

IMPLEMENTATION REPORT

Norway

Based on the reporting format annexed to decision I/8

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

The draft report was circulated on 26 October 2010 to private organizations and local and central authorities for comments (about 100 recipients). At the same time, it was also placed on the Internet. The deadline for replying was set for 20 November 2010. The Ministry of the Environment (MoE) received 20 comments, none of which were critical to the draft report. All comments have however been taken into account when submitting this report, and the comments will also provide valuable input in future improvements in the Norwegian implementation of the Convention.

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

ARTICLE 3

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

Even before the Convention was adopted in 1998, there were a number of provisions in Norwegian law on public access to environmental information and public participation in decision-making processes relating to the environment, and a well-established practice with respect to these rights. For example, the principle that the public is entitled to environmental information was included in the Norwegian Constitution as early as 1992. The Public Administration Act 1967 regulates administrative procedure in cases concerning the public administration, and Norway's original Freedom of Information Act was adopted in 1970. The right of the public to participate in decision-making is also an important principle in most legislation in the environmental field, including the Pollution Control Act, the Cultural Heritage Act, the Nature Diversity Act, the Act relating to Petroleum Activities, the Planning and Building Act and the Energy Act (see more details in the sections on implementation of articles 6, 7 and 8).

In 1998, the Government appointed a committee with members from various sectors, including the business community, environmental non-governmental organizations (NGOs), consumers

and the media, to review the need for changes in the legislation to strengthen public access to environmental information. This was done partly in the light of Norway's international obligations in this field. The committee drew up a proposal for a new Environmental Information Act. After a broad public consultation process, the parliament adopted the Act relating to the right to environmental information and public participation in decision-making processes relating to the environment (the Environmental Information Act) in 2003. The Act entered into force on 1 January 2004. The Act has a wider scope than the Convention since it not only regulates the duty of the public authorities to make information available, but also entitles the public to have access to environmental information from private undertakings.

(a) The Public Administration Act lays down a general duty for all administrative agencies to provide guidance, and this is firmly established in the administrative procedures of agencies that hold environmental information. The Environmental Information Act includes an explicit requirement that in cases where a request is not directed to the appropriate authority, the authority that receives it must as promptly as possible transfer the request to the correct authority or provide guidance on the public authorities that are assumed to hold the information requested. At local level, all municipalities are required to follow an active information policy as regards their work. The different sectoral authorities also have a clear responsibility to facilitate access to information and participation in decision-making processes within their spheres of responsibility.

To introduce the Environmental Information Act, a brochure and web pages were published to provide information both for public officials and authorities who have duties under the legislation and for the general public, who have been granted rights by the Act and the Convention. Information about the new Act was also provided in letters sent to public authorities, organizations, the business community, etc., and in a documentary film. The Ministry of the Environment's website provide information on the rights provided for by the Convention and Norwegian legislation.

The MoE has announced that it will draw up guidelines for all administrative agencies with the aim of further raising awareness of the Environmental Information Act and the provisions of the Convention. It is important to consider this legislation in the context of the new Freedom of Information Act, which entered into force on 1 January 2009.

In spite of the actions already taken, the authorities desire even more information about the Environmental Information Act and the rights and duties it provides;

(b) One section of the MoE's website is targeted specifically at schoolchildren and young people who are interested in the environment. It deals with subjects of current interest and provides factual information about environmental protection that can be used in school assignments, etc. There are also links to a number of other websites that focus mainly on information for children and young people.

Environmental awareness is dealt with as a separate topic in the general part of the Norwegian national curriculum for primary and secondary schools. The Norwegian Environmental Education Network is an important tool of environmental education. It involves co-operation between schools, the environmental authorities, research institutions and NGOs, and provides a meeting place where schools can obtain information and also input their data. It offers teaching

aids for environmental education at primary and secondary levels and in adult education. There are suggestions for school activities that can be used in teaching in four key environmental areas.

In addition, several different parts of the public administration have opened Internet sites aiming at children and youth, that deals with the environment in different ways, e.g. www.youthxchange.net, www.wernerweb.no and www.ungute.no.

The media are an important channel for raising public awareness, and courses on various environmental issues are therefore organised at the Norwegian Institute of Journalism.

It should be noted that the general aim of the information policy followed by the Ministry and its subordinate agencies is to promote awareness of environmental issues.

Many NGOs are actively involved in promoting public awareness of environmental issues, and play a very important role in this work. Some of them receive government funding and/or accept commissions from the state. Examples of areas in which they are working are ecolabelling and green public procurement. The Ministry of the Environment has initiated a climate awareness campaign (“Klimaløftet”, www.klimalofтет.no), which focuses on inspiring interest in and providing information on the problem, and is ultimately intended to play a part in reducing greenhouse gas emissions. A website supplying information on chemicals in consumer products has also been established at www.erdetfarlig.no.

(c) The Norwegian authorities support environmental NGOs and measures that are designed to improve people’s knowledge of the environment or that focus on environmental problems. Many environmental organizations receive basic funding as a means of maintaining a wide variety of democratic, nationwide organizations that focus on environmental protection, and thus ensuring voluntary efforts and strengthening participation in environmental issues at local, regional and central level. Furthermore, organizations that provide expertise and information on environmentally-friendly production and consumption receive annual grants.

NGOs are asked for comments during the public consultation processes, and are a channel for communication between the general public and the public administration. Environmental NGOs play an important role on various committees. There are also several formalised fora for cooperation between the environmental authorities and NGOs. Additional meetings with environmental organizations and other parties who will be affected are often arranged in connection with specific cases. In many cases, the NGOs themselves take the initiative to put new issues on the agenda, and they take part in environmental projects.

