

AARHUS CONVENTION IMPLEMENTATION REPORT

The following report is submitted on behalf of **THE REPUBLIC OF SERBIA** in accordance with decision I/8 and II/10

Name of officer responsible for submitting the national report:	Nebojsa Pokimica, assistant, minister, The Ministry of the Environment and Spatial Planning
Signature	
Date:	30.12.2010.

IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

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

Answer

a) The report on the implementation of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters - Aarhus, 1998, (hereinafter called "the report") was developed by the Ministry of Environment and Spatial Planning experts in collaboration with the representatives of the competent bodies and organizations. The report was developed with the support of the OSCE Mission to Serbia, Belgrade Office. All competent public authority bodies and other competent bodies in the Republic of Serbia at the level of the republic, autonomous province or city level (Belgrade, Kragujevac), as well as the Standing Conference of Towns and Municipalities were consulted in the course of developing the report. The opinions of competent expert organizations, agencies, institutes, etc. specializing in the issues important for the implementation of the Aarhus Convention and of the Regional Environmental Centre Belgrade Office were also requested. The majority of the competent organizations and bodies consulted submitted their opinions in writing. The representatives of important public authority and other bodies formed a working group that reviewed the draft report.

b) After the decision to draft the report was made, a notice and an invitation to the public to submit their positions, opinions, etc. was posted on the website of the Ministry of Environment and Spatial Planning: <http://www.ekoplan.gov.rs/src/Izrada-Prvog->

nacionalnog-izvestaja-o-implementaciji-Arhuske-konvencije--943-c83-content.htm.

Moreover, a notice about the development of the report was posted on the websites of the “EkoForum” association (<http://www.ekoforum.org/index/default.asp>) and Aarhus Centre Kragujevac (<http://www.aarhuskg.rs/news/?id=368>). “EkoForum”, in turn, sent the notice to more than 130 associations. The draft report was posted on the website of the Ministry of Environment and Spatial Planning on October 26th, 2010, after which a public debate in five towns throughout Serbia was organized.

c) All opinions of the competent bodies and associations, submitted while the report was being compiled, were considered and taken into account by the Ministry of Environment and Spatial Planning experts and the members of the working group. Certain positions and opinions of the competent bodies were directly incorporated into the report. All positions and opinions put forward during the public debate phase were also considered and taken into account.

d) Different types of material were used when compiling the report:

- Legislation in force in the Republic of Serbia
- Contributions by competent bodies and organizations
- Strategic documents adopted by competent bodies and organizations (National Program for Environmental Protection, National Sustainable Development Strategy, National Judicial Reform Strategy in the Republic of Serbia, Strategy for the Development of a Free Legal Aid System in the Republic of Serbia, National Programme for Integration with the European Union, etc.)
- Work reports drafted by the competent bodies (Commissioner for Information of Public Importance and Personal Data Protection, Reports on the State of the Environment in the Republic of Serbia, Annual Report of the Sector for Control and Monitoring of the Ministry of Environment and Spatial Planning, Environmental Protection Fund Work Reports)
- Contributions and comments by economic entities, associations, etc.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

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

Answer

a) This is the first Aarhus Convention Implementation Report in the Republic of Serbia. The Republic of Serbia ratified the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention) on May 12th, 2009 (Official Gazette of the Republic of Serbia – International Agreements, No. 38/09) and acceded to the Aarhus Convention on July 31st,

2009. (http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-13&chapter=27&lang=en).

The Republic of Serbia has not acceded to the 2003 Kiev Protocol on Pollutant Release and Transfer Registers, but the preparations for the ratification are under way. The Republic of Serbia has not ratified the GMO amendment to the Convention (Almaty, 2005).

b) Article 176 of the Constitution of the Republic of Serbia (Official Gazette of the Republic of Serbia No. 98/06) states that “citizens shall have the right to the provincial autonomy and local self-government, which they shall exercise directly or through their freely elected representatives. Autonomous provinces and local self-government units shall have the status of legal entities.”

Article 2 of the Law on Territorial Organization of the Republic of Serbia (Official Gazette of the Republic of Serbia No. 129/07) stipulates that “in terms of territorial organization, the Republic of Serbia consists of territorial entities, namely, municipalities, towns and the city of Belgrade and autonomous provinces as forms of territorial autonomy”.

c) Article 16 of the Constitution states that “generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly. Ratified international treaties must be in accordance with the Constitution.”

d) It is estimated that the current state of the institutional capacities and certain financial problems may affect the complete and consistent implementation of the Aarhus Convention.

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

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

Answer

A number of regulations in force in the Republic of Serbia contain the provisions that ensure the transposition of Article 4 of the Aarhus Convention:

- Constitution of the Republic of Serbia (Official Gazette of the Republic of Serbia No. 98/06)
- Law on State Administration (Official Gazette of the Republic of Serbia No. 79/05 and 101/07)
- Law on Civil Servants (Official Gazette of the Republic of Serbia No. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008)

- Law on General Administrative Procedure (Official Gazette of the Federal Republic of Yugoslavia No.33/97, 31/2001, Official Gazette of the Republic of Serbia No. 30/2010)
- Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia No. 120/2004, 54/2007, 104/2009 and 36/2010)
- Law on Local Self-Government (Official Gazette of the Republic of Serbia No. 129/2007)
- Law on Associations (Official Gazette of the Republic of Serbia No. 51/10)
- Law on the Fundamentals of the Education System (Official Gazette of the Republic of Serbia No. 72/09)
- Law on the Protector of Citizens (Official Gazette of the Republic of Serbia No. 79/05 and 54/07)
- Law on Environmental Protection (Official Gazette of the Republic of Serbia No. 135/04, 36/09)
- Law on Environmental Protection Fund (Official Gazette of the Republic of Serbia No. 72/09)
- Law on Environmental Impact Assessment (Official Gazette of the Republic of Serbia No. 72/09)
- Rule Book on Public Access Procedure, Presentation and Public Debate about the Environmental Impact Assessment Study (Official Gazette of the Republic of Serbia No. 69/2005)
- Law on Integrated Environmental Pollution Prevention and Control (Official Gazette of the Republic of Serbia No. 135/04)
- Law on Nature Protection (Official Gazette of the Republic of Serbia No. 36/09)
- Law on Waters (Official Gazette of the Republic of Serbia No. 30/10)
- Law on Forests (Official Gazette of the Republic of Serbia No. 30/10)
- Law on Air Protection (Official Gazette of the Republic of Serbia No. 36/2009)
- Law on Chemicals (Official Gazette of the Republic of Serbia No. 36/2009)
- Law on Protection and Sustainable Use of Fisheries (Official Gazette of the Republic of Serbia No. 36/09)
- Law on Planning and Construction (Official Gazette of the Republic of Serbia No. 72/09), etc.

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

Answer

- The Law on State Administration defines the principles of work of state administration authorities. The principle that the work of state administration authorities is public is among the key policies that the functioning of administration is based on (Article 11). State administration authorities are obliged to enable the public to have access to their work in accordance with the law regulating free access to information of public importance. Article 79 stipulates that state administration authorities are obliged to, in a proper way, above all in premises where they deal with parties, inform the parties of their rights and obligations and ways of exercising rights and obligations, on their scope of

work, on state administration authority which is supervising the work of the authority in question and ways of making a contact with this authority, as well as on other data important for publicity of work and relationship with parties.

- Article 76 specifies that state administration authorities are obliged to inform the public about their work through means of public information or through other relevant means. Furthermore, the employees who are authorised to prepare information and data connected to informing the public are responsible for their accuracy and punctuality. State administration authorities are obliged to, upon the request of natural and legal persons give opinions on interpretation of provision of laws and other general acts within the time limit of 30 days (Article 80). State administration authorities may perform certain tasks in a place outside their headquarters and headquarters of dislocated unit during the administrative days.

- According to the Decree on Administrative Districts (Official Gazette of the Republic of Serbia No. 15/2006) that is based on the Law on State Administration, administrative district are established for the execution of state administration tasks outside the headquarters of the state administration authority (e.g. ministries, administrations, inspectorates and directorates)

- Article 8 of the Law on Civil Servants stipulates that information on the work of civil servants is accessible to the public in accordance with the law that regulates free access to information of public interest.

- The basic principles of the Law on General Administrative Procedure include, among other things, the principle of protection of civil rights and protection of public interest (Article 6) and the principle of assistance to the parties (Article 15). The authority conducting the procedure shall ensure that the ignorance and illiteracy of the parties and other participants in the procedure do not prejudice the rights they enjoy under the law.

- The Law on Free Access to Information of Public Importance defines the obligation of the authorized person to act upon a request for free access to information of public importance and “provide necessary assistance to applicants in the exercise of their rights provided for in this Law (Article 38, Paragraph 2, Item 1). Article 39 of the same law stipulates that a government body shall at least once a year publish a directory containing key facts about its operation. A government body shall grant an interested party access to its directory free of charge or issue such party a copy of the directory, against the reimbursement of necessary costs.

- The Commissioner for Information of Public Importance (hereinafter “the commissioner”), among other things, informs the public about the content of The Law on Free Access to Information of Public Importance and about the rights granted by this law, as well as perform other duties pursuant to this law. The commissioner may make motions to assess the constitutionality and legality of laws and other general instruments (Article 35).

- According to the Law on the Protector of Citizens, the protector’s special role in the domain of providing assistance to the public includes, among other things, the following powers: controlling that the rights of citizens are respected, establishing the existence of violations resulting from the acts, actions or failure to act by the administrative authorities, if they are violations of the laws, regulations and other general acts of the republic. The protector of citizens has the power to control the legality and regularity of the work of administrative authorities and initiate proceedings before the Constitutional

Court for the assessment of constitutionality and legality of laws, other regulations and general acts.

- The Law on Local Self-Government specifies that the bodies and services of the local self-government shall inform the public about their work through the media and in other suitable ways, as well as provide the citizens with the necessary data, clarifications and information needed to exercise their rights. Moreover, the bodies and services of the local self-government shall make it possible for everyone to file a complaint about their work and inappropriate conduct of their employees and be obliged to respond within 30 days of the day of submission of the complaint, if an answer is required by the complainant. The same law allows the civic defender (Ombudsman) to be established in a local self-government unit with the power to control that the rights of citizens are respected, establish the existence of violations resulting from the acts, actions or failure to act by the administrative authorities and public services, if they are violations of the laws, regulations and other general acts of the local self-government unit.

- Article 4 of the Rule Book on Public Access Procedure, Presentation and Public Debate about the Environmental Impact Assessment Study (Official Gazette of the Republic of Serbia No. 69/2005) stipulates that the competent body shall provide all interested bodies and organizations and members of the public, that have access to the study that has been put out for review, with all the necessary information and assistance in terms of interpretation of certain solutions and in the process of giving comments and opinions, if any, regarding the environmental impact assessment study.

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

Answer

- The Law on the Fundamentals of the Education System defines that raising awareness about the importance of sustainable development, protection and preservation of nature and environment, environmental ethics and the importance of animal protection (Article 4, Item 11) are among the aims of education. Moreover, it is specified that the student is obliged to be vigilant of the environment and act in accordance with the rules of environmental ethics (Article 112, Paragraph 2, Item 9)

- Article 6 of the Law on Environmental Protection specifies the obligation of state authorities, scientific institutions, education, information, culture and other institutions, as well as other types of societies, in the field of their work to inspire, direct and ensure better awareness concerning the importance of environmental protection. Raising awareness about the importance of environmental protection is provided through the education system, scientific research and technological development, informing the public and popularization of environmental protection. Please refer also to Article 55, Paragraph 1, Item 4 (Honours and awards for contribution to the protection of the environment) and Article 65 (Action Plans) of the Law on Environmental Protection.

- Article 17, Paragraph 1, Item 12 and Item 16 of the Law on the Environmental Protection Fund stipulate that the finances from the Environmental Protection Fund is used particularly for encouraging the development of educational, research and development oriented studies, programmes and projects and other activities, including

demonstration activities, namely, financing the programme of environmental education and raising public awareness about the issues from the domain of environmental protection and sustainable development.

- Article 117 of the Law on Nature Protection specifies that the ministry responsible for education shall ensure that the conditions for improving environmental education are created. The Ministry of Environment and Spatial Planning, the competent authority of the autonomous province, the institute and legal entities with public powers shall inform the public about natural resources, environmental protection, threats to the environment and the factors and consequences of these threats. Please refer also to Article 7, Item 11, Article 29, Paragraphs 2 and 5, Article 30, Article 53, Item 7 of the Law on Nature Protection.

- Moreover, please refer to the Law on Waters: Article 40, Paragraph 8, Article 143, Item 5; Law on Protection and Sustainable Use of Fisheries: Article 2, Item 27, Law on Forests: Article 6, Paragraph 3, Item 6; Article 36, Paragraph 3.

- The activities related to education and raising public awareness about the environment and environmental culture are co-ordinated by the Ministry of Environment and Spatial Planning in collaboration with the Ministry of Education and other competent institutions.

- The Ministry of Environment and Spatial Planning provided financial support for a large number of educational projects carried out by associations¹. Throughout 2009, the ministry co-financed 31 projects initiated by associations, as part of the campaign “Očistimo Srbiju” (Let’s Clean Serbia), worth a total of 10,000,000 dinars² (see also the explanation related to the implementation of Paragraph 4 of this Article of the Aarhus Convention).

- In 2009, the funds amounting to a total of 6,476,890 dinars were allocated, via public competition, as part of the activities of the Environmental Protection Fund for the purpose of co-financing educational projects in the field of environmental protection carried out by associations. The projects eligible for implementation, submitted via this public competition were worth a total of 5,267,300 dinars, 5,234,244.31 dinars of which were paid out. In 2010, the Fund allocated 10,000,000 dinars³ for educational projects.

- The Institute for Nature Conservation of Serbia has organized a total of 37 different promotional events aimed at promoting national natural heritage, education in this field and raising public awareness about the importance of protection of the environment and nature conservation.

- One of the most important projects promoting the importance of environmental education and awareness is “The Basics of the Programme for Establishing an Educational Centre for Environmental Protection and Sustainable Development in Belgrade” developed by the “School for Survival” citizen’s association. The project received 2,347,600 dinars worth of funding from the Secretariat for Environmental Protection of the City of Belgrade.

¹ The Law on Associations defines an association as a voluntary, non-governmental non-profit organization based on freedom of association, bringing together a number of physical and legal persons, established with the aim of fulfilling or advancing a goal or interest common to association members or the community at large, provided that these goals or interests are not prohibited in the Constitution or by law (Article 3 Paragraph 1).

² A list of associations, project titles - http://www.ekoplan.gov.rs/src/upload-centar/dokumenti/razno/za_sajt.pdf.

³ In 2010, the fund co-finances 39 projects selected among a total of 142 submissions http://www.sepf.gov.rs/dokumenti/prva/Konkurs_NVO_rezultati.zip.

- The measures aimed at promoting environmental education and awareness about the need to protect the environment in Kragujevac are being implemented through the establishment of the Centre for Environmental Education and Sustainable Development in the local polytechnic school. The project should result in the establishment and training of a group of peer educators who will be carrying out the training of children from the local pre-school institution and among primary school pupils.

(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;

Answer

- The place and role of associations⁴, organizations and groups and the obligation to provide them with support has been stipulated in a variety of ways in a number of laws. The broadest description of associations, organizations or groups includes their being defined as part of the “public” in the Law on Environmental Protection (Article 3, Item 26) or as part of the “public concerned” (Article 3, Item 28) and consequently enjoying all the rights granted to the public, in accordance with the laws regulating the role of the “public” that are currently in force. Please, refer also to Article 4, Paragraph 1, Item 6; Article 6, 7, 9, Item 11, Article 55, Paragraph 1, Item 6. Similar provisions, as far as definitions are concerned are to be found in the Law on Air Protection: Article 3, Items 14 and 16.

- See also the Law on Nature Protection: Article 102. Paragraph 1, Item 9; Law on Planning and Construction: Article 3; Law on Waters: Article 142. Paragraph 3; Law on Chemicals: Article 7. Paragraph 2; Law on Packaging and Packaging Waste: Article 13. Paragraph 2; Article 17, Item 6.

