and have at their disposal environmental information, with the exception of legislature and judiciary bodies.

19. Art. 21, para. 3 within the EPA states that every natural or legal person who provides public services related to the environment and carry out this activity under the control of authorities and organizations in accordance with para. 1 and 2, are obliged to provide environmental information.

Art. 2, Article 3 of the Convention (definition of "Environmental information")

20. The definition "Environmental information" is fully transposed into art. 18 and Art. 19 of the EPA.

Art. 4, para 1 of the Convention

21. According to Art. 17 of the EPA, everyone has right of access to available information related to the environment without necessity to prove concrete interest.

22. In accordance with art. 26 and Art. 27 of APIA access to public information is provided in the following forms:

1. Verification of information (original or copy);
2. Verbal;
3. A hard copy;
4. Electronic

23. Bodies comply with the preferred form of access to public information, with some exceptions.

Art. 4 para. 2 of the Convention

24. According to Art. 20 (2) of the EPA, information relating to the environment shall be provided within 14 days from the date on which the applicant was notified about the decision of the competent authority to provide access to the information requested.

25. According to Art. 28 (1) of APIA, each request for access to public information shall be considered within the shortest possible time, but not later than 14 days as of the date of registration;

Art. 4 para. 3 and 4 of the Convention

26. According to Art. 33 of APIA, if the body does not have requested information and there is no data available or don't know where to find it, the body inform the applicant within 14 days.

27. According to Art. 29 (1) of APIA, where it is not clear what exact information is requested or is too broadly defined, the applicant is notified about that and the body gives an opportunity to specify scope of the requested information.

28. Art. 20 (1) of the EPA fully transpose the requirements of art. 4, paragraph 4 of the Convention on when the request for access to information relating to the environment may be denied.

29. According to Art. 20 (4) of the EPA, in deciding to refuse the provision of information under Art. 20, para. 1 of the EPA, the competent authority must take into account the public interest served by disclosure of such information.

30. According to Art. 14 / 2 (3) of APIA, public authorities are obliged to announce information that is collected or they are aware of in the course of their activities, when such information is or may be of public interest.

Art. 4 para. 5 of the Convention

31. According to Art. 32 (1) of APIA, when the body does not have the requested information, but knows where could find it, within 14 days of receipt of the request for access to information, the body shall refer the application accordingly and notify the applicant. The notification must contain the name and the address of the respective body or legal entity to which information refers.

Art. 4 para. 6 of the Convention

32. According to Art. 20 (5) of the EPA, in case of limited access, the available environmental information is provided only in the part, which is possible to be separated from the main information for which there are restrictions for submission.

33. According to Art. 37 (2) of APIA, partial access may be allowed to such part of the information to which access is not limited.

Art. 4 para. 7 of the Convention

34. According to Art. 38 of APIA, in case of decision taken to refuse access to public information should be specified the legal and factual grounds for refusal under this Act, the date of the decision and order of its appeal.

35. According to Art. 28 (2) of APIA, the competent authorities or persons explicitly authorized by them, decide whether to grant or deny access to public information and notify the applicant for the decision in writing.

Art. 4 para. 8 of the Convention

36. According to Art. 20 (1) of APIA access to public information is free. Costs incurred in providing access to public information shall be paid according to norms set by the Minister of Finance, which does not exceed the actual cost. Cost justification is available to applicants upon request.

37. According to Art. 22 of APIA, no additional costs shall be paid for corrections and / or additional information on already provided public information in cases when it is incorrect or incomplete and it is requested by the applicant.

38. According to Art. 29 of the EPA, the fee provided for provision of specially processed information should be negotiated for each concrete case.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

Year: 2010

39. None.

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

Year: 2010

40. Access to environmental information in MoEW and its structures is very well organized. Access to information in the Ministry and its structures is regulated by orders of the Minister of Environment and Water. Through the "One-stop-shop" service all requests for access to information are submitted in one place, after that entered in the register and allocated to reply. Service "One stop" is also carried out by other competent ministries and local authorities.

41. According to Art. 15, para. 2 of APIA, each head of an administrative structure in the system of the executive government branch prepare an annual report on applications received for access to public information, which includes data for rejections and reasons for them.