In connection with Norway’s European Union-related and international environmental efforts, the Ministry of the Environment has established an EEA consultative body on environmental issues that meets approximately four times a year and includes representatives of civil society (trade unions, NGOs, research institutions, etc), the business sector and other ministries. The purpose is to increase knowledge on European Union environmental issues, and raise awareness within environmental organizations on the impact of European Union environmental policy on Norwegian environmental politics. The consultative body is also a forum for providing inputs on global and international environmental issues and spreading information from international conferences and negotiations;

(d) Norway promotes a high degree of transparency and participation by civil society in international environmental bodies. For example, NGOs have been given financial support to enable them to take part in various international meetings. Norway also advocates giving NGOs real opportunities to be involved in preparatory processes and to play an active part in the meetings they take part in. Civil society has also been granted permanent representation with the Norwegian delegation to the UN negotiations on climate change.

Staff at the Ministry of the Environment who work with international agreements have been made aware of the Almaty Guidelines that have been drawn up under the Aarhus Convention, and they are also available on the Ministry's intranet. The documents have also been sent to the Ministry of Foreign Affairs.

(e) Citizens enjoy freedom of association. Freedom of speech is laid down in the Constitution. Comprehensive legislation ensures security under the law for the individual, which among other things ensures that people who exercise their rights under the Convention are not persecuted in any way.

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

No specific obstacles have been encountered.

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

The reader is referred to the general text above.

6. Give relevant web site addresses, if available:

www.environment.no
<http://www.miljolare.no>
www.lovdatab.no

ARTICLE 4

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

During the thorough review of national legislation that was carried out before the Environmental Information Act was adopted in 2003, it was concluded that most of the provisions of the Convention relating to access to information had already been implemented in the law in the Freedom of Information Act. However, certain elements of these provisions were identified as not being explicit enough in the law. Thus, amendments to the legislation were needed to ensure that the law was fully compatible with the Convention. A new Freedom of Information Act entered into force 1, January 2009 providing even simpler and more extended access to public information than the previous act. For example, the new corresponding Regulation concerning freedom of information section 7 (not yet in force) provides that governmental postal logs will be made available for everyone on the Internet, and also makes it possible to make documents in the log available on the Internet. Although this section of the new regulations is not yet in force,

many governmental agencies have already made their past journals available on the internet. Further, the new Freedom of Information Act expands the meaning of the term “document,” opening up for a wide interpretation. Finally, a new provision provides that a request is to be considered a denial if not responded to within five working days, giving an automatic right to appeal. This is in addition to the general rule that a request must be responded to “without undue delay,” normally 1-3 working days.

The Environmental Information Act applies specifically to this context, together with the Freedom of Information Act, which applies more generally to all types of information. These two Acts are sufficient to ensure that article 4 is implemented in the law. The purpose of the Environmental Information Act is precisely to strengthen the right of access to information on the environment. In addition, the Act applies to information held by private undertakings. Moreover, the provisions of the Product Control Act apply in the case of product-specific information.

These rights apply to any person who wishes to obtain information from a public authority, regardless of their nationality, domicile or citizenship, or in the case of a legal person who is seeking information, regardless of where the registered seat of an undertaking is located.

As regards implementation of the relevant definitions in article 2, “public authority” is defined in section 5 of the Environmental Information Act. This was one of the necessary amendments before ratification of the Convention, since the term public authority as defined in the Convention has a wider scope than the term “administrative agency” in the Public Administration Act. The definition of a public authority in the Environmental Information Act and well as in the Freedom of Information Act of 2006 is now in accordance with the definition in the Convention.

Environmental information is defined in section 2 of the Act. The definition is in accordance with article 3 of the Convention, but also includes archeological and architectural monuments and sites and cultural environments.

The definition of “the public” set out in the Convention has not been specifically included in the legislation. This is considered to be unnecessary, since both the Environmental Information Act and the Freedom of Information Act apply to “any person”. The term “the public concerned” does not appear directly in the law, but wording with substantially the same meaning is used. For example, the provisions on processing of applications for permits under the Pollution Control Act (see the section on implementation of article 6) clearly state that the public bodies involved and organizations representing the public interests affected or others who may be particularly affected shall be notified directly prior to a decision being made, and shall be given an opportunity to make their opinions known.

On the whole, the provisions of the Environmental Information Act on administrative procedure, the right of appeal and the duty of public authorities to provide guidance all ensure that requests for environmental information are processed in accordance with the provisions of the Convention.

Section 10 of the Environmental Information Act lays down that “any person” is entitled to receive environmental information. There is no requirement to show any objective or legal interest in the matter, and the purpose of the request is immaterial. The Environmental

Information Act also stipulates that information is to be provided in the form requested by the applicant. Exceptions may be made, and these correspond to those in article 4, para. 1 (b), of the Convention. The Act does not require an applicant to put forward a request in any particular way (form). Furthermore, an applicant is not required to state a name, and may therefore put forward a request anonymously;

(a)

The Environmental Information Act contains a similar requirement to article 4, para. (b) (i);

(b) The Environmental Information Act sets unconditional limits for responding to requests for information. The general rule is that the recipient shall make a decision on the request and make the information available “as soon as possible”. This means in the course of the first few working days after the request was received. If this is not done, the request must be complied with no later than 15 working days after it was received. This time limit is shorter than the one set out in the Convention. According to the new Freedom of Information Act, a request of information is challengeable after five days if no answer has been given (i.e. that is considered as a denial).

In special cases, the time limit under the Environmental Information Act may be extended. This is the case if, given the volume or type of information requested, it would involve a disproportionate amount of work to provide the information within 15 working days. In such cases, the time limit may be extended to a maximum of two months. This may be done in cases where large amounts of information are requested or information must be obtained from many different sources, so that it is time-consuming to compile. It may also be justified if deciding whether there is a case for refusing the request for information requires an evaluation of difficult factual or legal issues, for instance if it is necessary to make a careful assessment of whether the information requested comprises trade secrets.

