

**AARHUS CONVENTION IMPLEMENTATION REPORT  
CERTIFICATION SHEET**

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

<b>Name of officer responsible for submitting the national report:</b>	<i>Ms. Sylvana Debono</i>
<b>Signature:</b>	<i>(printed version will be signed)</i>
<b>Date:</b>	<i>26.03.12</i>

**IMPLEMENTATION REPORT**

Please provide the following details on the origin of this report

<b>Party</b>	<i>Malta</i>
<b>National Focal Point</b>	
Full name of the institution:	<i>The Malta Environment and Planning Authority</i>
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1. Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.

*Answer:*

*This report was drawn up by Malta's National Focal Point for the Aarhus Convention, the Malta Environment and Planning Authority (hereinafter referred to as MEPA), which falls under the Ministry for Tourism, Culture and the Environment.*

*As a general comment, it is worth noting that Malta ratified the Aarhus Convention and transposed the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC into Laws of Malta by the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05), so as to ensure the effective implementation of the Aarhus Convention and Directive 2003/4/EC. In addition, Malta transposed the provisions of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EC and 96/61/EC into Laws of Malta by Article 469A of the Code of Organization and Civil Procedure (Cap. 12) and the following Legal Notices:*

- the Plans and Programmes (Public Participation) Regulations, 2006 (LN 74/06);*
- the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05);*
- the Integrated Pollution Prevention Control (IPPC) Regulations, 2002 (LN 234/02, as amended);*
- the Control of Major Accident Hazard Regulations, 2003 (LN 37/03, as amended);*
- the Environmental Impact Assessment Regulations, 2007 (LN 114/07, as amended);*
- the European Pollutant Release and Transfer Register Reporting Obligations Regulations, 2007 (LN 152/2007); and*
- the Strategic Environmental Assessment Regulations, 2010 (LN 497/10).*

*Furthermore, the Environment Protection Act, 2001 (Cap. 435, as amended), the Development Planning Act, 1992 (Cap. 356, as amended), were repealed by the Environment and Development Planning Act, 2010 (Cap. 504) in the period under review. They were unified and improved with regards to the pillars relating to the Aarhus Convention. Together with the new legislation, subsidiary legislation and guidelines drafted for administrative purposes were used as a basis for the compilation of this report. The information provided in the replies to ensuing questions of this report may also be substantiated by the aforementioned legislation.*

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

*Answer:*

*N/A.*

### Article 3

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

(a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;

(b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;

(c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;

(d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally;

(e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

*Answer:*

*Administrative arrangements are in place to ensure that the public is given the necessary assistance and guidance on the meaning and scope of the Aarhus Convention as well as to promote educational and environmental awareness. Persons exercising their rights under the provisions of the Aarhus Convention are adequately protected. Information and guidance for persons wishing to exercise their right on access to information was made available online on the MEPA website: <http://www.mepa.org.mt/info-participation>*

*The administrative capacity to implement the Aarhus Convention within MEPA was assigned to officers operative and expert in the respective fields. The objective of the full twinning project (twinning partner: Austria), 'Further Institution building in the Environment Sector' [MT/06/IB/EN/01] was to assess and improve the current situation with respect to the practical implementation of the EU horizontal environmental Acquis that provides for the requirements of the Aarhus Convention. To this end, the project analysed the legal and institutional instruments together with information systems available to ensure that they meet the requirements of the Directives relating to the Aarhus Convention and provisions of the Aarhus Convention with respect to Access to Justice. A series of meetings with the public sector, industry and the general public were held in addition to those already available. Officers were trained to address matters related to the three pillars of the Aarhus Convention. A number of dissemination and awareness-raising events aimed at various interested parties were carried out.*

*In the period under review, the Government of Malta decided for a complete overhaul of both the Development Planning Act, 1992 (Cap. 356, as amended), which had a significant public participation component, and the Environment Protection Act, 2001 (Cap. 435, as amended). In amalgamating the two pieces of legislation into one, the Environment and Development Planning Act, 2010 (Cap. 504), Malta strengthened its adherence to Directive 2003/4/EC and the Aarhus Convention considerably by, inter alia, lengthening the duration of public consultations, increasing periods of public consultation, widening the net of automatic inclusivity in access to information and strengthening the aspect of access to justice.*

**Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/L.4 20 February 2007**

**Paragraph 1: A clear, transparent and consistent framework to implement the Convention**

*Malta transposed via national legislation the European Directives that provide for the Aarhus Convention and developed a clear, detailed and transparent framework of implementation, which is heavily dependent on the internet (MEPA's website: <http://www.mepa.org.mt>).*

**Paragraph 2: Assistance and guidance to the public in public participation matters**

*The procedural rights of the public with respect to participation are provided for under the Development Planning Act and the Environment Protection Act. Detailed guidance with respect to these rights and on public participation in general can be found on the MEPA website ([http://www.mepa.org.mt/index.htm?public\\_consultation/mainpage.htm&1](http://www.mepa.org.mt/index.htm?public_consultation/mainpage.htm&1)).*

**Paragraph 2: Assistance and guidance to the public in public participation matters**

*The procedural rights of the public with respect to participation are provided for under the Environment and Development Planning Act, 2010 (Cap. 504). Detailed guidance with respect to these rights and on public participation in general can be found on MEPA's website (for the legal aspect: <http://www.mepa.org.mt/lplegislationpolicymain>; and for the information and participation aspect: <http://www.mepa.org.mt/info-participation>). MEPA's website was, in the meantime, revamped so as to make as much information as possible available in two-clicks.*

*In order to further strengthen the administrative capacity of MEPA European funds were made available for the implementation of the full Twinning Project described above. Amongst other things, the project also catered for the training of judges concerned with environmental issues in particular those addressed by the Aarhus Convention. One judge was sent on a conference in the Czech Republic on Access to Justice in environmental matters. Two other civil servants also attended a conference in the Netherlands on Access to Justice and Access to Information. In total, ten international traineeships took place covering training vis-à-vis all three pillars of the Aarhus Convention.*

**Paragraph 3: Environmental education and awareness raising**

*With respect to environmental education, at an institutional level, this issue is highlighted as a priority in the Maltese National Strategy for Sustainable Development. Environmental education is also addressed on a project-by-project basis and, in Malta, includes, amongst other things, informational outreach with media and Environmental Non-Governmental Organisations (ENGOS) and other activities that are being carried out by the Communications Office of MEPA. With respect to awareness-raising, MEPA and other government entities give this area priority importance both through individual projects as well as the support given to entities that can also disseminate environmental information.*

*Besides government institutions, Non-Governmental Organisations (NGOs) also participate in environmental education and awareness-raising campaigns, through a number of projects and initiatives such as the organisation of guided tours in the nature reserves that they manage and the organisation of nature walks around the islands. They also work in schools, for example Nature Trust Malta, in collaboration with the Government of Malta, coordinates the EkoSkola programme, which encourages students to take an active role in the environmental management of their school while Birdlife Malta coordinates the 'Dinja Waħda' initiative to promote environmental education.*

**Paragraph 4: Support for environmental NGOs**

*Government provides financial support to them and there is an established practice in Malta to include NGOs in environmental decision-making. For example, MEPA's Board, which is the main environment and land-use planning decision-making body in Malta, includes a NGO representative. Under the new legislation, the Environment and Development Planning Act, 2010 (Cap. 504), the former Development Control Commissions that were the delegated decision makers for MEPA's Board, were also changed to include environmental expertise and their designation was changed to Environment and Planning Commissions. In this way, NGOs also have access to decision-making bodies. The composition of MEPA's Board also changed and now includes a person nominated by ENGOs. Furthermore, NGOs also form part of MEPA's Users Committee, which is constituted under Article 36 of the Development Planning Act, 2010 (Cap. 504). While there is no formal recognition of local-level or grass-roots organisations, it is common for such groups to participate in national debates in relation to their area. This comment excludes Local Councils that, together with ENGOs, are briefed monthly on matters arising on the environment and planning. ENGOs and Local Councils were given the facility to download development permits and Development Planning Application reports without any charges. These two stakeholders were also given full access to view online planning applications and plans.*