42. Applications for access to public information registered in the MoEW and its structures for the period 01.06.2009 - 31.12.2009 in total are 639.

43. Decisions for rejection of access to public information are two as reasons for refusal are on the ground that the information requested relates to documents which are not completed and which cannot be checked independently, and therefore dissent from a third party.

44. MoEW and its structures are awarded with certificates by the NGO Programme for access to information as one of the state institutions in Bulgaria, which provides very good public access to information.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

Year: 2010

45 . www.moew.government.bg

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

Year: 2010

Art. 5 para. 1 of the Convention

46. According to Art. 24 of the EPA, each head of an administrative structure in the system of the executive branch of government publishes data on processed environmental information annually.

47. According to Art. 25, paragraphs 1 and 2 of the EPA, the Minister of Environment and Water shall determine by order the description of information resources, and that the information should be updated periodically.

48. According to Art. 23, paragraph 1 of the EPA, in emergency or other pollutions which are in violation of the rates of discharge of pollutants into the environment established in statutory or administrative acts, the polluters, as well as the persons responsible for observance of the limit values, are be obliged to immediately notify the competent regional governors, mayors of the municipalities concerned, the relevant Regional Inspectorates of Environment and Water, the basin directorates, and the authorities of the State Agency for Civil Protection and, in case of change of the radiation level, the Nuclear Regulatory Agency as well.

49. In accordance with art. 23, para. 2 of the APIA competent authorities within the scope of para. 1, are required to immediately notify the Ministry of Health and the affected population for the ensuing excessive pollution and propose measures to protect human health and property.

Article 5 para. 2 of the Convention

50. According to Art. 15, para. 1 of the APIA to ensure transparency in the administration and maximum facilitation of access to public information every head of an administrative structure in the system of the executive government branch periodically publishes updated information, regarding:

1. description of its powers and data on the organizational structure, functions and responsibilities;
2. list of the acts issued within the scope of its powers;
3. description of information resources used by the administration;
4. name, address, phone and opening hours of the relevant administration's office authorized to receive requests for access to public information.

Art. 5 para. 3 of the Convention

51. In accordance with art 25a of the EPA the competent authorities and persons should create a website and support through it a free and publicly available database with environmental information. The database must contain at least the following information:

1. Texts of international treaties, conventions or agreements and legislation related to the environment;
2. strategies, plans and programmes related to the environment;
3. progress reports or reports on the application of acts and documents under

items 1 and 2 if they are prepared or maintained in electronic form;

4. national and regional environmental status reports and other reports on the state of the environment provided by law or regulation;

5. data or summaries of data derived from monitoring activities that affect or may affect the environment;

6. public records under this Act or other special laws relating to the environment.

Article 5 para. 4 of the Convention

52. In accordance with art. 22 para 1 of the EPA, the Minister of Environment and Water annually submits a report on the state of the environment to the Council of Ministers. After its approval, it is published as a National Report on the state and protection of the environment on the website of Ministry and the Executive Environment Agency (EEA).

Art. 5 para. 5 of the Convention

53. According to Art. 25a, para. 2 of the EPA, the competent authorities and persons shall support in their websites databases for international treaties, conventions and agreements, legislation, strategies, plans and programmes, progress reports on their implementation, the data from the monitoring of activities which have or may impact on the environment.

Art. 5 para. 6 of the Convention

54. With Art. 137 - Art. 142 of the EPA, the measures for the application of the EU Ecolabel Scheme are established. The scheme is intended to promote products which have reduced environmental impact throughout their life cycle and to provide consumers with accurate, reliable, and scientifically sound information on the impact of the products on the environment.

Art. 5 para. 7 of the Convention

55. In accordance with art. 22 para 1 of the EPA, the Minister of Environment and Water annually submits a report on the state of the environment to the Council of Ministers. After its approval, it is published as a National Report on the state and protection of the environment on the website of Ministry and the Executive Environment Agency (EEA).

Art. 5 para. 8 of the Convention

56. According to Article 137 of the EPA, the goal of the national Ecolabel Scheme is to promote the development, production, distribution and use of products that have the potential to reduce adverse environmental impacts, compared to other products of the same product group. The National Ecolabel Scheme is carried out by providing accurate, scientifically sound information on such products to consumers.