If the authorities fail to meet the time limits mentioned above, this may be appealed to the immediately superior administrative agency under the Public Administration Act;

(c) According to section 10, subsection 3, of the Environmental Information Act, a request for environmental information may be summarily dismissed if it is formulated in too general a manner or does not provide an adequate basis for identifying what is meant by the request. The legislative history of the Act makes it clear that both grounds for dismissal must be used restrictively. It is important to uphold the principle that a person who requests environmental information cannot be required to give any reason for requesting it. Legislative history also makes it clear that an applicant must be able to request information that must be obtained from several sources and that there is no requirement to identify a specific case. If a request is too general, the authority that receives the request is required to give the applicant reasonable assistance to formulate the request in such a way that it can be addressed. The scope of the duty to provide guidance corresponds to the general duty to provide guidance set out in section 11 of the Public Administration Act.

According to section 11, subsection 1, of the Act, a request for environmental information may be refused if there is a genuine and objective need to do so in a specific case and the information, or the document containing the information, may be exempted from public disclosure pursuant to the Freedom of Information Act. Such exemptions may be made for internal documents and

documents that are subject to a statutory duty of secrecy, and on the basis of the document's contents. The provision on the statutory duty of secrecy is in accordance with article 4, para. 4, of the Convention. A duty of secrecy is most clearly applicable if the information requested concerns technical devices and procedures or operational or business matters which for competition reasons it is important to keep secret in the interests of the person whom the information concerns. It is primarily in cases where providing the information would reveal information on the composition of products, production methods, etc. that is not already in the public domain that a duty of secrecy will apply. In any case, it is a basic requirement for refusing a request that the information is in fact secret. An evaluation of what information is to be regarded as trade secrets must be made on a case-by-case basis, and no more information must be exempted from public disclosure than is strictly necessary on the basis of the considerations underlying the duty of secrecy.

Moreover, the Environmental Information Act includes a provision authorising public authorities to require an undertaking to identify the information it considers it important to keep secret for competition reasons, and to give reasons why it should be kept secret. The purpose of this provision is to provide public authorities with a better factual basis for assessing whether the environmental information requested includes trade secrets. However, the public authority must make an independent assessment, and not automatically accept an evaluation from an undertaking that wishes to maintain secrecy.

If a public authority wishes to refuse a request for public information, the Environmental Information Act lays down that there must be a genuine and objective need to do so in the specific case. This is considered an additional requirement to the rules laid down in the Freedom of Information Act, which always applies alongside the Environmental Information Act. The provision can be regarded as expressing a requirement for the public administration to make particularly careful assessments of requests for information under the Environmental Information Act. The requirement that there must be a genuine need to withhold information means that it is not sufficient that there be a certain risk of negative consequences for the interests that are protected by the exemption provision discussed here.

Section 11, subsection 2, also requires the public administration to weigh up the different interests involved before refusing a request for information pursuant to the exemption provisions. The need to make an exemption in a specific case must be weighed against the grounds for making the information available. If the environmental and public interests outweigh the interests served by refusal, the information will be disclosed. This is in accordance with the last paragraph of article 4, para. 4, of the Convention, which specifies that grounds for refusing a request for environmental information be interpreted in a restrictive way and taking into account the public interest served by disclosure.

There are provisions on exemptions in both the Environmental Information Act and the Freedom of Information Act, so that certain of the documents on which a decision is based (often internal working documents) may be exempt from public disclosure. However, the factual basis for such decisions will generally be available to the public.

Section 12 of the Environmental Information Act lays down that certain types of information always be made available on request. This provision was prompted by article 4, para. 4, of the Convention. It lists certain types of information that are considered to be particularly important to the public. The provision also authorizes setting aside the duty of secrecy in special cases, but

it should be noted that there will seldom be a conflict between the types of information involved and the duty of secrecy. The provision applies firstly to information on pollution that is harmful to health or that may cause serious environmental damage. Information to the population on such matters can be especially important in the event of acute pollution. Secondly, it applies to measures to prevent or reduce the damage caused by such pollution. These include all types of preventive measures that a polluter takes or decides should be used, and precautionary measures the general public are advised to take. This means specific measures such as recommendations to purify drinking water. Finally, information on unlawful intervention in or damage to the environment shall always be disclosed. This is important in the case of breaches of the law for which no penal sanctions are laid down or if for some other reason no criminal proceedings are instituted. The provision also applies if an undertaking contravenes the conditions of a license or a land use plan and this results in environmental damage.

If an authority agency does not have information that it has a duty to hold, that is general environmental information relevant to their areas of responsibility and functions according to section 8 of the Environmental Information Act, it must take steps to obtain it, since an applicant is entitled to be provided with such information under section 10 of the Environmental Information Act;

(d) Section 10, subsection 4, of the Environmental Information Act clearly states that an authority that incorrectly receives a request for information shall transfer it to the appropriate authority as promptly as possible. According to the Environmental Information Act, a public authority may not transfer a request to another authority if it should have had the information itself, since each authority has a duty to keep environmental information. The appropriate authority shall answer without unnecessary delay and according to normal rules of administrative procedure;

(e) In accordance with the Convention, a separate provision in the Environmental Information Act explicitly requires that in cases where part of the requested information is exempted from disclosure, the remaining information shall be disclosed provided that this does not give a clearly misleading impression of the contents;

(f) Article 4, para. 7, of the Convention lays down requirements relating to written answers, reasons for refusal of requests and time limits for refusals of requests for information. The provisions implementing these requirements are to be found in section 13, subsection 4, of the Environmental Information Act, which states that a refusal shall always be given in writing, that a brief explanation of the refusal shall be provided, and that the applicant shall be informed of the right of appeal and the time limit for lodging an appeal;

(g) According to section 6 of the Environmental Information Act, it is not permitted to charge for environmental information to which a person is entitled pursuant to the Act. In other words, information is free of charge provided that the right of access to information under the Act applies. As a general rule, all other public information is also free of charge pursuant to section 6 of the Freedom of Information Act. There may be exceptions to this, but the costs must never exceed the actual costs of providing transcripts, print-outs or copies.