- Article 38, Paragraph 1 of the Law on Associations stipulates that the whole amount funds intended for stimulating the development of programmes or the lacking part of the funds necessary for financing programmes of public interest, carried out by associations, shall be provided from the budget of the Republic of Serbia. The government, namely, the ministry responsible for the field in which the association in question realizes its main goals, grant said funding via public competition and sign agreements on the implementation of the programmes approved (Paragraph 2). Paragraph 3 of the article in question under programmes of public interest include particularly those implemented in the field of health care, safeguarding and promoting human and minority rights, education, science, culture, information, environmental protection, sustainable development, animal protection, protection of consumers, fight against corruption, as well as humanitarian and other programmes where associations act purely and directly in public interest. Paragraph 5 of this article specifies that the above-mentioned funding can also be provided from the budget of the autonomous province or units of local self-government.

- The budget of the Ministry of Environment and Spatial Planning includes the funds intended for co-financing the projects carried out by associations (amounting to a total of

⁴ The list of associations specializing in environmental protection, registered in accordance with the new law is available at: <http://www.apr.gov.rs/Registri/Udruzenja.aspx>

17,000,000 dinars in 2009 and 20,000,000 dinars in 2010). Furthermore, every year, the ministry opens a public competition on the basis of which the projects to be co-financed are selected. "The 2010 Public Competition for Co-financing Projects in the Field of Environmental Protection Carried out by Associations" was announced on the website of the Ministry of Environment and Spatial Planning in June and published in three daily newspapers. The competition lasted 20 days (from 10 to 30 June) and the results were announced 35 days after the closing of the competition (on 5 August), on the website of the Ministry of Environment and Spatial Planning. A total of 356 submissions were received and the Ministry selected 48 projects for which to provide part of the requested funds. The selection was made on the basis of predefined criteria and having in mind the distribution of beneficiaries by geographic area, i.e. making sure that all regions of the Republic of Serbia are represented.

- The Ministry of Environment and Spatial Planning and the representatives of 122 citizen's associations signed memoranda on co-operation on April 22nd, 2010, which marked the beginning of the process of establishing institutional mechanisms of co-operation between the civil sector and state institutions in the domain of environmental protection. The implementation of the memoranda is co-ordinated by the Let's Clean Serbia office.

- In 2010, the Secretariat for Environmental Protection and Sustainable Development of the Autonomous Province of Vojvodina announced a public competition with the aim of awarding the funds necessary for implementing citizen associations' projects focusing on promoting environmental protection and concrete activities in the field of protection of natural resources, preservation and improvement of biodiversity, raising public awareness, networking and educational programmes in the Autonomous Province of Vojvodina. 172 associations submitted 175 projects. The co-financing of 41 associations was approved by the competition committee and funds amounting to 2,000,000 dinars awarded.

- The Energy Efficiency Agency co-finances projects carried out by associations whose goal is enhancing energy efficiency and wider use of renewable energy resources in the republic of Serbia (2007, 2008 and 2009). A total of 20 projects were financed throughout that period. The funds amounting to 8,400,000 dinars were allocated for that purpose.

- Over the last four years, the Secretariat for Environmental Protection of the City of Belgrade has conducted public competitions for financing projects implemented by associations.⁵ Citizen's associations and public organizations operating on the territory of the city of Belgrade, whose founding act specifies that they carry out activities in the field of environmental protection, were eligible to participate in the competition. The average number of projects financed or co-financed every year through these public competitions was 33. The secretariat allocated 6,600,000 dinars for the purpose of funding the 2009 public competition whose motto was *Let's Clean Belgrade*. The topic of the 2010 competition was *My City is White City*. Bearing in mind the fact that the level of awareness of the importance of environmental protection increases every year, more

⁵ This report does not include all data about the support for associations provided by the competent bodies at all levels of government in the Republic of Serbia. For example, in addition to the Ministry of the Environment and Spatial Planning support data; there are also data from the Energy Efficiency Agency, Belgrade and Kragujevac.

funds, amounting to 18,000,000 dinars, were allocated for the purpose of financing this year's competition. This decision proved to be a good one since 103 associations, compared to 53 submissions last year, took part in the competition. During that period, the secretariat spent additional 7,348,168 dinars co-funding other individual projects carried out by associations, marking important days in the domain of environmental protection or organizing environmental campaigns (a total of 22 projects).

- In 2010, for the first time, Kragujevac has financed projects launched by environmental associations from the town budget, namely, the environmental protection fund. In addition to conducting a competition inviting projects implemented by associations specializing in the protection of the environment, Kragujevac provided support for projects and activities of associations, organizations and informal groups held as part of international environmental events.

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

(i) Measures taken to coordinate activities within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, and the Almaty Guidelines, indicating whether the measures to coordinate are ongoing;

(ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which the access to information was provided;

(iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g. inviting NGO members to participate in the Party's delegations in international environmental negotiations or involving NGOs in forming the Party's official position for such negotiations) including the stages at which the access to information was provided;

(iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;

(v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;

Answer

- Representatives of associations participated in the activities of the Ministry of Environment and Spatial Planning:

- Contributing to the preparations for and holding of the Sixth Ministerial Conference - Environment for Europe, Belgrade, October 2007

- While the Republic of Serbia, namely, Dr Oliver Dulić, Minister of Environment and Spatial Planning, chairs the Governing Council/Global Ministerial Environment Forum of the United Nations Environment Program (GC/GMEF UNEP), "Environmental Ambassadors" were members of the official state delegation from 2009 to 2011

- "Environmental Ambassadors" participated in the 18th session of the United Nations Commission on Sustainable Development (CSD) in New York (USA) in May 2010

- Representatives of associations (“School for Survival”, “EkoNec”, “EkoForum”, “Young Researchers of Serbia”) participated as full members of the Ministry of Environment and Spatial Planning working group in the process of drafting the First Framework Action Plan for Environmental Education for Sustainable Development in the context of the implementation of the United Nations Economic Commission for Europe (UNECE) Strategy for Education for Sustainable Development.

- The Institute for Nature Conservation of Serbia promotes the principles of the convention as part of international co-operation that it has developed with international organizations and institutions and in the course of implementation of international projects that it takes part in (for example “Environmental Development of Rural Areas in Bosnia and Herzegovina” and a segment of activities focusing entirely on the public – distributing four issues of the institute’s electronic bulletin to all stakeholders, maintaining regular contact with the representatives of the media and keeping them informed about all the stages of the project, holding public debates and meetings. Its activities also included the official launch of the “Centre for Sustainable Development Guvnište”, carrying out the “Protection of Biodiversity of the Sava River Basin Floodplains” project, implementing communication strategy, etc.)

The Secretariat for Environmental Protection of the City of Belgrade and OSCE Mission to Serbia organized a seminar on May 10th, 2010 promoting the principles of the Aarhus Convention in Serbia. The seminar was held with the aim of encouraging the participation of the public in solving issues related to the environment, which in turn, strengthens the policy of environmental protection. Another goal was to provide additional explanations as to the importance of the convention and the obligations of Serbia after its signing, the contribution of the convention to the society, the significance of the PRTR protocol as well as the ways of its implementation.

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

Answer

- Article 18, Paragraph 2 of the Constitution of the Republic of Serbia guarantees, and as such, directly implements human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. Article 34 stipulates that no person may be held guilty for any act which did not constitute a criminal offence under law or any other regulation based on the law at the time when it was committed, nor shall a penalty be imposed which was not prescribed for this act.

- The Commissioner put forward an initiative for protection of insiders, but unfortunately it was not approved in the form that would provide these people with true protection.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

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

Answer

- The overall level of public awareness about the need for environmental protection and environmental culture in the Republic of Serbia is unsatisfactory.
- Associations in the Republic of Serbia mostly face problems with regard to financing, as the state does not do enough to stimulate them and does not treat them as equal participants in the political process.
- In the course of the public debate, associations claimed that the support they receive is not sufficient, namely that the support is, as a rule, restricted to short-term solutions and campaigns, rather than a systemic effort focusing on strengthening the non-governmental sector in the field of environmental protection.
- One of the obstacles is a low level of awareness, especially, at the level of local self-government about the need and necessity of partnership with the civil sector in the process of raising environmental awareness and solving environmental problems.
- Media coverage of the processes in the domain of sustainable development and the environment is insufficient, which reflects the lack of interest of the media for these issues, the lack of expertise and awareness about the necessity of covering strategic topics and topical issues.
- The need to create the material and technical conditions enabling associations to play the role of stakeholders having access to information and judicial procedures and participate in the decision-making process was highlighted.
- The delays in the payment of funds intended for the co-financing of the environmental projects implemented by associations are often late, which hampers normal functioning of a large number of associations.

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

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

Answer

- On April 15th, 2010, the government of Serbia adopted the Decree on the Office for Co-operation with Civil Society. Article 2 specifies that the office performs expert duties on behalf of the government related, among other things, to ensuring co-ordination between public authorities and stimulating cooperation between them and associations and other civil society organizations which includes: initiating dialogue with civil society about the issues of common interest, taking part in the preparation and monitoring of the implementation of strategic documents related to the creation of a stimulating environment necessary for the development of civil society, with the aim of developing the co-operation between public, private and civil sector further; initiating the adoption of

regulations and other general acts regulating the position of associations and other civil society organizations, etc.

- The opinion that environmental associations “still have not been represented through the activities of this Office” is present.

- In order to strengthen their position, environmental associations have formed networks, such as: the BELLS (Balkan Environment Life Leadership) movement, Natura 2000. Three associations from Serbia (“Environmental Ambassadors”, “Young Researchers of Serbia” and “CEKOR”) were chosen to participate in the Environment Forum project enabling dialogue with DG Environment of the European Commission in the EU enlargement process (www.bellsmovement.org, www.enforum.eu).

- At the level of strategy, environmental protection education aimed at sustainable development has been recognized as an integral part of the national policy in addition to the Law on the Fundamentals of the Education System, the Law on Environmental Protection, Sustainable Development Strategy, the National Programme for Integration of the Republic of Serbia with the European Union, the National Youth Strategy and the Strategy of Adult Education. The curricula and textbooks introduced following the reform of primary school education include certain material, goals and principles of education both about the environment and sustainable development. The optional subject “Guardians of Nature” has been taught since the school year 2003/04 in primary schools in the first six forms.

- The new textbooks have been harmonized with the curricula and teacher training about the environment that started in 2001 has continued since. The Ministry of Education approved 30 programmes of continuous training of teachers, associate experts (school counsellors and psychologists) and headmasters in the field of biology – environmental protection. Special educational programmes have been carried out in primary schools since 2004, as part of additional teaching activities, etc. (for example: “I Don’t Have a Spare Planet”, a project intended for primary school pupils in the Western Balkans).

- The subject “Ecology and Environmental Protection” is taught in the first year of vocational schools. Moreover, vocational schools are increasingly introducing new subjects and courses that focus on environmental protection in certain lines of work. In grammar schools, environmental protection-related information is integrated in the curricula of several subjects. Some vocational schools have formed experimental classes where new or improved curricula are implemented. In these schools ecology and environmental protection are very much present. At the level of university education, environmental education in the context of sustainable development is part of the curriculum at 24 faculties in the four universities founded by the Republic of Serbia. Departments, sections, divisions or programmes of environmental protection have been established offering undergraduate and graduate courses, including doctoral degree courses focusing on the environment. Over the past few years, three private faculties specializing in environmental education have been accredited.

- The ministry responsible for education has been carrying out a range of activities in its domain related to providing schools with the funds from state budget and the financial resources obtained through the National Investment Plan or donations from local and international partners. The Ministry implemented four segments of the “Development of the Education System in the Republic of Serbia” project (2002 -2007 World Bank loan). School Grant is a very important part of that project. Environmental protection and the

creation of a student-friendly environment in schools are among the aims of school projects that received the School Grant funding.

- The Ministry of Education prepared environment and sustainable development handbooks for teachers as part of the “Environmental Capacity Building project – ECBP 2003”.

- The process of adapting multimedia educational material, “Green Pack”, intended for primary school teachers prepared by the “Regional Environmental Centre for Central and South-Eastern Europe (REC)” was completed in early 2009. The project was implemented in the Republic of Serbia with the support of both competent government ministries (the Ministry of Education and the Ministry of Environment).

- The Ministry of Education provides support for and actively participates in the implementation of the project “Education for Sustainable Development in the Western Balkans” funded by Finland and co-ordinated by the “Regional Environmental Centre”. The project is planned to provide support to the effort aimed at achieving sustainability in schools (the sustainable schools initiative) and local communities, both in terms of improving the quality of teaching and the learning process and improving school policy, planning and organization in the selected municipalities in the Drina river basin.

- The Ministry of Agriculture, Forestry and Water Management has been actively working on promoting the awareness about environmental protection through numerous projects, notably the “Natural from Serbia” project that is currently being carried out. The project is aimed at promoting organic production, as part of an effort to raise the awareness about environmental protection and healthy diet.

- The Ministry of Education approved 30 programmes of continuous training of teachers, associate experts (school counsellors and psychologists) and headmasters in the field of biology – environmental protection in the school year 2010/11.

- The Institute for Nature Conservation of Serbia participates in the development of the strategy of environmental education aimed at achieving sustainable development. School children of all ages regularly come to see the permanent exhibition “The Natural Resources of Serbia and Their Protection” at the institute. Entrance is free and the venue is open to general public i.e. everyone interested. This exhibition facilitates education and enables people of different professions, belonging to different age groups to improve their knowledge and obtain information.

- In the course of the school year 2009/2010, the Secretariat for Environmental Protection and Sustainable Development of the Autonomous Province of Vojvodina in collaboration with the Secretariat for Education of the Autonomous Province of Vojvodina has launched a long-term programme “For Cleaner and Greener Schools”. The programme includes carrying out different activities, such as education of children, pupils and teachers, organizing eco-patrols, eco-newspapers and organizing a prize competition.

- By establishing the Kragujevac Aarhus Centre on April 28th, 2010, on the basis of the Memorandum of Understanding signed by the Ministry of Environment and Spatial Planning and the town of Kragujevac (www.aarhuskg.rs/), the steps have been taken to ensure that the representatives of the local authorities, town officials and volunteers provide interested members of the public with advice on the ways of requesting information, facilitate the participation of citizens in the decision-making process and legal protection regarding environmental protection issues. Besides, Kragujevac is the first town in Serbia and 29th in Eastern Europe to have an Aarhus Centre. Local Aarhus

centres (in the City of Belgrade borough of Vračar and Tara Mountain) were established earlier.

- Since the ratification of the Aarhus Convention, “Regional Environmental Centre” implemented or has been implementing a number of projects aimed at building the capacity of associations and the competent authorities necessary for the implementation of the Aarhus Convention.

(http://www.rec.rs/index.php?option=com_content&task=view&id=44&Itemid=18)

Several handbooks and other publications have also been published.