Art. 5 para. 9 of the Convention

57. According to art. 130 of the EPA, the Executive Environment Agency (EEA) shall keep a public register of the results of emissions monitoring as provided for in the integrated permits. Additionally, according to art. 22b of the EPA, the EEA shall

maintain a public register of the release and transfer of pollutants at the national level and provide access to it through its website.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

Year: 2010

58. None.

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

Year: 2010

59. Transparency and effective access to environmental information in Bulgaria is provided mainly through the websites of government institutions, and through their information centers, published reports, newsletters and other specialized publications. This is part of a broader trend for the provision of environmental information through electronic means, and is one of the priorities of the Ministry of Environment and Water.

60. The EEA, together with the Ministry of Environment and Water, and with technical assistance from the Austrian Environment Agency, has developed a Catalogue of Environmental Data Sources in Bulgaria, which is updated annually.

61. In accordance with the legal requirements in the environmental policy, the Ministry of Environment and Water, and the EEA maintain about 20 electronic registers and databases related to the environment.

62. Reports and newsletters, maintained by the EEA, are available through the Internet at: <http://nfp-bg.eionet.eu.int/bul/Output/index.html>

63. According to Art. 22, para. 3 of the EPA, the Regional Inspectorates for Environment and Water annually, by 30 April, prepare regional reports on the state of the environment in their respective territories for the previous year.

64. All acts adopted by the National Assembly shall be published in the State Gazette. Electronic versions of the texts of all acts can be found in legal databases such as APIS, Ciela and others. The full texts of laws and regulations related to the environment can be found in the "Legislation" section on the website of the Ministry of Environment and Water.

65. A "List of Conventions to which Bulgaria is a Party" is published in the "International Cooperation" section of the Ministry's website.

66. The main strategies, action plans and programmes in the field of environment are published in a dedicated section "Strategies and Programmes", of the website of the Ministry and the portal for public consultation of the Council of Ministers.

67. The main policy documents, strategies, programmes and action plans can be found in the Public Information Center of Ministry.

68. There is a special section entitled "Dialogue" on the Ministry's website, where all

important new draft laws, strategies, plans, and programmes are published for public comment.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

Year: 2010

69. www.moew.government.bg/ , <http://nfp-bg.eionet.eu.int/eng/index.html> , <http://www.strategy.bg/> .

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

Year: 2010

Art. 6, para. 1 of the Convention

70. The list of activities in Annex I to the Convention is fully transposed in Annex I of the EPA.

71. Art. 6, para. 1 (b) of the Convention has been transposed through the provisions of:

1. Art. 93 of the EPA;
2. Art. 2 of the Regulation on the Conditions and Terms for Carrying Out Environmental Impact Assessments of Plans and Programmes (SG 57/2004).

Art. 6, para. 2 of the Convention

72. Article 6, para. 2 of the Convention was implemented through the provisions of:

1. Articles 87, 95, 97 and 98 of the EPA;
2. Articles 19, 19a, 20, 21 and 22 of the Regulation on the Conditions and Terms for Carrying Out Environmental Impact Assessments of Plans and Programmes;
3. Articles 9, 10, 16 and 17 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessments (EIA).

Art. 6, para. 8 of the Convention

73. Art. 6, para. 8 of the Convention has been transposed through the provisions of:

1. Art. 87 and Art. 99 of the EPA;
2. Art. 18 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessments of Investment Proposals for Construction, Activities and Technologies;
3. Art. 26 of the Regulation on the Conditions and Terms for Carrying Out Environmental Impact Assessments of Plans and Programmes.

Art. 6, para. 9 of the Convention

74. Art. 6, para. 9 of the Convention has been transposed through the provisions of:

1. Articles 88 and 99 of the EPA;

2. Art. 27 of the Regulation on the Conditions and Terms for Carrying Out Environmental Impact Assessments of Plans and Programmes.