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

No specific obstacles have been encountered.

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?

Regarding the practical application of the provisions, the reader is referred to the general text above. There has not yet been established any statistics on the number of requests for information the public administration as a whole receives that concern environmental information. However, the Ministry of the Environment's statistics for 2009 show that it received about 2,844 requests for information under the Freedom of Information Act and provided the information in 91,49 per cent of these cases (and about 90 per cent of these again received the information within 1-3 days).

10. Give relevant web site addresses, if available:

www.environment.no/

www.lovddata.no

ARTICLE 5

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

(a) A provision of the Constitution adopted in 1992 entitles the general public to information on the state of the environment. The Pollution Control Act lays down that the authorities are responsible for monitoring the general pollution situation and pollution from individual sources.

Administrative agencies acquire a great deal of information on the state of the environment in the course of their activities. This is a natural consequence of their management responsibilities and the exercise of their authority at central, regional and local levels. They obtain information on a variety of topics ranging from natural resource management, agriculture and fisheries to industrial and regional development and general planning activities. They are also required to obtain information by the rules for proper administrative procedure and have a duty to collect information in connection with specific cases that are under consideration. Such requirements are found in the Public Administration Act (section 17, which deals with the duty of administrative agencies to clarify a case and to provide information), in the provisions on environmental impact assessment, and in the Instructions for Official Studies and Reports. There are also certain provisions that lay down a general requirement to provide information and thus, by implication, to obtain the information. One example is provided by the Local Government Act, which lays down a general requirement for municipalities to provide information about their activities.

In practice, the public administration has developed systematic routines for collection (monitoring and research) and dissemination of general information, for instance using databases and registers. This type of work is carried out continuously. The most important tools for overall, aggregated information on the state of the environment are the result monitoring system for environmental policy and national key figures and environmental indicators (these are still being developed).

Extensive information on activities that may have a significant impact on the environment is also acquired through the system of discharge permits under the Pollution Control Act. This Act makes it an offence to cause pollution unless an enterprise has a discharge permit issued by the pollution control authorities or the pollution is caused by activities that are generally permitted. An enterprise that holds a discharge permit must submit annual reports on its emissions, and the pollution control authorities also ensure compliance through a system of inspections. A website holding information on emissions, production quantities and waste from major sources of pollution, both site specific and diffuse, has been established at www.norskeutslipp.no.

Another relevant initiative is "Norge digitalt" (www.norgedigitalt.no) whose purpose is to gather such data and make it available to the public. The initiative is coordinated by the Norwegian Mapping Authority, with a wide range of both public and private agencies, organizations and companies contributing to the project. The Norwegian Product Register (a subordinate agency of the Ministry of the Environment) contains information on about 25,000 products. Enterprises must submit declarations for all chemical products that require labelling under the regulations on the classification and labelling of dangerous chemicals if the quantity placed on the market in Norway each year exceeds 100 kg. Norway has also established a database containing information on contaminated sites, etc. A data bank for threatened species has also been

established, and an environmental test bank will be established and collection begun in 2011. This is not an exhaustive list. Due to the limited scope of this report, it is not possible to describe all existing measures to ensure that Norway meets its obligations under article 5, para. 1.

To ensure that article 5 of the Convention is explicitly implemented in the law, section 8 of the Environmental Information Act requires administrative agencies to hold general environmental information relevant to their areas of responsibility and functions, and make this information accessible to the public, e.g. that the Ministry of Fisheries and Coastal Affairs, the Ministry of Transport and Communication and the Ministry of Petroleum and Energy are responsible for providing such information. Relevant information means both information on environmental impacts in sectors where an agency has responsibilities as well as environmental information it needs to carry out its tasks satisfactorily. The provision applies to information on the state of the environment, which is acquired mainly through research and monitoring, but also to more general environmental information, for example data and factual information on sources of emissions, factors that may influence biological diversity, trends in society's use of resources, and the content of dangerous chemicals in products. In accordance with the Convention, the provision applies to all levels, i.e. to administrative agencies at the national, county and municipal level.

One initiative for making information accessible to the public is the website www.luftkvalitet.info, which presents important information about air quality and air pollution in Norway, including daily measurements from the whole country, forecasts of air quality, reports, useful links and so on.

Sectoral legislation sets out a number of rules and arrangements for crisis management and the provision of information. In an emergency, it is of key importance to ensure that people are kept informed about what is happening and what they should do. Norway has a Directorate for Civil Protection and Emergency Planning and, in addition, sectoral authorities are responsible for crisis management within their own spheres of responsibility. Private-sector enterprises also have a responsibility to provide information before and during emergencies. It is beyond the scope of this report to give an account of all provisions and arrangements for this area that help to implement article 5, para.1 (c), of the Convention.

The Environmental Information Act also applies to information on cultural heritage. Under section 11a of the Cultural Heritage Act, a national register ("Askeladden") has been established to provide the public with information on protected monuments and sites;

(b)-(c) According to the legislative history of the Environmental Information Act, general information must be provided coherently, systematically, and so that it is readily understood and easily accessible to the public, using lists, record systems, databases, registers and the like. Section 8 of the Act does not require the use of a particular form or medium for information, but electronic databases will often be appropriate, see examples below. Public authorities must take steps to ensure that information is available, and not wait until they receive enquiries.