(http://www.rec.rs/index.php?option=com_remository&Itemid=23&func=select&id=2)

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

Give relevant web site addresses, if available

www.parlament.gov.rs

National Assembly of the Republic of Serbia

www.srbija.gov.rs

Government of the Republic of Serbia

www.ekoplan.gov.rs

Ministry of Environment and Spatial Planning

www.sepa.gov.rs

Serbian Environmental Protection Agency

www.ekoplan.gov.rs/shema/?lang=src

Chemicals Agency

www.srbatom.gov.rs

Serbian Radiation Protection and Nuclear Safety Agency

www.natureprotection.org.rs

Institute for Nature Conservation of Serbia

<http://www.sepf.gov.rs/>

Environmental Protection Fund

www.ljudskaprava.gov.rs

Ministry of Human and Minority Rights

www.drzavnauprava.gov.rs

Ministry of Public Administration and Local Self-Government

www.mp.gov.rs

Ministry of Education

www.mfa.gov.rs

Ministry of Foreign Affairs

<http://www.minpolj.gov.rs/>

Ministry of Agriculture, Forestry and Water Management

www.zdravlje.gov.rs

Ministry of Health

www.zdravlje.org.rs

Public Health Institute of the City of Belgrade

<http://www.poverenik.org.rs>

Commissioner for Information of Public Importance and Personal Data Protection
<http://www.ombudsman.rs/>

Protector of Citizens

www.hidmet.gov.rs

Hydrometeorological Institute of the Republic of Serbia

<http://webrzs.stat.gov.rs/axd/drugastrana.php?Sifra=0010&izbor=tabela>

Statistical Office of the Republic of Serbia

www.aarhuskg.rs

Aarhus Centre Kragujevac

<http://www.rapp.gov.rs/>

Agency for Spatial Planning of the Republic of Serbia

www.icpdr.org

International Commission for the Protection of the Danube River

www.savacommission.org

International Sava River Basin Commission

www.rec.rs

Regional Environmental Centre for Central and Eastern Europe

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

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

Answer

- The Constitution of the Republic of Serbia, Law on General Administrative Procedure, Law on Free Access to Information of Public Importance
- Law on Prohibition of Discrimination (Official Gazette of the Republic of Serbia No. 22/2009)
- Law on Administrative Disputes (Official Gazette of the Republic of Serbia No. 111/09)
- Law on Environmental Protection; Law on Environmental Impact Assessment; Law on Nature Protection, Law on Waters, Law on Air Protection, Law on Protection against Environmental Noise, Law on Forests, Law on Chemicals
- Law on Strategic Environmental Impact Assessment (Official Gazette of the Republic of Serbia No. 135/04)
- Law on the Protection against Ionising Radiation and on Nuclear Safety (Official Gazette of the Republic of Serbia No. 36/09)
- Law on Waste Management (Official Gazette of the Republic of Serbia No. 36/09)
- Law on Official Statistics (Official Gazette of the Republic of Serbia No. 104/09)
- Law on Police (Official Gazette of the Republic of Serbia No. 101/05)
- Law on Defence (Official Gazette of the Republic of Serbia No. 116/07)
- Law on Fundamental Principles of Organizing Security Services of the Republic of Serbia (Official Gazette of the Republic of Serbia No. 116/07)
- Law on the Security Information Agency (Official Gazette of the Republic of Serbia No. 42/02)

- Law on Military Security Agency and Military Intelligence Agency (Official Gazette of the Republic of Serbia No. 88/09)
- Law on Foreign Affairs (Official Gazette of the Republic of Serbia No. 116/07, 41/09)
- Law on General Product Safety (Official Gazette of the Republic of Serbia No. 41/09)
- Law on Personal Data Protection (Official Gazette of the Republic of Serbia No. 97/08)
- Law on Data Secrecy (Official Gazette of the Republic of Serbia No. 104/09)
- Law on Copyright and Related Rights (Official Gazette of the Republic of Serbia No. 104/09)
- Law on Energy (Official Gazette of the Republic of Serbia No. 84/04)
- Law on Occupational Safety and Health (Official Gazette of the Republic of Serbia No. 101/05)
- Law on Biocidal Products (Official Gazette of the Republic of Serbia No. 36/09)
- Decree on Fees Covering Necessary Expenses for Issuing Copies of Documents (Official Gazette of the Republic of Serbia No. 8/06),
- Rules of Procedure of the Government of Serbia (Official Gazette of the Republic of Serbia No. 61/06, 69/08),

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.

Answer

The right to information is guaranteed to the citizens of the Republic of Serbia primarily in the Constitution itself as it specifies that everyone has the right to be informed accurately, fully and timely about issues of public importance, while the media has the obligation to respect this right. Moreover, everyone has the right to access information kept by state bodies and organizations with delegated public powers, in accordance with law (Article 51).

a)

- Article 3 of the Law on Free Access to Information of Public Importance defines a “public authority body” as 1) a central government body, a territorial autonomy body, a local self-government body or an organization vested with public powers (government body); 2) a legal entity founded by or fully or predominantly funded by a government body. Furthermore, in Article 2, the law defines “information of public importance” as “information held by a public authority body, created during or relating to the operation of a public authority body, which is contained in a document and concerns anything the public has a justified interest to know”. For information to be considered information of public importance, it shall be irrelevant whether the source of information is a public authority or another person, which medium is used to store the document containing the information (paper, tape, film, electronic media, etc.), on which date the information was created or in which way the information was obtained, nor shall any other similar properties of such information bear any relevance for this purpose.

- Article 3, Item 26 of the Law on Environmental Protection defines the “public”, while Item 28 defines the “public concerned” as the public which is influenced or likely to be

influenced by the decision made by the competent authority or have an interest in their outcome, including non-governmental organizations dealing with environmental protection which are registered with the responsible authority. Both definitions can be said to be in keeping with the definitions provided in the Aarhus Convention. Similar provisions are found in Article 2, Items 2 and 7 of the Law on Environmental Impact Assessment; Article 3, Items 5 and 6 of the Law on Strategic Environmental Impact Assessment; Article 2, Items 16 and 17 of the Law on Integrated Environmental Pollution Prevention and Control. The definitions of the “competent authority” in the Law on Environmental Impact Assessment (Article 2, Item 2) and the Law on Integrated Environmental Pollution Prevention and Control (Article 2, Item 8) comprise all three levels of government: level of the republic, autonomous province and the local level.

- No definition of “environmental information” (Article 2, Item 3 of the Aarhus Convention) is provided in these laws.

b)

- Article 21 of the Constitution of the Republic of Serbia specifies that all are equal before the Constitution and law. Therefore, all direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability is prohibited.

- Article 3 of the Law on Prohibition of Discrimination stipulates that “competent courts and other public authority bodies in the Republic of Serbia shall provide everyone with effective protection against all forms of discrimination. In accordance with international agreements, foreign citizens shall enjoy all the rights guaranteed by the Constitution and law, with the exception of the rights granted exclusively to the citizens of the Republic of Serbia. Exercising the rights guaranteed by this law in a way that is contrary to the aims of this law granting these rights or with an intent to deny, violate or limit the rights and freedoms of others shall be prohibited”. Article 2, Paragraph 1, Item 1 of this law states the definitions of the notions of “discrimination” and “discriminatory act”.

- Article 6 of the Law on Free Access to Information of Public Importance specifies that everyone is able to exercise the rights in this Law under equal conditions, regardless of their nationality, temporary or permanent residence or place of establishment, or any personal characteristic such as race, religion, national or ethnic background, gender, etc.

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:

Answer

- Article 15, Paragraph 4 of the Law on Free Access to Information of Public Importance expressly states that an applicant shall not be required to specify the reasons for a request. In addition to that, Article 2 of this law prescribes that justified public interest to know shall be deemed to exist whenever information held by a public authority concerns a threat to, or protection of, public health and the environment. The law thus favours this

kind of information, namely, it does not allow the authorities to deny access to such information.

- Please refer also to the Law on Environmental Protection: Article 78, Article 70, Paragraph 1; the Law on Environmental Impact Assessment: Article 27.

(II) Copies of the actual documentation containing or comprising the requested information are supplied

Answer

- Article 5 of the Law on Free Access to Information of Public Importance stipulates that everyone has the right to access information of public importance by being allowed to examine a document containing information of public importance, by being entitled to make a copy of that document, and by being entitled to receive a copy of such document on request, by mail, fax, electronic mail or otherwise.

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

Answer

Article 18 of the Law on Free Access to Information of Public Importance specifies that access to a document containing requested information shall be made using the equipment available to a public authority, unless the applicant asks to have access to a document using his/her own equipment. A public authority shall issue a copy of a document (photocopy, audio copy, video copy, digital copy, etc.) containing the requested information in the form in which such information is stored, such copy being in the requested form where possible. If a public authority does not have the technical means to make a copy of the document in terms of paragraph 2 of this Article, it shall make a copy of the document in another form.

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

Answer

- The Law on Free Access to Information of Public Importance (Article 16, Paragraph 1) stipulates that public authority shall process the request, without delay, and within 15 days of receipt of the request at the latest. The deadline can be extended when there are special circumstances where an extension may be justified. However, the new deadline shall not be longer than 40 days from the day of receipt of the request. In the case of deadline extension, there is an additional obligation to inform the applicant about it immediately, not later than within 7 days of receipt of the request.

- Article 16, Paragraph 2 stipulates that if the requested information concerns the protection or threats to the environment, the information must be given within 48 hours of receipt of the request. The law thus favours this kind of information in terms of public access.

- The Law on Environmental Protection (Article 79) specifies that information concerning environmental protection shall be forwarded from the competent authority to the applicant within 30 days of the date of submitting such a request. If the information is extensive or if the preparation would require a longer period of time, the deadline shall be 60 days of the date of submission.

***(c) With respect to paragraphs 3 and 4, measures taken to:
(I) provide for exemptions from requests;***

Answer

- Article 9 of the Law on Free Access to Information of Public Importance provides for the possibility of the authorities not allowing an applicant to exercise the right to access information. Should public authority deny the applicant access to certain information, it must prove that such a decision in that particular case was justified by the need to protect overriding interests that include safety and national defence, detection of criminal offence, legal proceedings, protection of privacy or other reasons specifically permitted by law.

- Article 80 of the Law on Environmental Protection provides for the possibility that a request for information about the environmental protection system may be declined for the reasons stated in Article 4, Paragraph 4 of the Aarhus Convention (except the last item).

- Provisions regarding the confidentiality (secrecy) of information are also found in the following regulations in the field of environmental protection: Law on Integrated Environmental Pollution Prevention and Control: Article 23, Paragraph 4; Law on Forests: Article 115; Law on Chemicals: Article 85, Paragraph 1. Item 4; Law on Waste Management: Article 69. Paragraph 3; Law on Biocidal Products: Article 46, 47; Law on Energy: Article 16, 23; Law on Genetically Modified Organisms: Article 12, 14, 32, 47. Item 1, Article 48, Item 1; Law on Official Statistics: Article 44-49; Law on General Product Safety: Article 13; Law on Fundamental Principles of Organizing Security Services of the Republic of Serbia: Article 16. Paragraph 2; Article 19, Paragraph 2; Article 20;

- Moreover, regulations in other fields contain provisions on the confidentiality of information: Law on General Administrative Procedure: Article 70, Paragraph 4; Article 140, Paragraph 2, Item 4; Article 141, Paragraph 2; Article 165; Article 166, Paragraph 1, Item 2; Article 188; Law on Administrative Disputes: Article 31; Law on Police: Article 4, Paragraph 2, Item 2; Article 5, Article 12, Paragraph 2, Article 74, 75, Article 136, Paragraph 2, Item 1,2,3; Article 160; Article 175, Paragraph 4; Article 181; Article 183, Paragraph 2, 3, 5; Article 193, Paragraph 2, Item 20; Law on Defence: Article 12, Paragraph 2, Item 21; Article 14, Paragraph 2, Item 26; Article 102; Article 104, Paragraph 1, Item 12; Law on the Security Information Agency: Article 11, 13, 14, 19, 23; Law on Military Security Agency and Military Intelligence Agency: Article 6, 8, 9, 14, 30, 31, 34, 38, 43, 54, 58, 60, etc.; Law on Foreign Affairs: Article 50, Item 4; Rules of Procedure of the Government: Articles 43-45, 54, 59, 62, 96;

- Please refer also to: Law on Personal Data Protection, Law on Data Secrecy, Law on Copyright and Related Rights

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

Answer

- Article 8 of the Law on Free Access to Information of Public Importance specifies that access to information of public importance may, in exceptional circumstances, be declined only if an overriding interest exists and to the extent necessary in a democratic society. If access to information formally classified as confidential is requested, it is necessary to determine whether making such information public would seriously jeopardize some important interest and whether that interest overrides the interest to make that information public.

- Article 27, Paragraph 2 of the Law on Environmental Impact Assessment states that the data relating to emissions, risks from accidents, monitoring results and inspection surveys shall not be classified as business, official or state secrets.

(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

Answer

- Article 19 of the Law on Free Access to Information of Public Importance defines that where a public authority does not hold a document containing the requested information, it shall refer the request to the Commissioner and inform accordingly the Commissioner and the applicant who, to its knowledge, holds the document.

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

Answer

Article 12 of the Law on Free Access to Information of Public Importance stipulates that if requested information of public importance can be extracted from other information contained in a document which a public authority has the duty of disclosing to an applicant, the public authority concerned shall allow the applicant access only to a part of the document which contains the extracted information and advise him/her that the remainder of the document is not available.

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

Answer

Article 16, Paragraph 10 of the Law on Free Access to Information of Public Importance specifies that if a public authority refuses to inform an applicant, either entirely or partially, whether it holds the requested information, to grant an applicant access to a document containing the requested information or to issue or send to an applicant a copy

of the document, it shall have the duty to pass, without delay, and within 15 days of receipt of the request at the latest, a decision rejecting the request and provide rationale for such decision in writing, and shall furthermore be required to notify the applicant of the available relief against such decision.

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

Answer

- Article 17, Paragraph 1 of the Law on Free Access to Information of Public Importance stipulates that access to a document containing requested information shall be granted free of charge. A copy of a document containing requested information shall be issued to the applicant, charging him/her with only the basic costs of reproduction, while if such copy is delivered to the applicant, he/she shall also be required to reimburse any delivering-related costs in accordance with the bill of charges adopted by the government. Article 17, Paragraph 41 of the Law on Free Access to Information of Public Importance defines the cases in which applicants shall be exempted from the duty of reimbursing costs. Thus, it is specified that the exemption refers, among others, to all persons who request information regarding a threat to, or protection of, public health and environment.

- Article 79, Paragraphs 3 and 4 of the Law on Environmental Protection specifies that the cost of the supply of the data from paragraph 1 of this Article shall be borne by the applicant. The Minister shall prescribe the amount of costs depending on the scope and character of the data.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

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

Answer

a) On the basis of data regarding complaints submitted to the Commissioner, it could be concluded that authorities enable access to information regarding the protection of the environment, but that the interest for these issues is not strong.

b) The authorities do not meet the deadlines for answering requests for information.

c) Until 2009, the Ministry of Culture was responsible for monitoring the implementation of the Law on Free Access to Information of Public Importance and it did not have the infrastructure necessary for initiating offense proceedings against authorized persons who do not act in accordance with the law. As a result, the punitive provisions detailed in Article 46 had no legal effect whatsoever. But, with the adoption of amendments to the Law on Free Access to Information of Public Importance, in December 2009, the Ministry of Public Administration and Local Self-Government became responsible for monitoring its implementation. Acting within its newly conferred authority, through administrative inspection, this Ministry performed inspection among more than 200

public authority bodies. A request was made to initiate offense proceedings against 140 responsible officials in bodies of public authority because of violations of the right to free access to information of public importance and failure to fulfil the obligations stipulated by law, related to the measures aimed at enhancing the rights of the public in this domain.

d) The Law on Environmental Protection is not harmonized with the Law on Free Access to Information of Public Importance

d) Understaffing in the competent bodies

e) A technical problem that arises in the process of acquiring information following a request, because in some situations information is requested about the documents after the period during which they had to be kept has expired. Such documents are then taken away and destroyed.

f) During the public debate, the fact that regulations do not contain the definition of “environmental information” in Article 2, Paragraph 3 of the Aarhus Convention was particularly highlighted, as well as the need to regulate the issue of confidentiality of commercial and industrial information related to the development and implementation of the environmental impact assessment study.

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

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

Answer

- Article 1 of the Law on Prohibition of Discrimination introduces the Commissioner for the Protection of Equality as an autonomous public authority body performing his duties independently. The duties of the commissioner are defined in Article 33 of this law and include, among other things, monitoring the implementation of the law, putting forward initiatives for adopting and amending laws with the aim of providing and improving the protection against discrimination, giving opinions about draft versions of laws and other regulations, etc.

- In 2009, the Ministry of the Environment and Spatial Planning considered the requests submitted by: associations (29), citizens (10), political parties (1), media (2), public authority and other bodies (1), others (2). In one case, a request was denied on the grounds of “lack of clarity and precision”, in another, the applicant requesting information was referred to a different competent authority. In two cases, the applicants received a response after lodging a complaint. There were also two cases where the requests were answered, after which the Commissioner for Information of Public Importance ruled that the case should be dismissed.

- In 2009 the Office of the Commissioner for Information of Public Importance and Personal Data Protection processed a total of 2,689 cases in the field of freedom of information, 1,865 of which were received in the course of 2009, while further 824 remained from earlier periods. Compared to the previous year, it is evident that the number of cases in 2009 was about 23% higher than in 2008 or, for example, about 4.5

times higher than in 2005. There were a total of 1.512 resolved cases of complaints, of which only 109 (7,2%) were about the decisions rejecting a request for information, while the remaining referred to the failure of public authorities to act on requests to provide access to information of public importance or unsubstantiated rejection of request. There were also 30 responses to requests seeking information of public importance from the Commissioner, etc.

- Since the establishment of the Office only 37 complaints relating to access to information about the environment have been submitted.⁶ The percentage of these compared to the total number of complaints that reached 7274 by September is quite small. The commissioner does not possess the exact data regarding the number of requests submitted to public authorities, because a number of public authority bodies have not submitted the reports thereof.