**Paragraph 7: Public participation in international environmental decision-making processes**

*There is a practice in Malta to include NGO members in delegations representing the State in major international environmental negotiations or in international-level discussion groups, for example NGOs were members of the delegation that attended the Rio de Janeiro UN Conference on Environment and Development in 1992 and the 2002 Johannesburg World Summit on Sustainable Development.*

**Paragraph 8: Prohibition of penalization for public participation**

*There was no case of NGOs being ordered to pay damages (of a private entity or a public authority) in connection with their public interest in environmental protection activities or litigation (e.g. due to a delay in a procedure) and no libel, slander or similar provisions of civil or criminal law were used in the context of environmental decision-making processes.*

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

*Answer:*

*NGOs in Malta have legal standing if they register with the Commissioner for Voluntary Organisations enacted through a bill granting juridical personality upon NGOs so registered. However, in practice, in view of the fact that NGOs are afforded de facto recognition, this registration has not taken on. This presents difficulties both to the NGOs and Government.*

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

*Answer:*

*N/A.*

6. Give relevant web site addresses, if available:

<http://www.mepa.org.mt/lplegislationpolicymain>

<http://www.mepa.org.mt/info-participation>

#### Article 4

7. 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:*

*Definitions are catered for in Regulation 2 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

- (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;  
  
*This requirement is catered for in Regulation 3 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*
  - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;

*This requirement is catered for in Regulation 4 and 5 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(iii) The information is supplied in the form requested;

*This requirement is catered for in Regulation 6 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;

*This requirement is catered for in administrative measures that are in place to ensure compliance with Regulations 4 and 5 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05). In order to further ensure strict compliance with the time limits set out in the Legal Notice, administrative measures and guidelines were drawn up by MEPA. These can be accessed from the website below:*

<http://www.mepa.org.mt/llegislationpolicymain>

(c) With respect to **paragraphs 3 and 4**, measures taken to:

(i) Provide for exemptions from requests;

*This requirement is catered for in Regulation 7 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(ii) Ensure that the public interest test at the end of paragraph 4 is applied;

*This requirement is catered for in Regulation 7(3) of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(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;

*This requirement is catered for in Regulation 5 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;

*This requirement is catered for in Regulation 7(4) of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;

*This requirement is catered for in Regulation 7(5) of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

*This requirement is catered for in Regulation 8 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

**Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/L.4 20 February 2007**

**Paragraph 1, chapeau: Ensuring provision of information and other general issues**

*No requirement exists to keep records of information requests received and responses provided, including refusals however, MEPA does keep such records. In view of the interim lacuna referring to the period under review, MEPA is currently compiling the information to bring records up to date.*

**Paragraph 1 (a): The interest not having to be stated**

*While there is a practice of requesting certain basic data from the applicant requesting information, such requests are not obligatory for the applicant. Hence, if the original provider of information needs to identify the applicant in cases of claims related to misuse of information, this identification can only be made possible when the basic data was provided by the applicant.*

**Paragraph 2: Timeliness of information**

*The deadlines for supplying information provided within the text of the Aarhus Convention are adhered to, irrespective of whether the information is to be supplied or a refusal to be made. If the competent authority fails to respond to the information request within the timeline stated by the Aarhus Convention, the applicant may resort first to internal procedures. If this is not sufficient, the audit officer of the competent authority may be notified. If the applicant is still not satisfied with the result, recourse to the courts may be made. One may also make recourse to the Office of the Ombudsman.*

**Paragraph 3 (a): Information not in the public authority's possession**

*In the period under review, no provision was in place for the procurement of such information.*

**Paragraph 3 (b): Unreasonable or overly general requests**

*Guidance on how to ask for information can be found on MEPA's website, at the following address:*

<http://www.mepa.org.mt/info-participation>

*As explained in this guidance information, when an applicant makes a request for information that is unreasonable or too general, MEPA has the responsibility to clarify any questions that appear either unreasonable or too general.*