Section 8 of the Act gives administrative agencies an independent responsibility to hold environmental information relevant to their areas of responsibility and functions and to make this available to the public. The form in which information is provided and how this is done varies. Much of this information is at the national level, and it is therefore appropriate to use national information systems. If no appropriate information system exists, an agency may need to set up

its own environmental information system: for example, it can provide statistics, information and registers electronically, set up a suitable website, etc.

Information on relevant administrative agencies is available on the Internet, for example on the governmental website (www.regjeringen.no). This is a joint electronic information system for the government and ministries. It gives access to information and news from the government and ministries on the Internet and uses modern information technology to make the central government administration more open and accessible.

The MoE's own website contains large amounts of systematic information and links to other sources of information. For example, there are links to all the ministry's subordinate agencies, which also provide extensive environmental information under different topics or headings such as news, public consultations, legislation, etc. In most cases, contacts who can give further information are listed. One important site for environmental information is Miljøstatus i Norge (State of the Environment Norway) at www.miljostatus.no (www.environment.no), which was commissioned by the ministry and developed by its subordinate agencies. The website uses data from a number of registers. It is intended to give the general public easy access to environmental information. It provides updated information on the state of the environment, environmental trends and environmental pressures. The information is organized under several main topics, each of which is divided into sub-topics, with links to current legislation, agreements, environmental targets, and relevant websites. The website is updated regularly and quality assurance of all the information is carried out at least twice a year. It includes data on the state of the environment and environmental pressures for each county. The municipalities are also being encouraged to use it to provide relevant environmental information. From 2007 it is the Norwegian Association of Local and Regional Authorities (KS) who administers and develops the template for municipal information on www.miljostatus.no.

The government regularly reports on the state of the environment and its plans through various white papers on the government's environmental policy and the state of the environment. All such documents are available in electronic form. The sectoral authorities also have an independent responsibility to hold environmental information on the relevant sectors and to report on this. Lists of all relevant legislation are easily found on the websites of administrative agencies, with hyperlinks to the full text on Lovdata's website. The Lovdata website contains all legislation and is regularly updated when amendments are made. The MoE's website also includes a guide to environmental legislation and the authorities that are responsible for different acts and regulations. All the environmental authorities maintain updated information on relevant legislation on their websites, including the English and Norwegian texts of international environmental agreements that Norway has ratified. Strategies, plans and programmes are also published on the websites, but it is beyond the scope of this report to go into any more detail;

(d)-(e) As regards the requirement to publish and disseminate national reports on the state of the environment, the Ministry of the Environment regularly publishes white papers on Norwegian environmental policy and the state of the environment, as mentioned above. Current information on the state of the environment is published regularly, for example on the website www.environment.no.

All the information listed here is published electronically. As mentioned above (paragraph 3), legislation, strategies, action plans, etc. drawn up by administrative agencies at various levels are

also published on the internet. The same applies to international agreements and other important international documents;

(f) The Norwegian Environmental Information Act requires all public and private undertakings to hold information about factors relating to their operations that may have an appreciable effect on the environment, and to supply such information on request. Similar provisions for product-specific information have been included in the Product Control Act. Undertakings are required to provide information as soon as possible and no later than one month after the request was received. This time limit can be extended to two months. The Appeals Board for Environmental Information has been established to consider appeals against refusals of requests for environmental information. The existence of the Appeals Board ensures proper evaluation and control of whether requests for environmental information are treated in accordance with the provisions of the Act. The reader is referred to the enclosed translation of the Act. Annually the Board decides in approximately 10 to 15 cases.

Under the Accounting Act, enterprises are required to take active steps to provide information about factors relating to their operations that have had an appreciable environmental impact. There are also voluntary environmental certification schemes, which include requirements to provide environmental information.

Regulations on warning labelling, including labelling to indicate environmental hazards, apply to chemicals that are marketed as such, i.e. as substances or preparations. The warning labelling system is based on a comprehensive, internationally harmonised set of rules for the classification of chemicals.

There are also voluntary eco-labelling schemes (the Nordic Swan and the EU Flower), and environmental declaration schemes.

A website has been set up to help enterprises and individuals find their way around Norwegian legislation (www.regelhjelp.no). Here are the most important regulations for 55 different industries collocated in a clear manor. This is believed to be particularly useful for small and medium-sized enterprises with limited resources;

(g) According to this paragraph, each Party is required to publish the facts and related analyses considered relevant and important in framing major environmental policy proposals, make accessible explanatory material on its dealings with the public in matters falling within the scope of the Convention, and provide information on the performance of public functions relating to the environment by public authorities.

Compliance with the provisions of this paragraph is largely ensured by following the Instructions for Official Studies and Reports, which applies to all governmental studies.

The resulting monitoring system for environmental policy and the development of national key figures and environmental indicators are also important in implementing this provision. Key figures and indicators use environmental data to provide information about different environmental trends. In addition, Statistics Norway draws up annual statistics on important natural resources and environmental issues;

(h) When the Environmental Information Act was adopted, amendments were also made to the Product Control Act. These entitle the general public to receive information directly from producers, importers, processors, distributors and users of products. This includes information on whether products contain components or have properties that may cause injury to health or environmental damage, what these properties are, and what significant injury to health or environmental disturbance is caused by production and distribution of the product. All information held by a public body on products must also be disclosed unless specific grounds for exemption apply.

There are several voluntary ecolabelling schemes, of which the Nordic Swan is in most widespread use. This scheme is run by a foundation. Proposals for criteria for licensing different product groups are drawn up by highly qualified experts, and public consultations are held on the proposals, which are also published on the Internet for comment;

As mentioned above a website has also been established at www.erdetfarlig.no, providing consumers with information on chemicals in consumer products, advise on which products to chose, as well as how to dispose of the products.