- The commissioner performs duties that contribute to staff training, transparency in the work of public authorities and informing the public about the content of the Law on Free Access to Information of Public Importance. These include the publication of a handbook on the implementation of the law, a guide to the Law on Free Access to Information of Public Importance and an information booklet on the work of public authorities.

- In the Ministry of Trade and Services - Market Inspectorate, civil servants – market inspectors, in accordance of their duties and responsibilities in the field of controlling the implementation of regulations, ensure that the products bought and sold in the Serbian market are safe and do not pose a threat to the human lives and health. In addition to employing the measures related to their duties, market inspectors inform all citizens (potential consumers) about unsafe products via printed and electronic media (radio and TV). The NEPRO system (a national equivalent of RAPEX, the European system for rapid exchange of information) has been introduced at the level of the ministry in order to make rapid information exchange possible, along with the focal point (a civil servant). This should ensure both collection of all the necessary information and established facts used to determine that products/goods/services are unsafe and rapid intervention aimed at informing the public and other stakeholders about this.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

Give relevant web site addresses, if available:

www.poverenik.org.rs/

Commissioner for Information of Public Importance and Personal Data Protection

⁶ The complaints submitted to the Commissioner are about withholding information as to whether Environmental Impact Assessment studies has been conducted in industrial zones that are being set up in some local areas, the information about the amount of funds spent to ensure the functioning public authorities and organizations of the Republic of Serbia responsible for environmental protection, as well as the data about pollution of the environment caused by the activities carried out by some large industrial facilities. The total of 37 complaints related to the environment refers only to those that have to do with the environment in the narrowest sense of the term. This number should be added to a numerous complaints (295 resolved cases of complaints) about the protection of animals, public procurement, the construction of facilities requiring investments such as oil refineries, roads, etc. which may be significant from the point of view of environmental protection.

www.ekoplan.gov.rs

Ministry of Environment and Spatial Planning

www.kultura.gov.rs

Ministry of Culture

<http://www.drzavnauprava.gov.rs/>

Ministry of Public Administration and Local Self-Government

www.minrzs.gov.rs

Ministry of Health

www.mre.gov.rs

Ministry of Energy and Mining

www.minpolj.gov.rs

Ministry of Agriculture, Forestry and Water Management

www.mi.gov.rs

Ministry of Infrastructure

www.minrzs.gov.rs

Ministry of Labour and Social Policy

www.mtu.gov.rs

Ministry of Trade and Services

www.nauka.gov.rs

Ministry of Science and Technological Development

www.mtid.gov.rs

Ministry of Telecommunications and Information Society

www.mup.gov.rs

Ministry of the Interior

www.merr.gov.rs

Ministry of the Economy and Regional Development

www.hidmet.gov.rs

Hydrometeorological Institute of the Republic of Serbia

<http://webrzs.stat.gov.rs/axd/drugastrana.php?Sifra=0010&izbor=tabela>

Statistical Office of the Republic of Serbia

<http://www.seea.gov.rs/>

Energy Efficiency Agency

<http://www.eko.vojvodina.gov.rs/>

Secretariat for Environmental Protection and Sustainable Development of the Autonomous Province of Vojvodina

www.aarhuskg.rs

Aarhus Centre Kragujevac

<http://www.beograd.rs/cms/view.php?id=2038;>

Secretariat for Environmental Protection of the City of Belgrade

www.zdravlje.org.rs

Public Health Institute of the City of Belgrade

<http://www.nepro.gov.rs/default.aspx>

Information about unsafe products

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

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

Answer

- Law on Consumer Protection (Official Gazette of the Republic of Serbia No. 79/2005), namely, Law on Consumer Protection (Official Gazette of the Republic of Serbia No. 73/2010) which will come into force on January 1st 2011, entirely replacing the previous one which shall expire on December 31st, 2010.
- Law on Ministries (Official Gazette of the Republic of Serbia No. 43/2007) (ZM)
- Law on Environmental Protection
- Law on Protection against Environmental Noise (Official Gazette of the Republic of Serbia No. 36/2009)
- Law on Packaging and Packaging Waste (Official Gazette of the Republic of Serbia No. 36/2009)
- Law on Waste Management; Law on the Protection against Ionising Radiation and on Nuclear Safety; Law on Air Protection, Law on Waters, Law on Forests, Law on Protection and Sustainable Use of Fisheries, Law on the Protection against Ionising Radiation and on Nuclear Safety, Law on Waste Management, Law on Protection against Environmental Noise, Law on Chemicals, Law on Biocidal Products, Law on Genetically Modified Organisms, Law on Emergency Situations,
- Law on Emergency Situations (Official Gazette of the Republic of Serbia No. 111/2009)
- Law on Food Safety (Official Gazette of the Republic of Serbia No. 111/2009)
- Law on Occupational Safety and Health
- Law on Official Statistics (Official Gazette of the Republic of Serbia No. 104/2009)
- Law on Food Safety (Official Gazette of the Republic of Serbia No. 41/09)
- Law on Advertising (Official Gazette of the Republic of Serbia No. 41/09) (79/05)
- Decree on the Content and Ways of Maintaining the Environmental Information System, Methodology, Structure, Common Grounds, Categories and Levels of Data Collection and on the Content of Information that the Public is Regularly and Obligatorily Notified about (Official Gazette of the Republic of Serbia No. 112/09),
- Rule Book on Detailed Conditions to be fulfilled by Professional Organizations Conducting Emission and Immission Measurements (Official Gazette of the Republic of Serbia No. 5/02),
- Rule Book on Emission Limit Values, Measuring Methods and Timeframe and Registering Data (Official Gazette of the Republic of Serbia No. 30/97 and 35/97),
- Rule Book on Limit Values, Immission Measuring Methods, Selection of Sample Spots Criteria and Data Collection (Official Gazette of the Republic of Serbia No. 54/92, 30/99 and 19706),
- Rule Book on Methods and Minimal Number of Samplings for Testing Waste Water Quality (Official Gazette of the Republic of Serbia No. 47/83 and 13/84),

- Rule Book on the Conditions to be Met by Companies and Other Legal Entities for Testing Surface and Ground Water Quality and for Testing Waste Water Quality (Official Gazette of the Republic of Serbia No. 41/94 and 47/94)
- Rule Book on Establishing Networks and Work Programmes of Meteorological Stations of National Interest (Official Gazette of the Socialist Federal Republic of Yugoslavia No. 50/90 and 54/90)
- Rule Book on the Content of Accident Prevention Policy and Content and Methodology of Development of Safety Report and Plan of Protection from Accidents (Official Gazette of the Republic of Serbia No. 41/10);
- Rule Book on the Content of the Notice about a New Seveso Plant or Complex, the Existing Seveso Complex and Permanent Closure of a Seveso Plant or Complex (Official Gazette of the Republic of Serbia No. 41/10);

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.

Answer

The answer is the same as for Article 4.

Also, and in particular, describe:

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

(i) Public authorities possess and update environmental information;

Answer

- Article 20, Paragraphs 2 and 3 of the Law on Ministries defines the duties of the Ministry of Environment and Spatial Planning in the domain of the environment including activities related to providing information about the environment, information system, etc.

- Article 69 of the Law on Environmental Protection stipulates that the republic, autonomous province, and local self-governance unit, within their respective competencies under the law, shall provide for continual control and monitoring of the state of the environment (hereinafter: monitoring) in compliance with this and special laws. Article 73 State authorities, organizations, authorities of autonomous province and local self-governance unit, authorized organizations and polluters are obliged to submit the data on monitoring from Articles 70 and 72 of this Law to the Environmental Protection Agency in a way prescribed by regulations. Article 120, Item 13 specifies that a responsible person within competent authority or organization shall have to pay fine for the offence.

- In Article 2 of the Law on Official Statistics, environmental protection is comprised by the “definition of official statistics”; data collection is regulated in Articles 24-31, data processing and storage in Articles 32-36, while Articles 39-43 regulate the dissemination of data and information.

- Please refer to the following laws:

- Law on Integrated Environmental Pollution Prevention and Control: Article 6. Items 5, 7; Article 8, Item 11; Article 9, Paragraph 1, Item 3; Article 16; Article 17; Article 22,

Paragraph 1, Item 7; Article 23, Paragraph 6; Article 29, Paragraph 1, Item 3; Article 30. 1. Item 2, 3; Law on Environmental Impact Assessment; Law on Air Protection: Article 13. Paragraph 3; Law on Waters: Article 20, 74, 78, 99, 105, 107-112, etc.; Law on Forests: Article 8. Item 9; Article 15; Law on Protection against Environmental Noise: Articles 23-26, etc.

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

Answer

- Please refer to Article 73 of the Law on Environmental Protection (see above).
- Article 76. Paragraph 3 of the Law on Environmental Protection states that the competent authority of the autonomous province or local self-government unit shall provide data necessary for drafting a report on the state of the environment to the Environmental Protection Agency on a quarterly basis, namely, for the first, second and third quarter not later than two months after the end of the quarter and for the last quarter not later than January 31st of the following year.
- Please refer to the following laws:
 - Law on Integrated Environmental Pollution Prevention and Control: Article 17;
 - Law on Air Protection: Article 13, Paragraph 4, Article 15, Paragraph 8; Article 17. Paragraph 1; Article 41, Paragraph 1, Item 6; Articles 42, 58, Article 68, Paragraph 4; Article 76, Item 3
 - Law on Waters: Article 56; Article 74. Paragraph 3; Article 78, Paragraph 7; Article 90, Paragraph 2, Item 2; Article 99, Paragraph 1, Article 109, Paragraph 2, 5 and 6; Article 193; Article 212, Item 9, etc.
 - Law on Protection and Sustainable Use of Fisheries: Article 37; Article 43;
 - Law on the Protection against Ionising Radiation and on Nuclear Safety: Article 53. Paragraph 2.
 - Law on Waste Management: Article 19, Paragraph 1, Item 4; Article 20, Paragraph 1, Item 4; Article 47, Paragraph 8; Article 48, Paragraph 5, Article 49, Paragraph 2; Article 50, Paragraph 8; Article 51, Paragraph 4; Article 52, Paragraph 8; Article 54, Paragraph 3; Article 55, Paragraph 6, Item 1; Article 56, Paragraph 5, i 9; Article 57, Paragraph 3; Article 72, Paragraph 7; Article 74, Paragraph 3, and 4; Article 75; Article 76; Article 79, Paragraph 5, etc.
 - Law on Packaging and Packaging Waste: Article 17, Paragraph 1, Item 2; Article 34, Item 2; Article 39; Article 40-42; Article 51, Item 16, and 17; Article 53, Item 2;
 - Law on Protection against Environmental Noise: Article 18; Article 26, Paragraph 2 and 3; Article 32, Item 10; Article 36, Item 7;
 - Law on Chemicals: Article 19, Paragraph 3 and 4; Article 38, Paragraph 3; Article 42; Article 45; Article 46, Paragraph 3; Article 55, Paragraph 2 and 3; Article 58; Article 59; Article 67, Paragraph 4; Articles 69, 70, 78, 81, 83, 85, 88, etc.
 - Law on Biocidal Products: Article 9, Paragraph 5; Article 11; Article 12, Paragraph 4; Article 16, Paragraph 4 and 5; Article 26, Paragraph 3 and 4; Article 27; Article 32, Paragraph 3; Article 34; Article 35, Paragraph 3 and 5; Article 36, Paragraph 2; Article 37, Paragraph 1; Article 38, Paragraph 2; Article 41, Paragraph 2; Article 50, Paragraph 4, etc.

- Law on Genetically Modified Organisms (Official Gazette of the Republic of Serbia No. 21/01 and Official Gazette of the Republic of Serbia No. 101/05): Article 14, Paragraph 2; Article 23; Article 27; Article 47, Item 4;
- Law on Emergency Situations: Article 11, Paragraph 2, Item 3; Article 13, Item 4; Articles 17, 21, 47, 50, 73, 74, 75, 80, 103, Paragraph 4; 107; 108; Article 144, Item 2, 14, 20, 22, 32, 39; Article 149;
- Law on Fire Safety: Article 69. Paragraph 1.
- Law on Food Safety: Articles 66, 67, etc.

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

Answer

- Articles 75-77 of the Law on Emergency Situations stipulate the obligation of providing notifications about accidents.
- Please refer also to Article 60 Law on Environmental Protection (reporting accidents); Article 58a Paragraph 4, Article 59, Article 60, Paragraph 6; Rule Book on the Content of the Policy of Accident Prevention, Content of Safety Report and Plan on Protection against Accident and Methodology of Their Development (Official Gazette of the Republic of Serbia No. 41/10); Rule Book on the Content of the Notice about a New Seveso Plant or Complex, the Existing Seveso Complex and Permanent Closure of a Seveso Plant or Complex (Official Gazette of the Republic of Serbia No. 41/10); Article 11 of the Law on Fire Safety (the principle of making information accessible to the public); Articles 30 and 31 of the Law on Occupational Safety and Health, etc.
- Please refer to the following laws: Law on Air Protection: Article 36; Article 66. Paragraph 2; Law on Waters: Article 101, 106; Law on Chemicals: Article 84. Paragraph 4; Law on the Protection against Ionising Radiation and on Nuclear Safety: Article 62. Paragraph 2, Law on Occupational Safety and Health; Law on Food Safety: Article 9, Articles 38-44, etc.

(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;

Answer

- a)
- Article 2, Paragraph 2 of the Law on Free Access to Information of Public Importance specifies that the medium used to store the document containing information (paper, tape, film, electronic media, etc.) or the way the information was obtained shall bear no relevance as far as information of public importance is concerned.
 - Article 70, Paragraph 2 of the Law on Environmental Protection stipulates that “the public is entitled to access of statutory registers or records containing the information and data in compliance with this Law”. Article 115 of the Law on Nature Protection contains similar provisions.

b)

Different environmental regulations and those that apply to other fields of importance for the environment, stipulate the introduction of practical measures, such as lists, records and registers accessible to the public. Among these are:

- Law on Environmental Protection: Article 28 (Register of Permits for Trade in Endangered and Protected Wild Fauna and Flora); Article 47. (EMAS System Registers); Article 60i (Register of Installations and a Register of Reported Accidents); Article 75. Law on Environmental Protection (Registers of Pollution Sources);
- Law on Environmental Impact Assessment: Article 34 (the obligation to maintain records of EIA procedures and decisions in the form of a public register);
- Law on Planning and Construction: Article 8 (Register of Investors) Article 43 (Central Register of Planning Documents);
- Law on Waste Management: Article 76. (Register of Issued Permits);
- Law on Packaging and Packaging Waste: Article 42 (Register of Packaging Waste Management Permits);
- Law on Nature Protection: Article 24. (Register of Cave Sites as a Digital Geographic Information System);
- Law on Genetically Modified Organisms: Article 32-36 (Register of GMOs and GMO-based Products and Register of Permits);
- Law on Waters: Article 130 (Register of Waters), Article 131 (Water Records), Article 110 (Register of Protected Areas);
- Law on Protection and Sustainable Use of Fisheries: Article 12 (Register of Issued Licences); Article 32. (Register of Commercial Fishermen); Article 37 (Records of Quantities of Fish caught by Commercial Fishermen);
- Law on Forests: Article 66. (Forest Road Register), Article 67 (Register of Forests);
- Law on Chemicals: Article 38-48. (Complete Register of Chemicals);
- Law on Biocidal Products: Article 34. (Register of Biocidal Products);
- Law on Emergency Situations: Article 78. (Register of Legal Entities Producing, Processing, Using and Storing Dangerous Substances);
- Law on Fire Safety: Article 69. Paragraph 2 and 4
- Law on Official Statistics: Article 37, 38. (Statistical Registers).

In addition to the above-mentioned laws, there are a number of by-laws regulating certain issues in this field, such as:

- Rule book on the content, layout and methods of keeping a public register on conducted procedures and decisions made related to environmental impact assessment (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the content and methods for filing the register of issued integrated permits (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the register of protected natural resources (Official Gazette of the Republic of Serbia No. 30/92);
- Rule book on the content and method of filing the register of issued waste management permits (Official Gazette of the Republic of Serbia No. 76/09);
- Rule book on numeration, abbreviations and symbols in the system of identification and labelling packaging materials (Official Gazette of the Republic of Serbia No. 70/09);

- Rule book on the ways of keeping record of the quantity of fish catch and on the layout and contents of a template for keeping records of the quantity of fish caught by sport fishermen (Official Gazette of the Republic of Serbia No. 104/09);
- Rule book on the register of chemicals (Official Gazette of the Republic of Serbia No. 40/2010);
- Rule book on the content of records on sources of non-ionising radiation of special interest (Official Gazette of the Republic of Serbia No. 104/09);
- Rule book on the content and data featured in the register of genetically modified organisms and products made of genetically modified organisms (Official Gazette of the Federal Republic of Yugoslavia No. 66/02);

c)

Article 38 of the Law on Free Access to Information of Public Importance stated that the responsible person in a public authority shall appoint one or more officials (authorized persons) to respond to requests for free access to information of public importance.