Art. 6, para. 10 of the Convention

75. Art. 6, para. 10 of the Convention has been transposed through the provisions of Articles 85 and 93 of the EPA.

Art. 6, para. 11 of the Convention

76. Public participation in decisions concerning the deliberate release of genetically modified organisms (GMOs) is regulated in detail the Law on Genetically Modified Organisms (GMO Act).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

Year: 2010

77. With regard to the Environmental Assessment procedure, public participation is actively expressed primarily in plans and programmes at the local level (especially spatial plans - general development plans and detailed development plans). In discussing these plans and programmes NGOs participate very actively. The national plans and programmes include primarily non-governmental organizations with environmental focus, and partnerships / alliances of NGOs, while the wide public is not taking part.

78. Regarding the environmental impact assessment (EIA) procedure, the public and other stakeholders are involved in the process of decision-making - from the first notification of an investment proposal (beginning of the process) to announcement of the decisions taken (end process). The identification of the public concerned, which is involved in the consultation process during the EIA, is an obligation of the investor (according to the legislation). In some cases, it complicates the procedure when there are other persons who would like to participate in the consultations at a later stage of the process.

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

Year: 2010

79. There is no statistical information on public participation (such as number of representatives) in making decisions on specific activities. There is a more active involvement of local communities in the EIA process in cases where there is direct involvement of private interests. Representatives of NGOs with an environmental focus are generally more active in procedures for major infrastructure, or harm to protected areas.

80. In procedures on environmental impact assessments of plans and programmes public participation is higher primarily at the local level specifically for territorial development plans (local and municipal), in which there is involvement of private interests. At the regional and national level representatives of NGOs / associations of NGOs with an environmental focus show the highest activity.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

Year: 2010

81. www.moew.government.bg/ , <http://www.strategy.bg/> .

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

Year: 2010

82. Under Article 75 (3) of the EPA in the process of development and public discussion of the National Environmental Strategy shall include representatives of academia, environmental NGOs and industry organizations.

Definitions

83. The definition of " The public" has been transposed in item 24 of the Supplementary Provisions of the EPA. "The public" means one or more natural or legal persons and their associations, organizations or groups created in accordance with national legislation.

84. The definition of " The public concerned" is fully transposed in item 25 of the Supplementary Provisions of the EPA. "Concerned public" is the public referred to in paragraph 24, which is affected or likely to be affected or has an interest in the procedures for approval of plans, programmes and investment proposals and decisions on the issuance or updating of permits under under this act, or permit conditions, including environmental NGOs established in accordance with national legislation.

85. The definition of "Environmental information" is given in Art. 19 of the EPA and fully complies with the definition in the Convention., "Environmental information" means any information in written, visual, aural, electronic or other physical form regarding:

1. The state of environmental components as follows: air, atmosphere, water, soil, earth, landscape, landmarks, minerals, biodiversity and their sub-components and their interaction;

2. Factors, in accordance with Art. 5 of the EPA, and the activities and / or measures, including administrative measures, international agreements, policies, legislation and reports on implementation of legislation, plans and programmes which have or are able to affect components of the environment;

3. The state of human health and safety of people as they are or may be affected by the state of environmental components or those components of the factors, activities or measures referred to in paragraph 2;

4. Cultural and historical heritage sites, buildings and installations, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in paragraph 2;

5. Cost-benefit and other economic analysis and assumptions used within the measures and activities referred to in paragraph 2;

6. Emissions, discharges and other harmful environmental impacts.

86. The Bulgarian legislation does not provide a legal definition of "State authority".

87. According to APIA, Art. 4 para. 1, every citizen of the Republic of Bulgaria is entitled to access to public information on the terms and conditions set out in this Act, unless another law provides for a special procedure to seek, receive and disseminate such information.

(2) Foreign nationals and stateless persons in Bulgaria shall enjoy rights under par. 1.

(3) All legal entities enjoy the rights under par. 1

88. According to Art. 17 of the EPA everyone has access to the available information related to the environment without having to demonstrate a specific interest.