(i) Norway has for many years had a system for reporting on emissions and waste. Information on emissions and waste generated by individual companies may be found at <http://www.sft.no/bmi>

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

No specific obstacles have been encountered.

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?

The reader is referred to the general text above.

14. Give relevant web site addresses, if available:

Inter alia: <http://www.miljostatus.no/>
www.environment.no
<http://regjeringen.no>
<http://english.dirnat.no>
<http://www.sft.no/english/>
<http://www.riksantikvaren.no/english/>
<http://www.statkart.no/>
www.fylkesmann.no
<http://www.ssb.no/emner/01/>
www.lovdata.no
www.luftkvalitet.info
www.regelhjelp.no
www.naturbase.no
www.kulturminnesok.no

ARTICLE 6

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

Article 110b of the Constitution entitles the public to information about measures that have been planned or commenced, and thus lays down the principle that the environmental impacts of projects should be assessed in advance. The phrase “the public” is interpreted broadly.

Article 6 of the Convention is essentially implemented through the provisions of the Public Administration Act that lay down a general requirement to notify and inform the parties to a case, the provisions on environmental impact assessment in the Planning and Building Act and the Act relating to petroleum activities and the appurtenant Petroleum Regulations, and the provisions on permits in the Pollution Control Act and the appurtenant Pollution Regulations. There are also provisions on public participation in connection with the establishment of protected areas under the Nature Diversity Act, protection under the Cultural Heritage Act and applications for licences for electrical installations under the Energy Act. In the event of procedural errors, the decision may be appealed pursuant to the Public Administration Act.

(a)-(j) Most of the activities to which article 6 of the Convention applies come within the scope of the provisions on environmental impact assessment in the Planning and Building Act, and require a permit pursuant to the Pollution Control Act. Both the environmental impact assessment (EIA) provisions in the Planning and Building Act and the rules of procedure in the Pollution Control Act and Pollution Regulations comply with the requirements of the Convention on public participation.

EC Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention (IPPC) and Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment have both been incorporated into the European Environment Agency (EEA) Agreement and have been implemented in Norwegian law. Thus, the activities listed in annex I to the Convention are explicitly listed in the law.

As mentioned earlier, it is an offence to cause pollution unless an enterprise has a discharge permit issued by the pollution control authorities or the pollution is permitted pursuant to law or regulations. Chapter 36 of the Pollution Regulations deals with procedures for issuing discharge permits. It requires the authorities to ensure that the public have an opportunity to express their opinions on applications. It also states that prior notification of a proposal must give an account of what the proposal involves and contain any other information necessary to enable those who receive the notification to submit comments on the case. The parties, public bodies and authorities, and organizations representing relevant public interests shall be notified directly before a decision is made and be given an opportunity to make their opinions known within a specified deadline. If the application concerns an activity listed in Appendix I to Chapter 36 of the Pollution Regulations (see annex I of the IPPC Directive) and in other cases of importance for an indeterminate number of people, the Ministry shall, before making a decision, give the general public an opportunity to express an opinion within a time limit that should not normally be shorter than four weeks. A public hearing may be dispensed with in accordance with section

36-7, second paragraph, litra b, of the Pollution Regulations if the decision will only have a minor impact on the environment.

A notification must be published in a way that is suitable for drawing public attention to the matter, and the documents in the case have to be made available. The costs of this are to be paid by the person who is applying for or who holds a permit. The Norwegian Pollution Control Authority regularly posts notifications on its website. Any comments received are public. It is not unusual for either the recipient or the sender to publishes such answers on the Internet in addition. Decisions on applications shall make it clear how the comments received were evaluated and how much weight was attached to them. According to section 36-11, the pollution control authorities shall publish their decisions.

Article 6, para. 10, which requires that the general public be given opportunities for participation when licences and permits are reconsidered or updated, has been implemented through section 17 of the Impact Assessment Regulations of 2009 no. 855. The Pollution Control Act and the Pollution Regulations also implement this provision. Section 36-1 of the Pollution Regulations makes it clear that the provisions also apply to the alteration of permits. A public hearing may be dispensed with in accordance with section 36-7, second paragraph, litra b, of the Pollution Regulations if the decision will only have a minor impact on the environment;

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

No specific obstacles have been encountered.

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.

The reader is referred to the general text above.

18. Give relevant web site addresses, if available:

www.environment.no
www.lovddata.no

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.

The Planning and Building Act lays down that the public must be involved in decision-making processes for plans to which the Act applies. Section 5.1 and 5.2 of the Act requires the planning

authorities to provide information actively at an early stage of the planning process, and to give individuals and groups the opportunity to play an active part in the planning process. Central government plans, municipal master plans and local development plans shall as a general rule be subjected to two thorough public hearings, once at the beginning of the process and then again when a draft plan has been proposed.

As regards plans under the Planning and Building Act with substantial consequences for the environment, directive 2001/42/EC is applicable. The directive has been made part of the EEA-Agreement, and has been incorporated in Norwegian law through the provisions on environmental impact assessment in the Planning and Building Act in combination with provisions in the regulation relating to environmental impact assessment.

In addition to binding plans for land-use planning purposes under the Planning and Building Act, there are many other programmes and general decisions that can determine the framework and terms for later individual decisions. The Instructions for Official Studies and Reports laid down by the government apply to work carried out by or commissioned by central government agencies. To ensure that public participation is also possible in decision-making processes concerning more strategic programmes relating to the environment, this principle has been incorporated into section 20 of the Environmental Information Act. The phrase “plans and programmes” includes everything from municipal land-use plans to national action plans for specific sectors. The plans need not have legally binding effect. The provision applies to national, county and municipal authorities.