(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;

Answer

- Please refer to Article 74 of the Law on Environmental Protection; Article 7, Item 4 of the Law on Environmental Protection Fund; Decree on content and manner of managing the information system of environmental protection, methodology, structure, common grounds, categories and levels of data collection, as well as the content of information that are regularly and obligatorily presented to the public (Official Gazette of the Republic of Serbia No. 112/09).

A number of other regulations contain provisions related to these issues:

- Law on Waters: Articles 148, 149 – water management information system;
- Law on Forests: Article 68 – forestry information system;
- Law on Air Protection: Articles 68-70, 85. – Air quality information system;
- Law on Chemicals: Article 38. Paragraph 4 – the complete register of chemicals;
- Law on the Protection against Ionising Radiation: Article 6. Paragraph 1, Item 15.
- Law on Food Safety: Article 68.

a) State of the environment reports (from 2003 to 2009) are available on the website of the Environmental Protection Agency:

<http://www.sepa.gov.rs/index.php?id=13&akcija=showDocsAll>

b) The regulations relating to environmental protection are available on the website of the Ministry of Environment and Spatial Planning: <http://www.ekoplan.gov.rs/src/Glavna-0-document.htm>. Other regulations important for the domain of environmental protection are available on the website of other ministries and public authority bodies.

c) The National Programme for Protection of the Environment and other strategic documents can be found on the website of the Ministry of Environment and Spatial Planning: (<http://www.ekoplan.gov.rs/src/7-Ostala-dokumenta-127-document.htm>).

d) The Website of the Ministry of Environment and Spatial Planning (<http://www.ekoplan.gov.rs/src/3-Izvestaji-123-document.htm>) offers other information enabling implementation of national legislation that enforces the Aarhus Convention (inspection reports, environmental impact assessment study permits, reports on the participation in international meetings), etc.

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

Answer

- The obligation of producing a National Report on the State of the Environment is specified in Article 76 of the Law on Environmental Protection. Namely, the government submits annual reports to the National Assembly, on the state of the environment in the country. The law also regulates the obligation of competent authorities of the autonomous province or local self-government units to submit data necessary for compiling the National Report on the State of the Environment to the Environmental Protection Agency on a quarterly basis. Moreover, Article 76, Paragraph 4 states that the reports on the state of the environment shall be published in official bulletins of the Republic of Serbia, the autonomous province and local self-government units.

- As to the content of the report, Article 77 defines the obligatory content of the report in accordance with the Aarhus Convention, that is, information about the quality of the environment and threats to the environment.

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

Answer

Please refer to the answer regarding Paragraph 3 of this Article.

(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;

Answer

- Article 53 of the Law on Environmental Protection stipulates that an ecolabel is established for products intended for general consumption, except for foodstuffs, agricultural and other products made in accordance with the legislation regulating organic production, the production of beverages, pharmaceutical products and medical equipment whose production, marketing, consumption and disposal cause less environmental pollution compared to similar products, or if they are produced from recycled waste.

- See also the Rule book on detailed conditions and procedure for gaining the right to use an ecolabel and on the appearance and ways of using ecolabels for products, processes and services (Official Gazette of the Republic of Serbia No. 3/2009).
- Article 44 Paragraph 3 of the Law on Environmental Protection states that legal and natural entities may register a certified environmental protection management system in order to become part of the system of environmental protection management and control of the EU (EMAS system), in compliance with this law.
- The National Programme for Protection of the Environment specifies that environmental protection management systems (ISO 14000, EMAS) for industrial sites should be widely promoted as a voluntary measure. Businesses should be stimulated to implement the environmental protection management system. A register of businesses that set up environmental protection management systems should also be established.
- The data obtained from the Chamber of Commerce of the Republic of Serbia, 152 businesses have ISO 14001 certified systems.

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

Answer

- a) and b) Please refer to the answer regarding Paragraph 3 of this Article.
- c) Article 39 of the Law on Free Access to Information of Public Importance and the Instructions for Publishing the Review on the Work of the Public Authority, specify that state and other public bodies of authority bearing that status, as far as this law is concerned, shall compile an Review booklet in electronic form and publish it online i.e. on their websites in a manner that complies with the above-mentioned instructions. They are also given the option of publishing the booklet in some other form.

(h) With respect to paragraph 8, measures taken to develop mechanisms with a view of ensuring that sufficient product information is made available to the public;

Answer

- Article 52 of the Law on Environmental Protection states that producer or distributor shall be obliged to issue a warning on the declaration of raw material, semi-product or finished products of environmental pollution and damage to human health, which the product or its packaging causes or may cause. The warning must contain instructions for use or handling of the product, its contents and packaging in the process of production, use and disposal in compliance with the standards in force and instructions for handling.
- Please refer to the provisions of Article 53-54 of the Law on Environmental Protection (ecolabel) and Article 84 Paragraph 4 of the Law on Chemicals.
- Law on Nature Protection in Article 7 specifies that packaging must not be harmful to human health or to the environment. Packaging and re-packaging of products must be done in such a way so as to ensure that health and sanitary standards regarding products are met and product quality preserved.

- Article 41 of the Law on Advertising prohibits advertising that unjustifiably exploits people's concern for preserving health or environment, as well as their lack of knowledge on ways and means for environment protection, namely advertising that encourages or approves actions that are not in accordance with the regulations on environmental protection. (Article 42) Article 43 stipulates that an advertisement may not contain untruthful claims that a product or a service has a positive or negative effect on the protection of health or the environment, especially by emphasising words "environmentally safe", "eco-friendly", "eco-food", "healthy food" and similar words or symbols with the same meaning. The behaviour violating these provisions is defined as an offence in Article 108, Paragraph 1, Item 31.

- The Law on Food Safety contains special provisions related to "tracking and labelling new food, genetically modified food and genetically modified animal food" (Article 63).

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

Answer

Article 75 of the Law on Environmental Protection states that national and local pollutant registers shall be maintained in accordance with this law in order to monitor qualitative and quantitative changes in the environment and measures for the protection of the environment.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

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

Answer

-The monitoring in the Republic of Serbia is mostly focused on the quality of the surroundings and does not cover all priority areas.

- The effects of self-monitoring of polluters are very limited, primarily due to the lack of synchronization between laws and regulations.

- Soil monitoring as a systematic and permanent activity has not been organized on the entire territory of the Republic of Serbia.

- The development of legislation related to monitoring the condition of soil and water has not reached a satisfactory level in the Republic of Serbia.

- No suitable system of monitoring and data collection in a range of other areas (biodiversity, fish species, waste, trade in chemicals and their use, environmental noise monitoring), has been established.

- It has been pointed out, in the course of public debate, that the website of the Ministry of Environment and Spatial Planning does not feature information about strategic environmental impact assessments and cross-border impact assessments or makes reports available, namely, impact assessment studies, there is lack of information on the ways of public participation in the process of drafting legislation. Additionally, it has been

pointed out that most local self-government units do not fulfil obligations of publishing reports on the state of the environment.

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

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

Answer

a)

- A list of valid environmental legislation can be found on the following website of the Ministry of Environment and Spatial Planning: <http://www.ekoplan.gov.rs/src/Spisak-vazecih-propisa-iz-oblasti-zivotne-sredine-75-p1-list.htm>

- List of competent and authorized institutions (list of authorized institutions in the field of protection against ionising radiation; list of institutions authorized to perform systematic monitoring of the level of non-ionising radiation in the environment; list of organizations with a valid licence for conducting emission and immission measurements; list of organizations whose licence for conducting emission and immission measurements has been cancelled; overview of organizations meeting the criteria for measuring environmental noise; list of organizations authorized for waste examination) can be found on the following page on the website of the Ministry of Environment and Spatial Planning: <http://www.ekoplan.gov.rs/src/Spisak-nadleznih-i-ovlascenih-institucija-73-p1-list.htm>

- List of licences, the necessary documentation and licence granting procedure (the papers necessary for obtaining a licence for importing/exporting wild fauna and flora species protected in accordance with the Decree on Controlling Exploitation and Trade in Wild Fauna and Flora and Mushrooms; the procedure for obtaining a licence for measuring the level of environmental noise, licence for importing/exporting controlled substances and those that damage the ozone layer (freon) and a licence for importing/exporting fluorinated greenhouse gases; the procedure for obtaining an authorization for conducting emission and immission measurements; the procedure for obtaining authorizations for organizations qualified for waste examination; the documentation to be submitted when applying for a licence for cross-border movement of waste, the papers necessary for obtaining CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) licences can be found on the following page on the website of the Ministry of Environment and Spatial Planning: <http://www.ekoplan.gov.rs/src/Dozvole-50-p1-list.html>

b) The Environmental Protection Agency has set up or is the process of setting up databases containing information from a number of fields related to environmental protection. A networked application for displaying the results of monitoring obtained through the national automatic air quality monitoring network is available on the website of the Environmental Protection Agency. The project EuropeAid/124394/D/SUP/YU: Supply of Equipment for Air Monitoring project is nearing completion, namely, testing

of the equipment and software for data collection and display are underway. Activities aimed at completing, activation and verification of equipment, laboratory for calibration and software itself are being carried out and data currently displayed here, owing to pronounced public interest, should be considered preliminary and unverified, with possible errors due to the calculation of means for short time periods.

The data collected at the existing measurement points in Bor (Brezonik and Town Park), Smederevo (town centre, Ralja and Radinac), Belgrade (Pančevo Bridge and Zeleno brdo) and Beočin (town centre and waterworks) will be integrated in the application at a later date. The application can be accessed at:

http://www.sepa.gov.rs/ams/xajax_data/eas_kvalitet_vazduha_1.php.

c) In 2008 and 2009, the Environmental Protection Fund in collaboration with the Environmental Protection Agency participated in the implementation of a project for procuring an information system for an integrated register of polluters, since the fund is authorized to make official decisions on environmental pollution fees to be paid by those eligible in accordance with the Decree on types of pollution, criteria for calculating fees and fee payers, amount and method of calculation and charging of the pollution fee (Official Gazette of the Republic of Serbia No. 113/05, 6/07). The decisions are made on the basis of the reports submitted by the Inspectorate of the Ministry of Environment and Spatial Planning, as the integrated register of polluters has not been established yet.

On December 11th, 2009, the administrative board of the fund adopted the decision number 06-00-013/2009-05/9 granting the Environmental Protection Agency funds necessary for co-financing the information systems for packaging and packaging waste, waste management, air emissions and IS reporting as part of the National Register of Pollution Sources maintained by the Environmental Protection Agency.

d) As far as the competences of the Ministry of Telecommunications and Information Society are concerned, the government adopted the Strategy for the Development of Electronic Government in the Republic of Serbia from 2009 to 2013 (Official Gazette of the Republic of Serbia No. 83/2009 and 5/2010) that defines the main priorities in the field of advancing the state of the information society and specifies the activities that will influence the creation of infrastructural and other conditions making it possible for information from all the domains, including the environment, becomes more accessible through databases which the general public can access via public telecommunication networks.

e) Information on environmental protection in possession of the Institute for Nature Conservation of Serbia accessible to the public (the list of protected areas, legislation regulating the domain of nature conservation...) can be found on the website of the institute (www.zzps.rs) that is regularly updated. Research papers focusing on the protection of natural resources and other professional and scientific literature form part of the archives of the Institute for Nature Conservation of Serbia, are made available to the public through the library of the institute. All interested individuals, who fill in the library form online or in the library, can use the documentation of the Institute for Nature Conservation of Serbia, namely, have insight into scientific documents on protection, considered to be public data.

The Institute for Nature Conservation of Serbia regularly submits data related to the protection of natural resources to the Environmental Protection Agency and the Statistical Office of the Republic of Serbia, thus they become part of their database, easily accessible to the public.

f) Aarhus Centre Kragujevac (www.aarhuskg.rs/) provides interested members of the public with access to environmental information and facilitates public participation in the process of decision-making in the domain of the environment. The Aarhus Centre Kragujevac, as part of the Environmental Protection Office of the City of Kragujevac focuses on the implementation of principles of the Aarhus Convention and is part of the “green” package of laws adopted by the government.

g) At the level of the city of Belgrade, all information related to the state of the environment, measures taken with the aim of improving the state of the environment or environmental impact assessment is processed by the Institute of Public Health of the City of Belgrade “Dr Dragomir Karajović”, and Institute of Occupational Health of the Republic of Serbia “Dr Milan Jovanović Batut” and later distributed by the Secretariat for Environmental Protection of the City of Belgrade, once a month to more than 300 addresses in form of a monthly environmental bulletin. The annual Review of the Quality of the Environment in Belgrade has been published since 2003.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

Give relevant web site addresses, if available:

a) See the list of website addresses related to Article 4.

b)

Serbian Environmental Protection Agency: (www.sepa.gov.rs/):

<http://www.sepa.gov.rs/index.php?menu=10&id=206&akcija=showXlinked> (Integrated Register of Polluters)

<http://www.sepa.gov.rs/index.php?id=13&akcija=showDocsAll>
(Reports on the State of the Environment)

www.poverenik.org.rs/images/stories/dokumentacija-nova/IzvestajiPoverenika/2009.g.izvestaj.doc

(2009 Report on the Implantation of the Law on Free Access to Information of Public Importance)

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

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

Answer

The Law on Environmental Impact Assessment is the principal piece of legislation regulating the participation of the public in the process of making decisions on activities listed in Article 6 of the Aarhus Convention. The following bylaws elaborate the Law on Environmental Impact Assessment:

- Decree establishing the list of projects for which an impact assessment is mandatory and the list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08);
- Rule book on the content of requests for evaluating the need of developing impact assessments and on the contents of requests for specification of scope and contents of the environmental impact assessment studies (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the content of the environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the content, layout and methods of managing a public register on conducted procedures and adopted decisions related to environmental impact assessment (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the work of the Technical commission for environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the procedure of public access, presentation and public debate on the environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05).

Moreover, the participation of the public in the process of making the decisions regarding activities listed in Article 6 of the Aarhus Convention is regulated through the provisions of other pieces of legislation:

- Law on Environmental Protection;
- Law on Integrated Environmental Pollution Prevention and Control (Official Gazette of the Republic of Serbia No.135/2004);
- Decree on types of activities and plants for which an integrated license can be obtained (Official Gazette of the Republic of Serbia No. 84/05);
- Law on Planning and Construction,
- Law on Genetically Modified Organisms (Official Gazette of the Republic of Serbia No. 41/2009)

Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer

The Law on Environmental Protection and the Law on Environmental Impact Assessment contain definitions of the following notions: “public”, “public concerned” and “competent authority” (Law on Environmental Protection: Article 3. Items 26, 28 and 29; Law on Environmental Impact Assessment Article 2. Items 1, 7 and 2).

The Law on Environmental Impact Assessment also defines the meaning of other notions that can be of importance for the implementation of provisions of Article 6, such as: “project developer”, “authorities and organisations concerned”, “Environmental impact assessment study”, etc.

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;

Answer

- Please refer to the Law on Environmental Impact Assessment: Article 4, Paragraph 1, Item 1, and Article 5 (the obligation to obtain approval of an EIA study from the competent authority) and the Decree on establishing the list of projects for which the impact assessment is mandatory and a list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08) – “List I”. The rules of public participation procedure apply to the projects that are found in the List of projects requiring mandatory environmental impact assessment.

- Please refer to the Law on Integrated Environmental Pollution Prevention and Control: Article 4 (Types of activities and installations for which an integrated permit shall be granted) and the Decree on Types of Activities and Plants for Which an Integrated License Can be Obtained. The law defines the entire procedure of public participation in issuing integrated permits for plants to which the Law on Integrated Environmental Pollution Prevention and Control refers.