**Paragraph 3 (c): Confidentiality of administration**

*There are legal provisions that ensure free expression of professional opinion by the officials involved in internal communications or in preparing the relevant material. While some material that serves as a basis for an administrative decision can be considered confidential, this is not so in cases such as a Case Officer's report on a planning application, which can be accessed by the public before the decision is made final.*



**Paragraph 4 (d): Commercial confidentiality**

*Various categories of confidentiality of commercial or industrial information are defined by several laws and these definitions are in harmony with each other and with the Aarhus Convention. The original provider, when refusing to give certain information, does not have to justify the existence of a potential adverse effect that a public release of information might have on a legitimate economic interest.*

**Paragraph 4 (f): Personal data**

*The definition of personal data is enshrined in the Data Protection Act (Cap. 440, as amended), which also provides for personal data protection of a legal person (entity).*

**Paragraph 4 (general)**

*There is a requirement in national legislation to balance the argument for and against the disclosure of environmental information individually in each case.*

**Paragraph 5: Forwarding requests submitted to the wrong authority**

*Deadlines referred to in article 4, paragraph 2 of the Aarhus Convention, applied in cases where a public authority does not hold the information requested and forwards the request to another authority, are applied as per the provisions of the Aarhus Convention.*

**Paragraph 8: Charges**

*On the one hand, no charge is imposed if the information demanded is readily available and requested in electronic format. On the other hand, the applicant is charged minimal copy charges when physical copies of the information are required or when the authority needs to compile the information as requested by the applicant. In the latter case, charges are calculated on an hourly basis. Such charges are uniformly regulated and, as a result, no large differences between charges for information in different sectors exist. In some cases, such as student research, the charge can be waived.*

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

*Answer:*

*There is a lack of common understanding of scope of Article 4 between the various policy actors.*

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

*Answer:*

*No refusal to the request for information was issued during the period under review. However, there was one case where the request for information was not fully complied with since it partly fell in the caveat of commercially sensitive information.*

10. Give relevant web site addresses, if available:

**Article 5**

11. 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:*

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Public authorities possess and update environmental information;

*This requirement is catered for in Regulation 9 of the Freedom of Access to*

*Information on the Environment Regulations, 2005 (LN 116/05).*

(ii) There is an adequate flow of information to public authorities;

*This requirement is catered for in Regulation 10 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

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

*This requirement is catered for in Regulation 10(4) of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(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;

*This requirement is catered for in Regulation 10(2) of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05) and guidelines drafted by MEPA.*

(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;

*This requirement is catered for in Regulation 10(1) of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05) and guidelines drafted by MEPA.*

(d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;

*This requirement is catered for in Article 8.3(g) of the Environment Protection Act, 2010 (Cap. 504).*

(e) Measures taken to disseminate the information referred to in **paragraph 5**;

*This requirement is catered for in Regulation 10 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).*

(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;

*Specific reporting conditions are currently being incorporated in environmental permits. Actions were also taken to ensure that, prior to the issue of permit, continuous dialogue and dissemination of relevant information to the interested parties is effected through the processing of planning applications.*

(g) Measures taken to publish and provide information as required in **paragraph 7**

*Internal administrative measures cater for this requirement.*

- (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;

*As a Member State of the European Union, Malta established the Malta Competition and Consumer Affairs Authority (MCCAA), which took over the responsibilities of the Malta Standards Authority, as the competent body that administers the EU Eco-Label Scheme in Malta. Through the enactment of the Environment and Development Planning Act, 2010 (Cap. 504), environmental information related to the land-use planning process was made more accessible. The submission of the application, formerly published on a weekly basis, is now also the subject of notification to the neighbouring and adjacent developments. The Local Councils are de facto contributors since they are informed of the application and of the decision sittings. Access to planning applications and the all concomitant environmental data was given for free to all NGOs who requested it.*

*Also, through the work of the twining project, relevant entities that hold key environmental information were earmarked and trained to provide data.*