According to subsection 1 of Section 20 of the Environmental Information Act, administrative agencies shall, in connection with the preparation of plans and programmes relating to the environment, make provision for participation by the public in these processes and ensure that there are real opportunities to influence the decisions that are made. One way of complying with this requirement is to hold meetings to brief the public concerned. Another is to provide relevant information on the Internet. Information must be provided at a stage when there is still a real opportunity to influence the decisions that are made, i.e. as a general rule, early in the process. The time limits set must give organizations sufficient time to familiarize themselves with the subject matter and discuss the matter internally. The environmental impact of plans and programmes need not be significant for the provision to be applicable (see the use of the phrase “relating to the environment”). The term “environment” is intended to cover at least the same scope as in Article 2 (3) (a) of the Convention.

In the case of plans or programmes that may have a significant impact on the environment, subsection 2 of section 20 of the Environmental Information Act lays down that as a general rule, a public hearing shall be held well before a final decision is taken. It was considered logical to impose stricter requirements for plans or programmes that will have a more serious environmental impact. An assessment of whether a proposal will have a significant impact must be made on a case-to-case basis. If the proposal involves pollution, waste, energy, resource use, land use, transport or noise, the impact will generally be considered to be significant. An account of the environmental impact of the proposal shall be available at the hearing. In special cases, a public hearing may be dispensed of, see section 20, subsection 2.

Decisions taken on proposals to which this section applies must be made public. The grounds for a decision must make it clear how the requirements of the section have been met and how comments and other input from the public have been evaluated.

The provisions of section 20 of the Environmental Information Act do not limit the right to public participation in decision-making processes pursuant to other legislation.

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

The reader is referred to the general text above.

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

No specific obstacles have been encountered.

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

The reader is referred to the general text above.

23. Give relevant web site addresses, if available:

www.environment.no

www.lovdato.no

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.

Norway has a long tradition of encouraging public participation in the preparation of legislation and of taking into account the comments that are received. Chapter VII of the Public Administration Act contains provisions on the procedures to be followed in the preparation of regulations. Section 37 lays down a general requirement for administrative agencies to clarify a case as thoroughly as possible before a decision is made, and the second paragraph of this section requires public consultation. This provision requires that public and private institutions and organizations that the regulations concern or whose interests are particularly affected shall be given an opportunity to express their opinions. Opinions should also be obtained from others to the extent necessary to clarify all aspects of the case. These provisions are intended to ensure that decisions are taken on the best possible basis, and that all those whose interests are affected by the regulations have an opportunity to express an opinion and to have this taken into account when the legislation is drawn up. Section 38 of the Public Administration Act lays down that regulations must be published in the Norwegian Law Gazette, and they are also published electronically on Lovdata's website. The Instructions for Official Studies and Reports contain more detailed rules on the preparation of acts and regulations and procedures for public consultation. According to these rules, the time limit for public consultation should not normally be less than three months. This is to ensure that as many people as possible are given the time and opportunity to prepare their comments on draft legislation.

If major changes in the legislation are being considered, a committee is often appointed to review various options and their consequences, and to propose new legislation on the basis of its review. Each committee is made up of experts drawn from the public authorities, NGOs and other bodies with the necessary expertise. It produces a report (in the series Official Norwegian Reports), and the relevant ministry organises a public consultation process.

Section 20 of the Environmental Information Act, discussed above under the implementation of article 7, applies to the preparation of legislation as well as to plans and programmes. Please see the previous section.

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

No specific obstacles have been encountered.

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

The reader is referred to the general text above.

27. Give relevant web site addresses, if available:

www.lovdata.no

www.environment.no

ARTICLE 9

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

(a)-(b) Disputes relating to access to environmental information pursuant to the Environmental Information Act and the right to public participation pursuant to Chapter 5 of the Act can be brought before the ordinary courts under the Civil Procedure Act (Act of 17. June 2006 No. 90). The court will determine whether the decision is valid. In such cases, the public authority as such is the defendant, not the individual employee. However, in very rare cases an individual employee may be taken to court in a case where access to environmental information has incorrectly been refused. In addition, such matters come within the sphere of authority of the Ombudsman for Public Administration pursuant to the Act of 22 June 1962. The Ombudsman system represent “another independent and impartial body established by law”. The Ombudsman’s opinions are made in writing, and in all but the fewest of cases the public authorities act in accordance with his conclusions. Anyone may file a complaint to the Ombudsman over a refusal of a request for information. This must be done within a year after the decision of the public administration has been made. The Ombudsman system is free of charge. These arrangements ensure that article 9, paras. 1 and 2 are implemented in the legislation.

In cases where the Appeals Board of Environmental Information, has made a decision on the right to information from undertakings, may also be brought to court;

(c) This paragraph must also be considered to be implemented through the ordinary administrative appeals system and courts system under the law. The paragraph leaves it to national law to determine the criteria for the right to bring civil action and the right of appeal. According to the law, an organization that is an independent legal entity can act as a party in cases brought before the courts if it can show that it has an actual need to have its claim settled, cf. section 1-3 second paragraph of the Civil Procedure Act. Thus, the established environmental organizations normally have the capacity to be a party to a case. In addition, the party must have a legal interest in the matter, see section 54 of the Civil Procedure Act. This means that the lawsuit must deal with a matter that comes within the scope of the organization’s objectives or of its operations in practice. Furthermore, the membership of the organization must make it a natural representative of the environmental interests the lawsuit is intended to safeguard;