(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;

Answer

- Please refer to the Law on Environmental Impact Assessment: Article 4, Paragraph 1, Item 2; Article 5 (the obligation to obtain the approval of the EIA study from the competent authority). The environmental impact assessment procedure applies equally to the projects that are not featured in “List I”, if the competent authority makes a decision

to that effect, namely, if the projects in question are deemed to have potentially significant impact on the environment. The list of projects for which environmental impact assessment is not mandatory is defined in the Decree on establishing the list of projects for which the impact assessment is mandatory and the list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08) – “List II”.

(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;

Answer

- Articles 10, 11, 14, 15, 20, 25, 27, 29, 32 of the Law on Environmental Impact Assessment regulate the participation of the public concerned. Article 10 of this law specifies that the competent authority shall inform the public, as well as the authorities and organisations concerned about the submitted application for a decision on the need for an impact assessment within ten days from the date of receipt of a complete application.

- Articles 3, 6, 11, 12, 14, 15, 23 and 24 of the Law on Integrated Environmental Pollution Prevention and Control regulate the participation of the public concerned. Article 11 specifies the procedure of informing the authorities, organisations and the public about the receipt of an application for an integrated permit.

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

Answer

- The Law on Environmental Impact Assessment, namely, Articles 10, 11, 14, 15, 20, 21, 23, 24, 25, 27, 28 specify the deadlines for or related to the participation of the public in different stages of the environmental impact assessment procedure.

- Articles 11, 12, 14 and 15 of the Law on Integrated Environmental Pollution Prevention and Control stipulate the deadlines for the participation of the public in different stages of the procedure of issuing integrated permits.

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

Answer

- Article 10, Paragraph 1 of the Law on Environmental Impact Assessment specifies that the competent authority shall inform the public, as well as the authorities and organisations concerned about the submitted application for a decision on the need for an impact assessment within ten days from the date of receipt of a complete application. Paragraph 3 of this article states that members of the public concerned may submit their opinions within ten days from the date of receipt of the notice referred to in Paragraph 1

of this Article. Paragraph 4 specifies that the competent authority shall decide on the application within 15 days from the expiry of the period set out in par. 3 of this Article, taking into account the opinions of the authorities, organisations and the public concerned. Then the competent authority delivers its decision to project developers and informs the authorities, organizations and the public concerned about it within three days from the date when the decision was adopted (Paragraph 7).

- Please refer to Article 11 of the Law on Integrated Environmental Pollution Prevention and Control regulating the procedure of informing the authorities, organisations and the public about the receipt of an application for an integrated permit, while Articles 12 and 15 regulate the obligation of providing information about the draft of the permit and the issuance of an integrated permit, respectively. At the request of other authorities and organisations and the public concerned, the competent authority shall deliver a copy of the application for an integrated permit, as well as a copy of the draft permit. The competent authority shall inform other authorities and organisations and the public concerned through public media, by publishing information in at least one local newspaper covering the territory that will be affected by the impact of activities and plants. The information is to be made available via the Internet, as well.

(e) With respect to paragraph 5, measures taken to encourage prospective applicant to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

Answer

No special measures aimed at motivating the applicants to recognize the public concerned, take part in discussions or provide information as to the goals of application before applying for a permit are planned.

(f)U 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;

Answer

a)

- Please refer to the Law on Environmental Impact Assessment: Article 10, Paragraph 2; Article 12, Paragraph 2.

-Article 20, Paragraph 1 of the Law on Environmental Impact Assessment stipulates that the competent authority shall make the EIA study available to public and arrange for a public presentation and public debate on the study. Article 17 of the same law specifies the content of the environmental impact assessment study, namely, the content of all relevant information made available to the public. The Rule Book on Environmental Impact Assessment Study (Official Gazette of the Republic of Serbia No. 69/2005) gives

a more detailed specification of the prescribed content of certain elements stated in Article 17 of the Law on Environmental Impact Assessment.

b)

- The public concerned is granted access free of charge to all relevant information specified in Article 17, namely, the Rule Book on Environmental Impact Assessment Study. Please, refer also to Article 33 of the Law on Environmental Impact Assessment stipulating that project developer shall cover the costs, including those relating to the participation of the public.

- Please, refer to Article 3 of the Law on Integrated Environmental Pollution Prevention and Control stating the basic principles of integrated environmental pollution prevention and control, including the principle of public character of work. Article 6 of the Law on Integrated Environmental Pollution Prevention and Control defines that the competent authority shall provide, among other things, for public access to the contents of permit granting application, issued permits and monitoring results;

(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;

Answer

- Please, refer to the Law on Environmental Protection: Article 81, Paragraph 5; Law on Environmental Impact Assessment: Article 10. Paragraphs 2, 3; Article 14. Paragraph 2; Article 20; Article 21. Paragraphs 1, 2, 3; Article 23; Article 32. Paragraphs 2, 4;

- Rule Book on Public Access Procedure, Presentation and Public Debate about the Environmental Impact Assessment Study: Articles 4, 5, 6, 7.

- Please, refer to the Law on Integrated Environmental Pollution Prevention and Control stipulating that other authorities and organisations and representatives of the public concerned may submit to the competent authority their opinions within 15 days from the date of receipt of the notice. During the draft permit elaboration, the competent authority shall consider the opinions of other authorities and organisations and the public concerned (Article 12.).

(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;

Answer

- Law on Environmental Impact Assessment: Article 14, Paragraph 3; Article 21, Paragraphs 1, 2; Article 32. Paragraph 4.

- Rule Book on Public Access Procedure, Presentation and Public Debate about the Environmental Impact Assessment Study: Article 7.

- Please, refer also to Article 15 of Law on Integrated Environmental Pollution Prevention and Control stipulating that the competent authority shall decide on permit granting on the basis of the operator's application, the attached documentation, reports

and evaluation of the technical commission, as well as on the basis of the opinions obtained from other authorities and organisations and the public concerned.

(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;

Answer

- Article 25 of the Law on Environmental Impact Assessment specifies the obligation to inform the public about the decision, including the reasons for the decision. See also Article 196 of the Law on General Administrative Procedure stating the form and elements of a decision.

- Please, refer to Article 15 of the Law on Integrated Environmental Pollution Prevention and Control stipulating that the competent authority shall deliver to the operator the decision on granting permit, or refusal of the application for granting the permit and inform accordingly other authorities and organisations and the public concerned within eight days from the date of passing the decision. The competent authority shall deliver the written notice to other authorities and organisations. Article 31 defines that the responsible person in the competent authority shall pay a fine for a range of offences, including failure to inform other authorities, organisations and public in the prescribed way (Article 23);

(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

Answer

-Article 3. Law on Environmental Impact Assessment specifies that an environmental impact assessment is carried out in case of planned projects and projects being implemented, changes in technology, reconstruction, extension of capacity, termination of operations, and the removal of projects that may have significant impact on the environment. The procedure defined by law accordingly applies to projects that involve changes in technology, reconstruction, extension of capacity, termination of operations, etc.

- Please, refer also to Articles 18, 28 of the Law on Environmental Impact Assessment
- Article 18 of the Law on Integrated Environmental Pollution Prevention and Control defines the review procedure and the situations when a review procedure is carried out. The procedure itself is the same as when granting a permit.

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

Answer

In accordance with Article 15 of the Law on Genetically Modified Organisms (informing the public), following the receipt of the application, the Ministry of Agriculture shall make available to the public the contents of the application in at least one daily newspaper distributed on the entire territory of the Republic of Serbia, and through electronic media. The Ministry shall organize and hold a public debate lasting up to 30 days from the day when the application contents were made available to the public.

The opinion of the Expert Council and the final decision with a rationale shall be published by the Ministry in at least one daily newspaper distributed on the entire territory of the Republic of Serbia and through electronic media.

- Please, refer also to Article 63 of the Law on Food Safety specifying that upon placing genetically modified food and genetically modified feed on the market, including quantities in bulk, the business operator concerned shall provide the recipient of such food or feed with the prescribed data in writing.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

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

Answer

- The existing institutional and other capacities of the Ministry of Environment and Spatial Planning and the competent local self-government bodies are not sufficiently developed, therefore it is necessary to implement the measures aimed at their strengthening. The reactions of citizen's associations indicate that insufficient capacity, especially at the local level, is often taken advantage of in order to push less than well-argued studies through and obtain permits (this most often occurs in the context of hydro-electric power plants).

- The abuses related to the transparency of procedure aiming to obstruct decision making by failing to make the best use of the opportunities to influence the decisions of other competent authorities (ministry secretariats for urbanization, spatial planning and construction, the ministries responsible for water management, mining and energy, etc.)

- The requirements to provide copies of the entire documentation constitute infringement of copyright of project designers/consultants at the level of the autonomous province. The absence of the obligation to inform the public concerned about the assessments in writing may be one of the factors contributing to that.

- Conspicuously low level of participation of the bodies and organizations concerned (except professional organizations, such as organization focusing on the protection of the environment);

- The fact that the Law on Environmental Impact Assessment has not been harmonized with the Aarhus Convention (the provisions regulating “the assessment of impact of the current status”) and that the Law on Planning and Construction does not contain the provisions requiring environmental impact assessment, were recognized as problems in the course of the public debate.
- During the public debate, an opinion has been put forward stating that the fact the assessment is conducted on the basis of the conceptual design rather than the final version of design represents an obstacle in the implementation of Article 6 and, in turn, results in the absence of control of the implementation of the project itself.

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

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

Answer

a)

- In 2009, the Ministry of Environment and Spatial Planning passed decisions for 106 requests on the necessity to conduct environmental impact assessment studies, 45 requests to determine the scope and content of the environmental impact assessment study and 50 requests for approval of issuing environmental impact assessment studies. The Ministry responded to three requests for access to documents on impact assessment, based on the Law on Free Access to Information of Public Importance.
- In 2010, the Secretariat for Environmental Protection and Sustainable Development of the Autonomous Province of Vojvodina conducted 41 environmental impact assessment procedures, namely, phase I - deciding whether it was necessary to conduct an impact assessment study: 20 cases; phase II - determining the scope and content of the impact assessment study: 10 cases; phase III – deciding on the approval of the impact assessment study. The public participated in only four of all procedures conducted.
- In the Secretariat for Environmental Protection of the City of Belgrade, the number of requests related to the environmental impact assessment procedure reached 255 out of which 179 procedures were completed, 5 were suspended due to unresolved issues that should have been settled prior to the assessment, while 70 procedures are underway. In 2010, there were 187 requests related to the environmental impact assessment procedure. The decisions were passed in 102 cases, while 85 procedures are underway. The members of the public showed interest for giving their opinion in 10 assessment procedures in 2009 and 2010. There were no complaints coming from citizens or associations regarding impact assessment procedures, namely, breaching environmental regulations. Instead, there were only three complaints lodged by project holders.
- In the Environmental Protection Office of the City of Novi Sad, there were 109 cases related to environmental impact assessment, while this figure reached 38, in 2010 (until November 15th). Throughout this period 6 (six) members of the public showed interest in

giving their opinion regarding impact assessment procedures. There were no complaints coming from citizens or associations regarding impact assessment procedures, namely, breaching environmental regulations.

- In the City Administration for Economy, Sustainable Development and Environmental Protection Office, in Nis there were a hundred cases requiring environmental impact assessment from 2009 until November 2010 for which public announcements were given 181 times, as to inform the public concerned. Members of the public showed interest for giving their opinion in a total of 3 environmental impact assessments (base station, reusable waste dump and petrol station). There were no complaints coming from citizens or associations regarding impact assessment procedures, namely, breaching environmental regulations.

b) In accordance with Article 1 of the Law on Environmental Impact Assessment, the provisions of this law do not apply to projects designated for national defence purposes. There were two such projects in the last couple of years. In these cases the Ministry of Defence issues a certificate confirming that the projects in question are implemented for defence purpose for which special regulations apply.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

Give relevant web site addresses, if available:

a) See the list of website addresses related to Article 4.

b)

<http://www.ekoplan.gov.rs/src/Oglasavanje-83-p2-list.htm>

Ministry of the Environment and Spatial Planning

<http://www.eko.vojvodina.gov.rs/?q=node/133>

Secretariat for Environmental Protection and Sustainable Development of the Autonomous Province of Vojvodina

<http://www.beograd.rs/cms/view.php?id=2038>; www.eko.bg.gov.rs.

Secretariat for Environmental Protection of the City of Belgrade

www.aarhuskg.rs

Aarhus Centre Kragujevac

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7.

- Law on Strategic Environmental Impact Assessment;

- Law on Environmental Protection: Article 10; Article 14, Paragraph 1, Item 3; Article 35; Article 81, Paragraph 1, Item 1 and Paragraph 2; Law on Planning and Construction: Article 15, Paragraph 2; Article 18, Paragraph 2; Article 20, Paragraph 2; Article 22.

Paragraph 2, Article 30. Paragraph 1. Item 4; Article 41; Article 46, Paragraph 2, Item 7; Article 50, 51; Law on Air Protection: Article 37, Paragraph 3; Law on Waters: Articles 37-39; Article 25, Item 7; Law on Nature Protection: Article 54, Paragraphs 6-8; Article 115; Law on Forests: Article 21; Law on Energy: Article 5, 6; Law on Agriculture and Rural Development (Official Gazette of the Republic of Serbia No. 41/09): Article 5; etc.

Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9

Answer

The Law on Strategic Environmental Impact Assessment contain definitions of the following notions: “public” and “public concerned” (Article 3, Item 5 and 6) that can be said to have been harmonized with the definitions in the Aarhus Convention.

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

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

Answer

- Article 81 of the Law on Environmental Protection states that the participation of the public regarding strategic impact assessment shall be ensured by opening spatial and urban plans, i.e. any other plan or programme from Article 35 of this law to the public scrutiny. The strategic environmental impact assessment is developed for certain plans, programs and principles in the domain of spatial and urban planning or land utilization, agriculture, forestry, fishing, hunting, energy, industry, traffic, waste management, water management, telecommunications, tourism, infrastructure systems, protection of natural and cultural resources, flora and fauna and their habitats etc., and is an integral part of the plan, program or basis (Article 35). The strategic environmental impact assessment must be harmonized with other environmental impact assessments, as well as with environmental protection plans and programmes and is carried out in accordance with the procedure set out in a special law. Autonomous province or local self-government units, within their rights and responsibilities, define the types of plans and programmes for which the strategic impact assessment will be developed.

- Article 19 of the Law on Strategic Environmental Impact Assessment specifies that public participation is an integral part of the decision-making process. Prior to submitting the request for approval of the strategic assessment report the competent authority responsible for preparation of plans and programs shall provide for public participation in reviewing the strategic assessment report. The public shall review the report within the process of displaying the plans and programmes for public scrutiny and during public debate, unless otherwise provided by law. The competent planning authority informs the public about the method and deadlines for reviewing the content of the report and submission of opinion, as well as the time and venue of holding the public debate, in accordance with the law regulating the procedure of adoption of plans and programmes.

The competent planning authority compiles the report on the participation of interested bodies, organisations and the public, which shall encompass all the inputs referred to in Article 18, Paragraph 2 of this law, as well as the inputs submitted during public scrutiny and public debate on the plans and programmes, and the strategic assessment report referred to in Article 19 of this law. The report is compiled within 30 days from the date of completion of public debate and includes explanations on all the accepted or rejected opinions (Article 20). According to Article 22, based on the evaluation in Article 21 of this law, the competent environmental protection authority grants approval to the strategic assessment report or rejects the request for granting approval. The deadline for issuing approval is 30 days from the day of receipt of the request submitted by the competent planning authority. The authority competent for preparing the plan or program cannot submit the plan or program for further adoption without having obtained approval of the report on the strategic assessment, issued by the authority competent for environmental protection. The Ministry responsible for environmental protection shall conduct the exchange of information on transboundary impact of plans and programmes on the environment (Article 23). Article 24 stipulates that the strategic assessment report and the results of participation of the authorities, organisations and public concerned and other states in the cases of transboundary impact shall become an integral part of the documentation that provides the basis for plans and programmes. The competent planning authority shall provide access to the data referred to in Paragraph 1 of this Article after the adoption of plans and programmes, under the conditions set forth by law.