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

Year: 2010

89. According to Art. 87, para. 1 point 2 and para. 2. of EPA contracting the plan or programme organizes public consultations with the concerned public and stakeholders affected by the plan or programme; the results of public consultation are reflected in the environmental report and taken into account in the decision of the Minister of Environment and Water or the director of the specific Regional Inspectorate for Environment and Water.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

Year: 2010

90. None.

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

Year: 2010

91. It has become common practice for the drafts of strategies, action plans and programmes in the field of environment to be published on the website of the Ministry and the portal for public consultation of the Council of Ministers for public comments and proposals.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

Year: 2010

92. www.moew.government.bg

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

Year: 2010

93. There is no specific text in the Bulgarian legislation, which expressly requires public authorities to provide the public with appropriate stage drafts of regulations with immediate enforceability and other universally binding rules.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

Year: 2010

94. None.

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

Year: 2010

95. Ministry publishes on its website projects of significant legislation to enable the public to express their recommendations, comments and suggestions.

96. The participation of NGO representatives in working groups set up by the Ministry of Environment and Water in the drafting of regulations can be given as an example of a good practice.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

Year: 2010

97. www.moew.government.bg.

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

Year: 2010

Art. 9, para. 1 of the Convention

98. According to Articles 40 and 41 of APIA, decisions to grant access to information or rejection shall be subject to judicial appeal, respectively, in front of the Supreme Administrative Court and Administrative Courts, depending on the authority which issued the act. For providing environmental information should apply procedure laid down in Chapter Three of the APIA. Bulgarian law complies with the Convention and allows any person who considers that his request for access to information is not examined in accordance with Article 4 of the Convention, to have access to re-evaluation procedure. The Courts effectively apply those provisions of Bulgarian legislation and they have established case law.

99. According to Bulgarian legislation, appeal of decisions for granting / rejection of access to information are only in the Courts. (Article 40, paragraph 1 of APIA). Due to the fact that it is an administrative appeal, the appeal should be submitted through the decision – making authority, which guarantee the re-evaluation of the complaint by the administrative authority which took the decision. Payment of fees is in accordance with the tariff set for all courts and is firmly fixed amount. As in the case of administrative cases, these fees are minimum.

100. Since the appeal of the decision is in court, the court's decisions are binding for all state bodies, natural and legal persons. When it comes to court decisions taken in

respect of the application for refusal of information, these decisions have binding force for all entities required to provide access to public information, listed in Article 3 of the APIA.

101. According to Art. 28, paragraph 2 of the PIA bodies or explicitly defined by them representatives take decision to grant or refuse access to required public information and notify the applicant in writing of its decision.

Art. 9, para. 2 of the Convention

102. This question is not specifically regulated by the Bulgarian legislation, but members of the interested public undoubtedly have the right to challenge any decision taken by the administrative authorities. Administrative Procedure Code shall apply to administrative proceedings and representatives of the public may appeal decisions of administrative bodies.

103. In the Constitution of the Republic of Bulgaria is written that everybody has right of clean environment, therefore the writing gives material right to everyone to participate in the process of challenging any decision, act or omission in the court. The case law shows that legal entities, including NGOs that meet the criteria of national legislation, namely, are duly registered, have the opportunity to participate in the trial.

Art. 9, para. 3 of the Convention

104. The opportunity of public members to have access to administrative and judicial procedures to challenge acts and omissions of individuals and public authorities which contradict to the provisions of national legislation relating to the environment is guaranteed by the Constitution, which provides that everyone is entitled to a healthy environment. This gives the constitutional grounds for appeal for all acts and omissions of natural persons and government bodies, relating to the environment.

105. In chapter eleven of the EPA also provides civil liability for anyone who has caused another damage from pollution or environmental damage. Art. 171 of the Environmental Protection Act expressly provides injured person can bring an action against the violator for an injunction to remove the effects of pollution.

Art. 9, para. 4 of the Convention

106. Bulgarian legislation foresees many opportunities for participation of the concerned public in the trial. It allows opportunity to initiate administrative as well as civil and criminal cases, on matters related to the environment. Judgments concerning the environment are obligatory for all administrative bodies and to all natural and legal persons.

107. With regard to the transparency of judicial decisions as a basic principle of judicial procedures is publicity and everyone may attend in the courtroom. Judicial decisions and arguments are available to the public. Supreme Administrative Court put good practice to publish its decisions and minutes of meetings on its website. Some other courts, for example as appellate courts and some of regional and local courts, follow this practice.