(d)-(e) Article 9, paras. 4 and 5, have been implemented through the ordinary law of procedure. When the Environmental Information Act was adopted, amendments were also made to sections 3-5 and 15-6 of the Enforcement Act to satisfy the Convention’s requirement that procedures to which Article 9 applies must not be “prohibitively expensive”. These provisions were repealed 1 January 2008 and replaced with respectively sections 32-11 and 34-2 of the Civil Procedure Act. Normally, a claimant is liable for damages if interim measures are granted under the Enforcement Act and it later proves that the claimant’s claim was not valid when the application for interim measures was granted. For example, this would be the case if a company had later reduced its emissions in accordance with the currently applicable discharge permit. The principle of strict liability applies, which means that the claimant may be liable to pay damages even if he acted in good faith, and substantial sums of money may be involved. The amendment to section 3-5 provided that in cases relating to the environment, a claimant may only be ordered to pay damages if he knew or should have known that his claim was not valid when his

application for interim measures was granted. Similarly, section 15-6 was amended so that in cases relating to the environment, the claimant cannot be ordered to provide security to cover his possible liability for damages if interim measures are granted after oral proceedings and the claim has been shown to be probable. These amendments, now found in sections 32-11 and 34-2 of the Civil Procedure Act, ensure that procedures under article 9 of the Convention are not prohibitively expensive.

Bringing a case to court always involves costs, which will depend on the legal procedure involved and the time a case is expected to take. The simplest procedure in the Norwegian legal system is to use a conciliation board (*forliksrådet*), where parties seek to reach a settlement. As a main rule, the conciliation board does not settle disputes where the public administration is one of the parties. Taking a case to a conciliation board costs NOK 860. If a case is not resolved through a conciliation board or is brought directly to a district court, the standard court fee is NOK 4300 for a main hearing that is stipulated to last for one day. It is only in special cases that a main hearing is stipulated to last for more than one day. In addition to the court fee, costs may be awarded in the case, for example for legal assistance and other expenses for all parties.

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

No specific obstacles have been encountered.

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?

There are no such statistics available. Regarding financial barriers, reference is made to the general text above.

31. Give relevant web site addresses, if available:

www.lovdاتا.no

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.

ARTICLE 6bis AND ANNEX I bis

33. Legislative, regulatory and other measures implementing the provisions on genetically modified organisms pursuant to article 6bis and annex I bis.

Introduction

Public participation and effective access to information as regards the deliberate release into the environment and placing on the market of genetically modified organisms is regulated by the Gene Technology Act of April 3, 1993 no. 38, as well as the Regulations on Impact Assessment

of December 16 2005 no. 1495. EU directive 2001/18/EC as well as the Cartagena Protocol are implemented through the Gene Technology Act with regulations.

a)

i) Implementation of article 6 bis and annex I bis paragraph 1

According to section 13 of the Gene Technology Act, a public hearing shall always be conducted before approval is given for the release of genetically modified organisms (GMO) into the environment. This hearing must be carried out in a way that ensures that the general public, and particularly interest groups who will be affected, are given access to relevant information and a real opportunity to make their opinions known. A decision to hold a public consultation shall always be published.

ii) Implementation of article 6 bis and annex I bis paragraph 2

As noted, a public hearing must always be held if the release of GMO into the environment requires approval. According to section 10 of the Gene Technology Act, the release into the environment and placing on the market as defined in the Aarhus Convention always requires approval. There are therefore no exceptions to the duty to conduct public hearings.

iii, iv, v) Implementation of article 6 bis and annex I bis paragraph 3, 4 and 5

According to section 13 of the Gene Technology Act, a public hearing shall ensure that the general public is given access to all relevant information, also procedural. The decision to hold a public hearing shall always be published. The decision is therefore always published on the website of the relevant public authority, together with all other relevant information. Letters containing this information are also generally sent to all parties considered affected by the decision. In addition, section 12 of the Gene Technology Act provides that the Public Information Act applies in full as regards the release of GMO into the environment. As previous chapters have demonstrated, the Public Information Act provides a right to all information included in annex I bis paragraph 3 and 5.

In addition the following information shall, according to section 12 of the Gene Technology Act, not be considered confidential and therefore always be available to the public:

- a. the description of the genetically modified organism, the user's name and address, the purpose of the use and the location of use
- b. methods and plans for monitoring and emergency response
- c. assessments of foreseeable effects.

This fully satisfies the requirements of paragraph 4 of annex I bis.

vi) Implementation of article 6 bis and annex I bis no. 6

This is satisfied by the requirement to conduct a public hearing, see *i)* above.

vii) Implementation of article 6 bis and annex I bis no. 7

According to state practice, all responses to a public hearing are submitted to the public authority making the decision. These responses are thoroughly examined and taken into account before a decision is made.

viii) Implementation of article 6bis annex I bis no. 8

All decisions regarding the deliberate release into the environment and placing on the market of genetically modified organisms are published on the website of the public authority having made the decision. In addition, the Gene Technology Act section 12 states that all decisions made are subject to the conditions of the Public Information Act. The public therefore has a right to access all final decisions, as well as the terms upon which the decision was made.

b) Article 6bis paragraph 2

Section 9 of the Gene Technology Act incorporates import, export and transport in the definition of release into the environment of genetically modified organisms. This means that such actions are subject to the same requirements as regards public access and participation as other decisions under the Convention. In addition, there is also a Regulation on the Labeling, Transport, Import and Export of Genetically Modified Organisms of 2005 no. 1009 that ensures consistency with the objectives of the Cartagena Protocol.

34. Obstacles encountered in the implementation of the provisions of article 6bis and annex I bis

No obstacles have been encountered in the implementation of any of the paragraphs of article 6bis and annex I bis.

35. Further information on the practical application of the provisions of article 6bis and annex I bis

The Norwegian government does not hold specific statistics as regards public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms. Further, as there is a legal requirement to always conduct a public hearing in such cases, there will be no statistics as regards exceptions to this rule.

36. Website addresses relevant to the implementation of article 6bis

www.lovdata.no
www.md.dep.no