-The Law on Planning and Construction specifies that strategic environmental impact assessment is an integral part of the Spatial Plan of the Republic of Serbia (Article 15), regional spatial plan (Article 18), spatial plan of the unit of local self-government (Article 20), spatial plan of the area used for special purposes (Article 22). Article 30 states that depending on the type of planning document, regulatory rules also contain, among other things, the impact of the strategic assessment document on the environment. The decision on developing planning documents also includes, the obligation, or absence thereof, of producing the strategic environmental impact assessment (Article 46). The Law on Planning and Construction stipulates that public participation, as regards urban and spatial planning, takes place during public discussion, meaning that the strategic impact assessment report is reviewed at the same time. According to Article 41, planning documents with annexes must be accessible for public scrutiny during the period of validity of the documents, in the premises of the entity of the decision-maker. The planning document is displayed for public scrutiny takes place after technical review is completed and is announced in a daily and local newspaper (Article 50). The display of the planning document for public scrutiny is overseen by the Spatial Planning Agency of the Republic of Serbia i.e. the body of the local self-government unit responsible for spatial and urban planning. The responsible body, i.e. the Committee for plans, compiles a report on the conducted public scrutiny of the planning document, which contains information on the completed public scrutiny process, with all the remarks and decisions on account of every remark. The report is submitted to the developer of the planning document, who is obliged to act upon the decisions within 30 days from the day of delivery of the report. Moreover, in the event that, following public insight into the draft planning document, the responsible agency, i.e. the Committee for plans establishes that the adopted remarks fundamentally alter the planning document, it can make a decision

instructing the developer of the planning document to prepare a new draft, or concept of the planning document, within a deadline which cannot exceed 60 days from the day on which the decision was adopted (Article 51).

- Article 37 of the Law on Air Protection stipulates that the government adopts a four-year National Programme for Gradual Reduction of Maximum Annual Emissions of Pollutants and that the public and the public concerned must have access to the programme,

- Article 37 of the Law on Waters specifies the obligation of carrying out the environmental impact assessment for the Strategy and water management plan and special water management plan in accordance with the legislation regulating the field of environmental protection. Articles 38 and 39 regulate the participation of the public in the preparation of the water management plan and the procedure for actions to be carried out following public remarks, respectively. Article 25, Item 7 states that the public has the right to information about the state of waters and the work of competent authorities responsible for water management and to participate in the processes of preparation and adoption of water management plans and control of their implementation.

- Article 43 of the Law on Nature Protection states that the competent authority provides public scrutiny and organizes a public debate about the draft of a protected area designation document, as well as about the supporting documents provided by experts – the protection study with the accompanying maps. According to Article 54, Paragraphs 6-8 of the Law on Nature Protection, the management of a protected area shall inform the public about the proposed plan for managing the protected area. Informing the public means also providing public scrutiny of the proposed plan. Article 116 states that public participation shall be provided in accordance with this law in the course of developing regulations and documents designating a protected area, protected area management plans and plans for utilization of natural resources.

- Article 21 of the Law on Forests specifies that the Forest Development Plan i.e. plan of forest development in a national park (as a document determining the directions of forest and forestry development, with a plan of implementation in the forest region) shall include, among other things a strategic environmental impact assessment report.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

Describe any obstacles encountered in the implementation of article 7.

Answer

- Incompatibility of sectoral regulations that provide the basis for the adoption of plans and programmes with the Law on Strategic Environmental Impact Assessment. (since the strategic impact assessment is performed for plans and programmes from different sectors and not only those that refer to spatial and urban planning, a problem with public participation occurs for plans and programmes of different sectors where the laws applying to these sectors, based on which such plans and programmes are adopted, do not provide for public participation.)

- Limited possibilities of protecting the right to equal treatment in administrative and judicial procedures because the public participate only in the third phase (phase I –

preparation, phase II – development of an expert evaluation, phase III – decision on the strategic impact assessment report)

- Some associations consider that public participation in designing strategic state documents and processes related to drafting laws, by-laws and rule books is not at a satisfactory level (for example, “no associations participated” in the process of drawing up the “Green Pack” consisting of 14 laws adopted in May 2009). The role of the media, namely, media coverage of environmental issues is also unsatisfactory.

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

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

Answer

- In the period 2009-2010, the ministry approved 5 strategic impact assessment reports. No data is available about the total number of strategic impact assessments carried out at the level of local self-government units.

- 51 procedures comprising the strategic environmental impact assessment were carried out by the Secretariat for Environmental Protection and Sustainable Development of the Autonomous Province of Vojvodina, in 2010. These procedures consisted mainly of issuing opinions related to decisions not to develop strategic environmental impact assessments and about opinions on strategic environmental impact assessment reports at local level. The majority of decisions referred to the plans and programmes in the field of forestry and fishing.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

Give relevant web site addresses, if available

a) See the list of website addresses related to Article 4.

b) <http://www.rapp.gov.rs/>

Agency for Spatial Planning of the Republic of Serbia

<http://www.eko.vojvodina.gov.rs/?q=node/134>

Secretariat for Environmental Protection and Sustainable Development of the Autonomous Province of Vojvodina

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

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8. To the extent appropriate, describe the transposition of the

relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer

- Article 77 of the Law on State Administration stipulates that a ministry and a special organisation shall be obliged to undertake public debate in the procedure of preparation of a law which essentially changes the legal regime in one field or which regulates issues of particular relevance for public. The procedure of conducting a public debate in the preparation of a law shall be regulated in detail by the Rules of Procedure of the government.

- Please, refer to Article 41-45 of the Rules of Procedure of the government (Official Gazette of the Republic of Serbia No. 61/2006 – consolidated version, 69/2008, 88/2009, 33/2010 and 69/2010). A similar provision is to be found in the Rules of Procedure of the National Assembly of the Republic of Serbia. A uniform legislative methodology is applied in the process of preparing legislation adopted by the National Assembly (Official Gazette of the Republic of Serbia No. 21/10).

- Several environmental regulations allow for the possibility of participation of the public in the preparation of regulations. Thus, for example Article 116 of the Law on Nature Protection stipulates that the participation of the public in accordance with this law is planned in the process of drawing up regulations and documents designating protected natural resources and those regulating the plans for managing protected areas and the plans for using natural resources. Article 6, Item 20 of the Law on the Protection against Ionising Radiation and on Nuclear Safety expressly states that the agency shall provide public scrutiny in the course of the implementation of this law and “in the process of adopting by-laws”. Article 10 of the Law on Food Safety states that “Public debates shall be held in the course of drafting, appraisal and amendment of the food legislation in accordance with current regulations, with direct or indirect participation of all interested parties, except in emergencies when this would be impossible.”

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

Describe any obstacles encountered in the implementation of article 8.

Answer

- The obligation of ensuring that the public participation procedure is carried out is not incorporated in all pieces of legislation that may be of importance for the field of environment.

- Although competent authorities carry out different activities aimed at informing the public concerned and collecting opinions of members of the public during the process of preparing and adopting environmental legislation or regulations that may be of importance for the field of environment, some associations maintain that this procedure is not implemented consistently and that the public does not have enough possibilities to influence the adoption of regulations.

- Relatively low interest of the public to participate in the procedures related to drafting legislation.
- Insufficient knowledge of the public concerned as to how, when and to whom to submit their opinions.

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

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

- The Ministry of the Environment and Spatial Planning posts all draft legislation on its website (www.ekoplan.gov.rs) and members of the public concerned can submit their comments and participate in the process of adopting regulations.
- In the period 2007-2008, the ministry engaged the citizen's association "Environmental Ambassadors", to hold training sessions intended for authorities in the Autonomous Province of Vojvodina and at local level on procedures of public participation in decision making.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

Give relevant web site addresses, if available:

<http://www.ekoplan.gov.rs/src/2-Nacrti-propisa-117-document.htm>

<http://www.ekoplan.gov.rs/src/2-Nacrti-propisa-163-document.htm>

Ministry of the Environment and Spatial Planning

<http://www.mpravde.gov.rs/cr/articles/zakonodavna-aktivnost/radne-verzije-zakona/>

<http://www.mpravde.gov.rs/cr/articles/zakonodavna-aktivnost/nacrti-zakona/>

<http://www.mpravde.gov.rs/cr/articles/zakonodavna-aktivnost/zakoni-u-skupstinskoj-proceduri/>

Ministry of Justice

<http://www.aarhuskg.rs/page/nacrti-pravilnika/>

Aarhus Centre Kragujevac

http://www.srbatom.gov.rs/cir/index.php?option=com_content&view=category&id=42:2010-08-27-20-19-06&layout=blog&Itemid=72

Serbian Radiation Protection and Nuclear Safety Agency

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

9

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

- The Constitution of the Republic of Serbia, Law on Environmental Protection, Law on Integrated Environmental Pollution Prevention and Control, Law on Free Access to Information of Public Importance, Law on State Administration, Law on Self-Government, Law on General Administrative Procedure

- Law on Administrative Disputes (Official Gazette of the Republic of Serbia No. 111/2009)
- Civil Procedure Code (Official Gazette of the Republic of Serbia No. 125/2004)
- Law on Executive Procedure (Official Gazette of the Republic of Serbia No. 125/04)
- Law on Contractual Relations (Official Gazette of the Republic of Serbia No. 29/78, 39/85, 45/89, 57/89, Official Gazette of the Federal Republic of Yugoslavia No.31/93)
- Law on the Protector of Citizens (Official Gazette of the Republic of Serbia No. 79/2005, 54/2007)
- Law on Mediation (Official Gazette of the Republic of Serbia No. 18/2005)
- Criminal Procedure Code (Official Gazette of the Republic of Serbia No. 46/2006)
- Criminal Code (Official Gazette of the Republic of Serbia No. 85/2005)
- Law on the Liability of Legal Entities for Criminal Offences (Official Gazette of the Republic of Serbia No. 97/2008)
- Law on Constitutional Court (Official Gazette of the Republic of Serbia No. 109/2007)
- Law on Infractions (Official Gazette of the Republic of Serbia No. 101/05)
- Law on Economic Offences (Official Gazette of the Federal Republic of Yugoslavia No. 4/77, 36/77, 14/85, 10/86, 74/87, 57/89 and 3/90 and Official Gazette of the Federal Republic of Yugoslavia No. 27/92, 16/93, 31/93, 41/93, 50/93, 24/94, 28/96 and 64/2001 and Official Gazette of the Republic of Serbia No. 101/2005)
- Law on Lawyers (Official Gazette of the Federal Republic of Yugoslavia No. 24/98, 26/98, 69/00, 11/02 and 72/02)

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.

Answer

- Please, refer to Article 21 of the Constitution of the Republic of Serbia stating that everyone has the right to equal legal protection, without discrimination, as well as that all direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability is prohibited.
- Article 81a of the Law on Environmental Protection stipulates that the public concerned is entitled to exercise their right to healthy environment by initiating the decision review procedure before the competent authority or the court in accordance with the law.
- Please, refer to Article 6 of the Law on Free Access to Information of Public Importance defining the principle of equality according to which everyone is allowed to exercise the rights in this law under equal conditions, regardless of their nationality, temporary or permanent residence or place of establishment, or any personal characteristic such as race, religion, national or ethnic background, gender, etc.

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;

Answer

- Please, refer to Article 40 of the Law on General Administrative Procedure specifying that a party to the procedure may be any natural or legal person. A government authority, a territorial and local self-government authority, an organisation, a local community, a group of people, etc., who do not have the status of a legal person, may be parties to the procedure if they are holders of rights and obligations or legal interests which are to be decided in the procedure (Paragraph 1 and 2).

- Article 22 of the Law on Free Access to Information of Public Importance stipulates that an applicant may lodge a complaint with the Commissioner if: a public authority rejects or denies an applicant's request, within 15 days of service of the relevant decision or other document; a public authority fails to reply within 48 hours of receipt of the requests which can reasonably be assumed to bear on the protection of a person's life or freedom and/or the protection of public health and the environment; a public authority made the issuance of a copy of a document containing the requested information conditional on the payment of a fee exceeding the necessary reproduction costs; a public authority does not grant access to a document containing the requested information using the equipment available to a public authority or does not allow the applicant to have access to a document using his/her own equipment; a public authority does not grant access to a document containing the requested information and/or does not issue a copy of the document in the language in which the request was submitted, although it has the document in the language in question; a public authority otherwise obstructs or prevents an applicant from exercising his/her freedom of access to information of public importance, contrary to the provisions of this law. Complaints are inadmissible if lodged against decisions of the National Assembly, the President of the Republic, the Government of the Republic of Serbia, the Supreme Court of Serbia, the Constitutional Court and the Public Prosecutor of the Republic of Serbia (Article 22, Paragraph 2), but an administrative dispute complaint may be lodged against the decision (Article 22, Paragraph 3). The Commissioner's decisions are binding, final and enforceable (Article 28, Paragraph 1), while failure to comply with a decision of the Commissioner is punishable by this law (Article 46, Paragraph 1, Item.14). If they are not complied with voluntarily, the Commissioner's decisions shall be administratively enforced by the Commissioner by coercive means i.e. pronouncement of fines. If the Commissioner is unable to enforce his/her decisions, the law stipulates that the government shall ensure compliance with the Commissioner's decisions. Article 27 states that an administrative dispute may be instituted against a decision of the Commissioner. Administrative disputes regarding the exercise of the right to free access to information of public importance shall be resolved in expedited proceedings.

- According to Article 81 of the Law on State Administration, state administration authorities shall provide a suitable procedure for submission of complaints about their work and about improper conduct of employees. In the case of a submitted complaint, the state administration authority shall respond within 15 days from the day the complaint was served, if the person submitting a complaint requires an answer. State administration authorities are obliged to examine the issues covered by complaints at least once every 30 days.
- Article 11 of the Law on Administrative Disputes stipulates that a party to an administrative dispute may be any natural or legal person maintaining that an administrative document infringes on their rights or legal interests defined by law. A government authority, an authority of the autonomous province and local self-government authority, an organisation, a local community, a group of people, etc., who do not have the status of a legal person, may be parties to an administrative dispute, if they are holders of rights and obligations or legal interests which are to be decided in the administrative dispute (Paragraph 1 and 2).
- Please, refer to Article 29 of the Law on Constitutional Court regulating the issue of the participants in procedures before the Constitutional Court.
- Please, refer to Article 25 of the Law on the Protector of Citizens stating that any physical or legal, local or foreign person who considers that their rights have been violated by an act, action or failure to act of an administrative authority may file a complaint with the Protector of Citizens. The Protector of Citizens shall direct the complainant to instigate relevant legal proceedings when such proceedings are provided, and shall not instigate investigation until all legal remedies have been exhausted.
- Please, refer to Articles 8, 12 and 18 of the Law on Mediation stipulating that should the parties propose by a mutual agreement or should the court find that the dispute can be settled successfully through mediation, the parties shall be instructed to mediation. A mediator is a third-party neutral person who mediates between two parties for the purpose of settling their dispute in compliance with the mediation principles.

(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;

Answer

- Please, refer to Article 24 of the Law on Free Access to Information of Public Importance stating that the Commissioner shall pass a decision without delay and within 30 days from the submission of the complaint at the latest, having first given the public authority, and where appropriate also the applicant, an opportunity to reply in writing. The proceedings before the Commissioner are governed by the provisions of the Law on General Administrative Procedure pertaining to the appellate decisions of second-instance bodies.
- Please, refer to Article 14 of the Law on General Administrative Procedure stipulating that the procedure shall be conducted without delay and at the lowest possible cost for the parties and other participants in the procedure, yet to ensure that the facts which are

essential for adoption of a lawful and fair decision are accurately and completely established. According to Article 7 of the Law on General Administrative Procedure, the authorities conducting procedures and deciding in administrative matters shall ensure efficient, high-quality and complete exercise and protection of rights and legal interests of natural persons, legal persons or other parties.

- Article 110 of the Law on General Administrative Procedure states that the authority conducting the procedure may exempt a party from payment of costs, either in full or in part, if it finds that such costs cannot be borne without prejudice to the necessary sustenance of the party or his/her family. The authority shall adopt such a conclusion at the request of the party, on the basis of a certificate of means issued by the competent authority (Paragraph 1). Please, refer also to Article 164 of the Civil Procedure Code specifying that the court shall exempt a party from the liability of paying the costs of the proceedings where that party's material situation does not allow them to bear such costs.

(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;

Answer

- Please, refer to Article 24 of the Law on Free Access to Information of Public Importance specifying that the Commissioner shall pass a decision without delay and within 30 days from the submission of the complaint at the latest, having first given the public authority, and where appropriate also the applicant, an opportunity to reply in writing. The Commissioner shall pass a decision ordering a public authority to grant free access to information of public importance to the applicant where he/she finds a complaint justified.