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

*Pollution inventories or registers are already a requirement of Member States of the European Union under Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC.*

**Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/1.4 20 February 2007**

**Paragraph 1 (a) and (b): Existence and quality of environmental data**

*The majority of environmental information is gathered by MEPA that has some agreements and Memoranda of Understanding with other organisations to collate data as in the case of the State of the Environment Report. This ensures a reduction of redundancy although there is still some lack of harmonization. Such agreements enable most data to be transferred between administrations free of charge. Data can also be obtained for free from website systems such as the State of the Environment Report website (<http://www.mepa.org.mt/terintro>) and the website of the European Environment Information and Observation Network (EIONET) of the European Environment Agency (EEA) (<http://eionet.europa.eu>), while some websites provide updated information such as MEPA's website that provides real time data on air quality (<http://www.mepa.org.mt/info-participation>) and the website of the Environmental Health Directorate within the Superintendence of Public Health that provides updated data of the bathing water quality ([https://ehealth.gov.mt/HealthPortal/public\\_health/environmental-health/health\\_inspectorate/env\\_hlt\\_risk\\_management/envhealth\\_bathingwater09.aspx](https://ehealth.gov.mt/HealthPortal/public_health/environmental-health/health_inspectorate/env_hlt_risk_management/envhealth_bathingwater09.aspx)). The quality of the environmental information made available is ensured through mechanisms found within MEPA as per EU obligations and EEA standards.*

**Paragraph 1 (c): Environmental emergency information**

*Provision of emergency environmental information to the public is regulated by the Civil Protection Act, 1999 (Cap. 411). Article 4 thereof lays down that the functions of the Civil*

*Protection Department shall be to prepare contingency plans to respond to a disaster as well as to natural, industrial and other emergencies that may occur. These contingency plans include the provision of information to the public. The same Act makes it incumbent on the Civil Protection Department to promote public awareness of Civil Protection issues.*

**Paragraph 2: Information on the type and scope of the available environmental information and practical arrangements for information dissemination**

*An environmental meta-database (including, for example a catalogue of environmental data sources) is in the process of being developed.*

**Paragraph 5: Dissemination of information: strategic and normative materials**

*Environmental laws, strategies, policies, international agreements and the like, as well as information about their implementation, are widely and easily accessible for the public through MEPA's website: <http://www.mepa.org.mt>.*

**Paragraph 6: Encouraging operators to actively disseminate information**

*While reporting conditions are incorporated under the Integrated Pollution Prevention Control Regulations, 2002 (LN 234/02, as amended) and are actively incorporated in environmental permits, no such reporting requirements for small and medium-size enterprises.*

**Paragraph 7: Dissemination of information: facts, analyses, explanatory materials and information on the performance of public functions relating to the environment**

*A State of the Environment Report (SOER) is being published every three years (SOER 2008 can be accessed from the following link: <http://www.mepa.org.mt/ter>) together with indicators on the state of the environment. Explanatory fact sheets are published and made freely available on MEPA's website and from MEPA's premises. MEPA has regular weekly inserts on Maltese and English-language newspapers circulated in Malta with a wide range of environmental information (<http://www.mepa.org.mt/oneworld>) including a MEPA-produced Newspaper supplement OUTLOOK (<http://www.mepa.org.mt/mape-newslet>).*

**Paragraph 8: Product information**

*As noted above, the MCCA was established by the Malta Competition and Consumer Affairs Authority Act (Cap. 510) as the competent body for the EU Eco-Label Scheme in Malta. Both MEPA and civil society monitor the effectiveness of the implementation of the measures enacted by the Environment and Development Planning Act, 2010 (Cap. 504). Civil society is aided through regular meetings with the media, the ENGOs and other stakeholders.*

**Paragraph 9: Pollutant release and transfer registers (PRTRs)**

*Malta is currently in possession of a PRTR system as per the obligations of Regulation (EC) No 166/2006, with which it is in line. This is implemented in the local scenario by the European Pollutant Release and Transfer Register Reporting Obligations Regulations, 2007 (LN 152/2007) in relation to penalties, timeframes for reporting and reporting format as well as the Template for the reporting of Pollutant Release and Transfer data by installations to the Malta Environment and Planning Authority (GN 660/07).*