Art. 9, para. 5 of the Convention

108. Through information provided on the MoEW's website, organised seminars, information materials produced by the Ministry and NGOs public is increased awareness with regard to access to administrative and judicial appeal procedures.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

Year: 2010

109. Challenges:

1. Problems in the judiciary
2. Insufficient timely justice and clumsiness of procedures. Sometimes the time limits required for making a judicial decision does not meet, which slows production
3. Necessity to increase the capacity of legal professionals on issues related to environmental law
5. Insufficient public awareness and interest
6. Need of serious research and publications on environmental law.

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

Year: 2010

110. No statistics available.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

Year: 2010

111. www.moew.government.bg - Ministry of Environment and Water

www.mjeli.government.bg/ - Ministry of Justice

[http://www.sac.government.bg/home.nsf/vPagesLookup/home ~ en](http://www.sac.government.bg/home.nsf/vPagesLookup/home~en) - Supreme Administrative Court

<http://www.justice.bg/index2.htm>, Supreme Judicial Council

XXXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE

Year: 2010

112. With no doubt, ratification and appliance of the Convention contributes to the development of civil society in Bulgaria. Ratification of the Convention contributed to legislative and institutional measures undertaken by public authorities which should guarantee effective access to information and public participation in making decisions about the environment.

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

(a) With respect to **paragraph 1** of article 6 bis and:

Paragraph 1

113. The regulatory framework for effective information and public participation in decision - making process about deliberate release in the environment and placing on the market genetically modified organisms (GMOs) is secured by provisions of the Genetically Modified Organisms Act (GMO Act).

114. Procedures for informing and public participation regarding the deliberate release of GMOs into the environment, as well as placing on the market GMOs are identical, as for the the first procedure is competent Minister of Environment and Water, and for the second - Minister of Agriculture and Food.

Paragraph 2

115. The Bulgarian legislation does not provide exemptions from the procedure for public participation set out in Annex I bis, para. 2.

Paragraph 3

116. After preparation of the position of the Advisory Committee on GMOs on an application, requesting the deliberate release into the environment, MoEW launched a public consultation, which should be held not later than 45 days from the preparation of the opinion. During the public discussion a summary of the technical dossier, the summary of risk assessment and the Committee's position should be presented.

Paragraph 4

117. In Chapter 6 of the GMO Act is defined the confidential information related to GMOs. In case of release of GMOs in the environment and in case of placing GMOs on the market, the following information can not be considered as confidential: the general characteristics of the GMOs, name and address of applicant; purpose and location of release; methods and plans for monitoring the GMO and emergency plans; place of storage; ways of transportation, use of GMOs; risk assessment.

Paragraph 5

118. Not later than 30 days before the date of the discussion in a national daily newspaper, through the local mass media, by publishing advertisements in the respective municipalities in the area of release of GMOs into the environment, as well as on the website of the MoEW, should be announced 1) subject of public consultation and 2) place where to find all necessary information, available to interested persons. The notice shall announce the date and the place where the public discussion will be held.

Paragraph 6

119. Any person may provide an opinion on the subject of discussion in writing or in electronic form. The applicant or his representatives are invited to participate in public discussion together with committee members. A public consultation record is kept which is attached to the authorization.

Paragraph 7

120. Based on the committee's position, economic analysis, public consultation, the comments made by other countries - members of the European Union, and after consultation with the Minister of Agriculture and Food, the Minister of Environment and Water, prepares a draft permit release of a GMO or combination of GMOs into the environment within 14 days of conducting public consultation and submits it for approval by the Council of Ministers.

Paragraph 8

121. The website of the Ministry hosts and maintains public registers of:

- Issued permits for release of GMOs into the environment;
- Location and size of the areas authorized for the release of GMOs.

(b) With respect to **paragraph 2** of article 6 bis

122. The Ministry of Environment and Water will create and maintain an information system "Biosafety Clearing House" to meet obligations under the Cartagena Protocol on Biosafety to the Convention on biological diversity and the scientific, technical, environmental and legal information on GMOs. The data in the system is public.

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

123. There are no obstacles in implementation.

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

124. There is no practice in applying the requirements of Art. 6 bis and Annex I bis of the Convention. Public electronic registers were created in compliance with the legislation.

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

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