- Please, refer to Article 28 of the Law on Free Access to Information of Public Importance according to which the Commissioner's decisions are binding, final and enforceable, failure to comply with a decision of the Commissioner is punishable by this law (Article 46, Paragraph 1, Item.14). If they are not complied with voluntarily, the Commissioner's decisions are administratively enforced by the Commissioner by coercive means, i.e. pronouncement of fines. If the Commissioner is unable to enforce his/her decisions, the law stipulates that the government shall ensure compliance with the Commissioner's decisions.

- In accordance with Article 196 of the Law on General Administrative Procedure, decisions shall be in written form and contain, among other elements, the rationale and notice of legal remedy.

(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;

Answer

- Please, refer to Article 11 of the Law on Environmental Impact Assessment stipulating that the developer of the project and the public concerned are entitled to file a complaint against the decision of the competent authority on the application for a decision on the need for an impact assessment. Moreover, the project developer and public concerned are entitled to file a complaint against the decision of the competent authority on the application for a decision on the scope and content of the environmental impact assessment study. (Article 15)

- Please, refer to Articles 24, 25 and 26 of the Law on Environmental Impact Assessment specifying that the competent authority adopts the decision granting the approval of the EIA study or refusing the application for approval of the EIA study, based on the completed EIA procedure and the report of the technical commission. The decision is delivered to the project developer within ten days from the date of receipt of the report. The decision of the competent authority referred to in Article 24 of this Law is final. The applicant and the public concerned are entitled to initiate the administrative court proceeding against the decision.

- Please, refer to Article 11 of the Law on Administrative Disputes; Articles 73 and 186 of the Civil Procedure Code; Articles 53-66 of the Criminal Code; Article 29 of the Law on Constitutional Court; Article 25 of the Law on the Protector of Citizens; Articles 8, 12, 18 of the Law on Mediation.

(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;

Answer

- General provisions of Article 113 of the Law on General Administrative Procedure stipulate that the competent authority institutes a procedure either ex officio or at the request of a party.

- Please, refer to Article 9 of the Law on Environmental Protection specifying that a citizen or groups of citizens, their associations, professional and other organizations are entitled to exercise their right to healthy environment before the competent authority or the court in accordance with the law. Article 81a of the Law on Environmental Protection stipulates that the public concerned are entitled to exercise their right to healthy environment by initiating the decision review procedure before the competent authority or the court in accordance with the law. Moreover, according to Article 107 of the Law on Environmental Protection, every person affected by damage has right to reimbursement. The request for reimbursement may be submitted directly to the polluter. Court procedure for reimbursement is urgent.

- Please, refer to Article 26 of the Law on Environmental Impact Assessment stating that the applicant and the public concerned are entitled to initiate the administrative court

procedure against the decision related to the application for approval of the EIA study or refusal of the application.

- Article 15 of the Law on Integrated Environmental Pollution Prevention and Control specifies that no complaints can be filed, while administrative court procedure can be instigated against the decision of the competent authority on permit granting, or refusing of the permit granting application.

- Please, refer to Article 54 of the Criminal Procedure Code stipulating that the request for criminal prosecution is submitted to the competent public prosecutor, while private charges are submitted to the competent court. See also Article 224 of the Criminal Procedure Code stating that criminal charges are presented to the competent public prosecutor. The inspector responsible for the environment may, within the limits of his authority, file criminal charges with the competent authority if a criminal offence was committed. Criminal offences in the domain of the environment are defined in Chapter XIV of the Criminal Code.

- Please, refer also to Article 6 of the Law on the Liability of Legal Entities for Criminal Offences specifying that a legal person is held accountable for criminal offences which have been committed for the benefit of the legal person by a responsible person within the remit, that is, powers thereof. The liability also exists where the lack of supervision or control by the responsible person allowed the commission of crime for the benefit of that legal person by a natural person operating under the supervision and control of the responsible person. See also Article 35 of this law stating that criminal proceedings are, as a rule, instituted and conducted jointly against a legal entity and the responsible person, and a single sentence is passed.

- Please, refer to Articles 1 and 186 of the Civil Procedure Code. According to Article 73 of the Civil Procedure Code, any natural person or legal entity may be a party to the proceedings, while Article 186 states that civil action is initiated by filing a complaint.

- Article 156 of the Law on Contractual Relations states that everyone can demand from everyone else to remove the source of danger that may cause considerable damage to them or to an unspecified number of individuals and to refrain from an activity that causes harassment or potential damage, if the cause of harassment or damage cannot be prevented by applying appropriate measures (Paragraph 1).

- Please refer to Article 116 of the Law on Infractions stipulating that the injured party has the right to instigate offence proceedings through his/her legal representative or an authorized person. The inspector responsible for the environment may, within the limits of his authority, file charges with the competent authority if an offence was committed. Apart from instigating offence proceedings, the inspector is also a party to the proceedings.

- Please, refer also to Article 86 of the Law on Economic Offences specifying that the request for prosecution for economic offences are submitted to the competent public prosecutor, in writing or orally. The inspector responsible for the environment may, within the limits of his authority, file charges with the competent authority if an economic offence was committed.

- Please, refer also to Article 170 of the Constitution stating that a constitutional appeal may be lodged against individual general acts or actions performed by state bodies or organisations exercising delegated public powers which violate or deny human or minority rights and

freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or not specified..

- See also the relevant legislation specifying mandatory form and elements of decisions and the right to inspect the documents. Namely, please refer to Article 196 of the Law on General Administrative Procedure defining the elements of the decisions made by the competent authority and Article 70 stating that the right to inspect documents and to photocopy certain documents at their own expense is granted to any third party who has made credible their legal interest. See also Article 153 of the Law on Infractions, specifying that the party instigating offence proceedings, the defendant, the defendant's defence lawyer, the representative of a legal entity, namely, the person authorized by the legal entity, the injured party and his/her legal representative, namely attorney and all other interested individuals have the right to examine and transcribe the files related to the case. Please, refer also to Article 145 of the Civil Procedure Code stipulating that parties may examine, photocopy and transcribe the briefs of the proceedings. Other persons who have a justified interest may also examine and transcribe certain briefs. Please, refer also to Article 60 and 170 of the Criminal Procedure Code specifying the right of the injured party, the injured party as a plaintiff and private prosecutor, namely, the accused, the suspect and the attorney i.e. anyone having a justified interest to examine case documents and objects that are considered to be evidence.

(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;

Answer

- Please, refer also to Article 32 of the Constitution of the Republic of Serbia stating that everyone has the right to a public hearing before an independent and impartial tribunal established by the law within reasonable time which shall pronounce judgement on their rights and obligations, grounds for suspicion resulting in initiated procedure and accusations brought against them. The public may be excluded from all or part of the court procedure only in the interest of protecting national security, public order and morals in a democratic society, interests of juveniles or the protection of privacy of the parties, in accordance with the law.

- Please, refer also to Article 12 of the Law on General Administrative Procedure stipulating that the parties have the right to file an appeal against a decision adopted in the first instance. Article 14 of this law states that the procedure shall be conducted without delay and at the lowest possible cost for the parties and other participants in the procedure, yet to ensure that the facts which are essential for adoption of a lawful and fair decision are accurately and completely established.

- Please, refer to Article 56 of the Law on Infractions stipulating that the protective measure consisting of making the verdict available to the public will be adopted if the court believes that it would be particularly useful for the public to see the verdict, especially if making the verdict public would contribute to eliminating threats to human lives or health or to protecting the safety of goods, services or the economy. Article 83 states that the procedure is conducted without delay, but in such a way so as not to affect

the rendering of lawful and proper verdict. Article 87 stipulates that an appeal can be lodged against first-instance decisions of the competent authorities

- Please, refer to Article 222 of the Law on Infractions specifying that a written decision shall contain the preamble, wording, rationale, notice of legal remedy, number and date of the decision, signature of the judge and stamp of the authority.

- Please, refer to Article 118 of the Law on Economic Offences stating that authorized persons may file an appeal against a judgment rendered at first instance within eight days from the day the copy of the judgment was served.

- Please, refer to Article 360 of the Criminal Procedure Code stating that the pronounced judgment shall be drawn up in writing within eight days after it was read. In accordance with Article 363 of the Criminal Procedure Code, authorized persons may file an appeal against a judgment rendered at first instance within fifteen days from the day the copy of the judgment was served.

- Please, refer to Article 291 of the Law on Executive Procedure stipulating that a temporary injunction may be granted before and during court or administrative procedure, as well as after these procedures have been completed, until the ruling is enforced.

(d) With respect to paragraph 5, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer

- The Constitution of the Republic of Serbia guarantees everyone the right to legal assistance (Article 67). This is the first time in our legal system that this right has become guaranteed in the Constitution where it is stated that the right to legal assistance, including free legal assistance is exercised in accordance with the law.

- Provisions on legal assistance are incorporated in several laws, each regulating specific forms of legal aid. Law on Self-Government, Article 20, Item 31, specifies that the municipality organizes a legal assistance service available to the public. The Law on Lawyers, Article 25, stipulates that Bar Association can organize free legal aid on the territory of the first-instance court. In terms of criminal law protection, legal assistance, including free legal assistance is partially regulated by the Criminal Procedure Code and Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (Official Gazette of the Republic of Serbia No. 85/05). Free legal representation of parties in civil proceedings is regulated by Article 164 of the Civil Procedure Code.

- One of the principles of the Law on General Administrative Procedure (Article 15) is the principle of assistance to the parties. Article 110 of the Law on General Administrative Procedure states that a party may be exempt from payment of costs, if such costs cannot be borne without prejudice to the necessary sustenance of the party or his/her family.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

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

Answer

- There are differences in the understanding of the essence of judicial procedures between the general public and members of the legal profession, which results in complaints about the functioning of courts. Moreover, there is a false perception that the Ministry of Justice is responsible for the state of affairs in all the bodies that make up the legal system. Many people do not understand fully the functioning of the judiciary in a democratic society. This leads to a situation where citizens do not use courts as much as they should to achieve legal protection in the cases of violation of fundamental rights and freedoms.
- The Ministry of Justice has developed the National Judicial Reform Strategy which revealed that access to case records is restricted to litigants, counsel, and a small number of other interested individuals. As part of the National Judicial Reform Strategy, the Ministry of Justice began implementing the project of introducing new business software, i.e. automated case management programme for courts in Serbia. The project has been carried out in commercial courts and it will soon be completed in all courts throughout Serbia. After the introduction of the system, citizens will have free access to case data, while preserving litigant privacy. Thus, open access will result in an objective perspective of courts, judges and court proceedings. The possibility of misinforming the public will be reduced and public understanding and trust in the judiciary will be improved.
- Recognizing that the strength and vitality of the judiciary depend on citizens who understand and support its role, the judicial system aims to promote equal access to judiciary for all, including disadvantaged citizens, by passing a new law that would establish a comprehensive and efficient system of free legal assistance through legal aid programmes, accessible to all requiring such assistance. The new law will allow setting up a comprehensive system of legal assistance that will, in turn, provide defendants in civil and criminal cases with more efficient assistance and enable the creation of standardized criteria for granting legal aid.

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

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

Answer

- The Sector for Control and Monitoring of the Ministry of Environment and Spatial Planning in collaboration with the Ministry of Justice and Magistrates' Association, Judicial Centre and the OSCE, organized the second round of training for judicial authorities entitled "Supporting the Implementation of Legislation in the Field of Environmental Protection". This time, the training was intended for magistrates and

inspectors specializing in environmental protection. In the period from May until October 2009, six training sessions were held for over 450 participants, 300 of whom were magistrates, 90 national and 30 town inspectors specializing in environmental protection.

- The data provided by the Sector for Control and Monitoring of the Ministry of Environment and Spatial Planning show that a total of 885 complaints were lodged in 2009, 235 of which were processed.

- A number of laws were adopted as part of the National Judicial Reform leading to the establishment of a new organization of the judiciary and the prosecution, namely, the Law on High Judicial Council, Law on State Prosecutorial Council, Law on Judges, Law on Public Prosecution, Law on Organisation of Courts and Law on the Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Office. These pieces of legislation regulating the judiciary introduced new institutions, such as High Judicial Council, State Prosecutorial Council and Administrative Court that guarantee the independence of judges and prosecutors. The establishment of the Judicial Academy, carrying out initial and continuous training of members of the judiciary is also very important. The new organization of courts, introduced by the above-mentioned laws, became operational on January 1st, 2010. The new organization of the judiciary meant the distribution of cases according to specialties, which allowed a more efficient and objective processing of cases and facilitated public access to justice.

- Having in mind the strategic directions of development of the Republic of Serbia, and the efforts of the state to ensure the rule of law, in accordance with the highest international standards, which is one the crucial conditions for integration with the European Union, the government of the Republic of Serbia adopted the Strategy of Development of Free Legal Assistance in the Republic of Serbia (hereinafter: the strategy), as the first step towards the establishment of an efficient and sustainable system of free legal assistance. The strategy was developed as part of project "Establishing Effective and Sustainable System of Providing Free Legal Assistance in the Republic of Serbia" carried out by the Ministry of Justice in collaboration with the United Nations Development Programme (UNDP), on the basis of an agreement reached in March 2007 and with financial support of the Swedish International Development Cooperation Agency (SIDA). The strategic principles and the framework of the future system of free legal assistance in the Republic of Serbia are based on the results of the work of the Legal Assistance Fund spanning two years. The fund was established as part of the project that awarded grants for providing the poor and marginalized groups in the Republic of Serbia with assistance. The money was awarded via public competitions. The functioning of the fund made it possible to test different models of providing legal assistance. It highlighted both the advantages and the weak points of these models and allowed for a review of the criteria for getting legal aid. It also helped examine the ways of managing and financing the system of free legal aid efficiently in order to obtain valid data necessary to develop optimal solutions, namely, realistic and feasible proposals and recommendations.

- In every unit of local self-government there is a separate sector – office offering free legal aid to citizens. Legal assistance consists of providing legal advice in person and taking over and managing cases: drawing up suits, petitions, legal remedies, etc.)

- Law schools in the Republic of Serbia introduced a new subject named Law Clinics. The students are taught how to provide the poor, refugees or victims of domestic violence with free legal aid. The Law Clinic at the Law School of the University of Belgrade also

offers legal assistance free of charge to the poor and all the students at the University of Belgrade.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

Give relevant web site addresses, if available:

<http://www.parlament.gov.rs>

National Assembly of the Republic of Serbia

<http://www.mpravde.gov.rs/>

Ministry of Justice

<http://www.drzavnauprava.gov.rs/>

Ministry of Public Administration and Local Self-Government

<http://www.ustavni.sud.rs/page/view/166-101192/obracanje-sudu>

Constitutional Court

<http://www.vk.sud.rs/assets/files/informator/Informator-januar-2010.pdf>

Supreme Cassation Court

<http://www.bg.ap.sud.rs/cr/articles/sluzba-za-odnose-sa-javnoscu/>

Court of Appeals in Belgrade

<http://www.ns.ap.sud.rs/index.php/srl/informator-o-radu>

Court of Appeals in Novi Sad

<http://www.trgsud.org.rs/informatorTSBbr1.pdf>

Commercial Court in Belgrade

<http://www.prvi.os.sud.rs/informator-o-radu-suda.html>

First Basic Court in Belgrade

<http://www.ombudsman.rs/>

Protector of Citizens

<http://www.advokatska-komora.co.rs/>

Bar Association of Serbia

www.pravnifakultet.rs/tag/pravna-klinika

Union University Law School

<http://ekologija.pf.uns.ac.rs/pravna%20klinika.htm>

Law Clinic at the Law School of the University of Novi Sad

<http://www.ius.bg.ac.rs/Pravna%20klinika/PRAVNA%20KLINIKA.htm>

Law Clinic at the Law School of the University of Belgrade

http://www.prafak.ni.ac.rs/index.php?option=com_content&task=view&id=376&Itemid=469

Law Clinic at the Law School of the University of Niš

www.portal.sud.rs/Libra_TrgSud_CMS_HE/default.cfm?action=login

Overview of cases in commercial courts in Serbia

Articles 10-22 are not for national implementation.

XXXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE

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

The Convention contributes to strengthening the position of citizens and associations focusing on the issues of importance for the environment, as well as to making the rules that apply to the protection of certain rights in the field of environment or those related to the environment, more systematic. It is also instrumental in the internationalization of the procedural aspects of the protection of the right to a healthy environment specified in Article 74 of the Constitution of the Republic of Serbia,

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

The Republic of Serbia has not ratified the GMO amendment, i.e. it is not a signatory to the GMO amendment.