*Currently the reporting obligations under Regulation (EC) No 166/2006 have been harmonized*

*with the requirements of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control when sites falling under the former also fall under the latter. Normally, IPPC permits contain a condition for submission of the report of Pollutant Release and Transfer data as part of the Annual Environmental Report required by the permit. The PRTR system is also being linked administratively with monitoring programmes for example for aquaculture operations. However, as environmental permitting is further developed, there needs to be, in general, a greater streamlining of reporting requirements.*

*Malta has not yet ratified the Protocol on Pollutant Release and Transfer Registers to the Aarhus Convention adopted on 21 May 2003. However, the process of Malta's accession thereto is in an advanced stage.*

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

*Answer:*

*N/A.*

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

*Answer:*

*N/A.*

14. Give relevant web site addresses, if available:

<http://www.mepa.org.mt/info-participation>

#### Article 6

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

(a) With respect to **paragraph 1**, measures taken to ensure that:

- (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
- (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

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

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

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

(e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the

objectives of their application before applying for a permit;

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

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

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

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

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

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

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

*Answer:*

*The questions a – k above are answered by one generic answer below:*

*The requirements stated above are catered for in the Environmental Impact Assessment Regulations, 2007 (LN 114/07, as amended) and the Integrated Pollution Prevention Control Regulations, 2002 (LN 234/02, as amended), which amongst other things provide for a detailed consultation process with the public, which ultimately leads to an inclusive decision-making process that is held in open sittings.*

**Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/1.4 20 February 2007**

**Paragraph 1: Activities falling under article 6**

*The procedures of article 6 are applied to different types of decision-making under the Environmental Impact Assessment Regulations, 2007 (LN 114/07, as amended), the Integrated Pollution Prevention Control Regulations, 2002 (LN 234/02, as amended) and the Control of Major Accident Hazard Regulations, 2003 (LN 37/03, as amended).*

*Public participation is a requirement for planning applications under the Development Planning Act, 2010 (Cap. 504), Environmental Impact Assessments (EIAs) under the Environmental Impact*

*Assessment Regulations, 2007 (LN 114/2007, as amended) and environmental permits under the Integrated Pollution Prevention Control Regulations, 2002 (LN 234/02, as amended). The trend is to harmonise these processes.*

**Paragraph 2: Notification of the public concerned**

*National legislation provides a definition of 'public' and 'the public concerned'. To encourage the public to participate in EIAs, adverts are issued in the press and on MEPA's website, inviting the public to comment within stipulated timeframes in the legislation. If the responsible authority fails to duly notify the public concerned, this may nullify the procedure.*

**Paragraph 3: Time frames for public participation**

*In the case of EIAs, the Environmental Impact Assessment Regulations, 2007 (LN 114/2007, as amended) in Malta provide various opportunities for public participation, i.e. at the scoping stage and at the review stages of the process. Members of the public are allowed 21 days to submit any issues they wish to see included in the EIA Terms of Reference. The public is given a 21-day period consultation to comment on the Environmental Statement. In addition to the latter, a public meeting is called for Annex I projects for which the public has an additional week, following the public meeting/hearing, to comment on the Environmental Statement. For the public meeting/public hearing, the public cannot be notified less than 15 days prior to the meeting.*

**Paragraph 4: Early public participation**

*Public participation is provided for the scoping phase of the EIA procedure. For Annex I projects, scoping meetings are set for the Local Councils and NGOs.*

**Paragraph 5: Encouraging prospective applicants to enhance public participation**

*The developer is requested to organize the public meeting/hearing held at the reviewing stage of the process to encourage public participation during the decision-making procedure.*

**Paragraph 6: Ensuring access to information relevant to decision-making**

*During the period under review, there were no complete sets of EIA documentation that were classified on the basis of commercial confidentiality or intellectual property rights.*

**Paragraph 7: Public comments**

*The public is requested to submit its comments in writing. Relevant comments received by the public are assessed as part of the application and presented to the decision-making body during the decision-making process.*

**Paragraph 8: Taking due account of the results of public participation**

*In the case of EIAs, relevant comments made by the public during the process are replied to by the EIA Consultant and included as an Addendum to the Environmental Statement. For the comments to be included in this report, these have to reach MEPA by the stipulated deadline.*

**Paragraph 9: Information about the decision**

*In terms of planning applications, all decisions are taken in public and made available to the*



public.

**Paragraph 10: Public participation in reconsideration or updating of the decision**

*The kinds of changes in operating conditions of an activity falling within the scope of this paragraph that qualify as significant (and therefore lead to a new decision-making procedure where public participation should be provided for) relate to land-use and are regulated by the Environment and Development Planning Act, 2010 (Cap. 504). In addition, a change in operating conditions of IPPC installations requires a modification of the permit, which in turn requires public consultation procedures as regulated by the Integrated Pollution Prevention and Control Regulations, 2002 (LN 234/02, as amended).*

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

*Answer:*

*On the one hand, it is the perception of developers that the EIA process delays the planning process. On the other hand, certain sections of the public tend to harbour certain misconceptions about the process, and have too many expectations for what is essentially a consultation exercise.*

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

*Answer:*

*No such cases arose during the period under review.*

18. Give relevant web site addresses, if available:

<http://www.mepa.org.mt/permitting>

**Article 7**

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

*Answer:*

*Provisions for public participation are included in the Strategic Environmental Assessment Regulations, 2010 (LN 497/10) (for plans and programmes that fall under Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment). According to these Regulations, there are opportunities for the public to comment during the scoping stage on the scoping report and on the draft plan / programme as well as the draft environmental report, prepared as part of the Strategic Environmental Assessment (SEA). These Regulations are non-discriminatory.*

*Provisions for public participation are also listed in the Environment and Development Planning Act, 2010 (Cap. 504). These provide for extensive publication with time frames for feedback in development planning applications; such applications which also require an EIA would, additionally have that requirement added on to the legal prerequisite. These regulations are non-discriminatory.*

**Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/L.4 20 February 2007**

*The Strategic Environmental Assessment Regulations, 2010 (LN 497/10) provide the following definition of plans and programmes:*

*"means plans and programmes, including those co-financed by the European Community, as well as any modifications to them:*

*(a) which are subject to preparation and/or adoption by an agency at national, regional or local level or which are prepared by an agency for adoption, through a legislative procedure by Parliament to Government; and*

*(b) which are required by legislative, regulatory or administrative provisions".*

*A SEA should be prepared for plans and programmes likely to have a significant effect on the environment. Plans and programmes prepared for agriculture, forestry, fisheries, energy, industry, transport, tourism, waste management, water management, telecommunications, town and country planning or land use and which set the framework for future development consent of projects listed in the Environmental Impact Assessment Regulations, 2007 (LN 114/2007, as amended) or which have been determined to require an assessment under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.*

*With regards to the provisions of the Environment and Development Planning Act, 2010 (Cap. 504), Articles 47-65 thereof outline the process for public consultation of the various MEPA's instruments. This element of public participation, while valuable in itself as a right to civil and democratic society is also a requirement since the impacts on the environment, be they large or small, would be placed for consultation in the public sphere.*

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

*Answer:*

*Articles 54-59 of the Environment and Development Planning Act, 2010 (Cap. 504) provide for increased public participation in the formulation of plans and policies. In addition, where various environmental policies are required under national legislation relating to the EU acquis, provision for public participation is required under the separate pieces of legislation (e.g. the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora and so on). Opportunities for public participation are outlined in MEPA's guidelines that can be found at the following address:*

<http://www.mepa.org.mt/info-participation>

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

*Answer:*

*N/A.*

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

Answer:

N/A.

23. Give relevant web site addresses, if available:

<http://www.mepa.org.mt/permitting-ea-sea>

### Article 8

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

Answer:

*These requirements are catered for in Articles 54-59 of the Environment Protection Act, 2010 (Cap. 504) which provide for multiple periods of consultation and public participation, particularly where, as a result of the public participation, significant changes to the proposed policies have been effected.*

### Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/L.4 20 February 2007

*Draft environmental and planning rules and regulations are available during public consultation phases through the Internet. It is the practice in planning policy development for public comments received to be displayed on MEPA's website hence anyone, including the decision-makers, have access to the comments.*

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

Answer:

N/A.

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

Answer:

N/A.

27. Give relevant web site addresses, if available:

<http://www.mepa.org.mt/info-participation>

### Article 9

28. 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:*

*With respect to paragraphs one to four, a first system of review of a decision is provided through an internal challenge within MEPA (reconsideration) followed by a challenge through the MEPA Audit Officer. A further form of redress is the Environment and Planning Appeals Board which is quasi-judicial in function and is an appellate body on planning and environmental decision. An overriding judicial review procedure before the Courts of Justice is also catered for in Article 469A of the Code of Organization and Civil Procedure (Cap. 12). A decision of the Courts is binding on the Authority. In addition, parties that feel aggrieved by certain decisions may take their case to the national Ombudsman. Guidance is available on MEPA's website: <http://www.mepa.org.mt>.*

*With respect to paragraph five, when a request for information is denied, a standard letter is sent to the applicant informing on his or her right to challenge the denial.*

**Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/L.4 20 February 2007**

*In terms of application of the text of the Aarhus Convention, one may wish to note that with respect to Access to Information, the legislation applied directly is more detailed than the text of the Aarhus Convention. With respect to Public Participation, the legislation applied directly involves more substantive procedures, which are applied under various obligations. With respect to Access*

*to Justice, while the text of the Aarhus Convention is not applied directly, measures are in place to cover the majority of the provisions of the Aarhus Convention.*

*While in general the courts have cassation rights in cases in line with Article 9 of the Aarhus Convention, exceptionally some cases are reformatory.*

**Paragraphs 1 and 2: Remedies**

*The independence of the administrative review is ensured since Maltese courts are independent entities under the Constitution of Malta.*

**Paragraph 3: The public's right to challenge acts and omissions by private persons and authorities**

*The requirements of Article 9 paragraph 3 are implemented under primary legislation (Article 469 A of the Code of Organisation and Civil Procedure (Cap. 12)). In addition, members of the public may initiate an administrative case by lodging an appeal under the Environment and Development Planning Act, 2010 (Cap. 504). Any other administrative case is to be initiated in court through a formal application via the Code of Organisation and Civil Procedure (Cap. 12).*

*A member of the public can object to decisions of the type regulated by Articles 7 and 8 of the Aarhus Convention by challenging them as contravening the provisions of the national law relating to the environment under judicial review procedures (Article 469A of the Code of Organization and Civil Procedure (Cap. 12)).*

*The conditions of issuing an injunctive relief by the court in cases brought under Article 9, paragraph 3 of the Aarhus Convention and/or the relevant national legislation can be found in the general provisions of the Code of Organization and Civil Procedure (Cap. 12) whereby a prohibitory injunction may be issued even before a decision is taken.*

**Paragraph 4: Timely, adequate, effective, fair, equitable and not prohibitively expensive remedies**

*Any responsibilities concerning access to information or public participation fall under the remit of the organisation and not of the official concerned.*

*The incidence of environmental cases in Malta does not warrant formal specialization of judges, although a number of them have an interest and considerable practical experience in this area.*

*Overall costs are not prohibitive in Malta for members of the public to bring cases to court.*

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

*Answer:*

*N/A.*

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

*Answer:*

*N/A.*

31. Give relevant web site addresses, if available:

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

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

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

*Answer:*

*The implementation of the Aarhus Convention contributes significantly to the protection of the right of persons of present and future generations to live in an environment adequate to his or her health and well-being and hence indirectly to the aims of the Millennium Development Goals and Sustainable Development in general. The Aarhus Convention has proved to be a very useful benchmark in the evolution of environmental governance in the Maltese Islands.*