

IMPLEMENTATION REPORT 2010 SUBMITTED BY SWEDEN

I. PROCESS BY WHICH THIS REPORT HAS BEEN PREPARED

1. This report has been prepared by the Ministry of the Environment and has been referred for consultations to a large number of public authorities and organizations. The report has also been subject to an online public consultation. Everyone has had the opportunity to send their views on the report by email directly to the Ministry of the Environment.
2. The consultation process has brought in a number of suggestions for appropriate updates and proposed adjustments of the text. Most respondents have taken a positive view of the draft report circulated.
3. . Nonetheless, some of the bodies consulted, including Uppsala University (Faculty of Law), the Swedish Society for Nature Conservation, the Legal, Financial and Administrative Services Agency and the Swedish Consumer Agency, have been critical of Sweden's implementation of the Aarhus Convention. In brief they have made the following points.
4. Despite the fact that the right of environmental non-governmental organisations (NGOs) to take legal action has been strengthened, a number of shortcomings remain when it comes to access to justice. Individual concerned parties have no legal avenue through which to pursue enterprises with permits, and they cannot request a re-examination of such enterprises. Nor can a lack of action on the part of a government agency be pursued. Moreover, according to case law, in certain cases individuals do not have access to a judicial review of the Government's determination of permissibility under Chapter 17 of the Environmental Code, even though these decisions are binding on the subsequent permit examination in the courts. Environmental organisations can only appeal against certain types of environmental decision, but there is no general possibility to mount a legal challenge against decisions and omissions of the environmental agencies. Nor can environmental organisations appeal against certain environmental decisions governed by legislation other than the Environmental Code, even if these decisions have a major impact on the environment. This applies to decisions concerning logging and hunting, for example. The fact that the right to take legal action is conditional on the organisation having been established in Sweden for at least three years is also questionable. The cost of copies of documents in major environmental cases can be high, and can have a prohibitive effect on environmental organisations and individuals. The digitalisation of files or a discount for large volumes should therefore be investigated. The view has been expressed that water undertakings are not subject to the same level of requirements regarding environmental impact statements and environmental reporting as other environmentally hazardous activities. In the area of consumer affairs, the view has been expressed that the obligation for those selling a product to be able to provide information on its contents, how it was produced, etc. would give consumers access to the information needed to be able to make well-founded environmental choices.
5. Critics have said that the Swedish legislation should be reviewed in these respects, with the aim of remedying the shortcomings indicated.
6. In connection with the extension of the right of environmental organisations to take legal action implemented this year, the Government has observed that there may be cause for further consideration of this right, with a view to improving implementation of the Aarhus Convention,

and we intend to return to this issue (Govt Bill 2009/10:184 p. 69). The Government also intends to give closer consideration to the viewpoints expressed in connection with this report.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

7. In Sweden, national implementation is necessary for the ratification of an international convention. To a great extent, the rights that the Convention gives to the public were already guaranteed in Swedish law, but some legislative measures have been necessary to enable Sweden to ratify the Convention. For instance, a new Act (2005:181) on Environmental Information Held by Certain Private-sector Bodies, called the Environmental Information Act below, was introduced to complement the fundamental principle of public access to official documents in Swedish public administration, and an amendment was made to the Secrecy Act (1980:100), including a secrecy-override rule for information on emissions to the environment. The Secrecy Act has now been replaced by the Public Access to Information and Secrecy Act (2009:400). The Convention's provisions on the right of environmental NGOs to take legal action also required certain measures.

8. When amendments are made to laws and ordinances that affect the state of the environment, a continuous assessment is made of the possibilities of taking additional measures to further improve implementation of the Convention.

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

Article 3, paragraph 2

9. The service duties of the public authorities are a fundamental principle of administrative law. Under sections 4 and 5 of the Administrative Procedure Act (1986:223), Swedish authorities have a duty to provide service. They have to provide information, guidance, advice and other assistance to individuals in matters concerning the authority's activities. They also have to receive visits and accept telephone calls. A person who has contacted the wrong authority has to be helped to find the right one.

10. Work is also under way to make Swedish authorities even more accessible to the public by, for example, being more available 24 hours a day via electronic information tools.

Article 3, paragraph 3

11. Work to promote environmental education and awareness is under way both in the school system and in other contexts. The pre-school curriculum (Lpfö 98) states that the task of pre-schools includes placing greater weight on environmental and nature conservation issues. The changes to the curriculum approved in 2010 mean that pre-schools must strive to ensure that every child develops an interest in and understanding of the various cycles of nature and how humans, nature and society affect each other. Pre-schools must also strive to ensure that children develop their understanding of science and correlations in nature, and their knowledge of plants,

animals and simple chemical processes and physical phenomena. The curriculum for compulsory schools, pre-school classes and out-of-school centres (Lpo 94) states that their education has to shed light on how the functions of society and the way we live and work can be adapted to bring about sustainable development. Schools must ensure that, on completing compulsory school, every pupil has knowledge of the prerequisites for a sound environment and sustainable development. The curriculum for voluntary forms of schools (Lpf 94), which applies to upper secondary school, upper secondary special school, local authority adult education, national schools for adults and adult education for people with intellectual disabilities states, inter alia, that the environmental perspective in their instruction has to give pupils insights so that they themselves can help to prevent harmful effects on the environment and can also acquire a personal approach to general and global environmental issues. Action is also being taken to improve teachers' knowledge of environmental issues within the framework of higher education. For example, the National Agency for Higher Education has worked particularly on the integration of environmental aspects into higher education programmes. A number of universities and other higher education institutions also have courses focusing directly on environmental issues. The Swedish University of Agricultural Sciences offers many educational programmes and conducts extensive research in the area of the environment. It is tasked with conducting ongoing environmental analysis. Its findings are published in official statistics.

12. Work is also under way continuously to provide information about environmental issues, through environmental information on the Internet, for instance. Examples of this are the website of the Swedish Environmental Protection Agency (www.naturvardsverket.se) and the Environmental Objectives Portal (www.miljomal.nu). Both the website of the Swedish Environmental Protection Agency and the Government's website (www.sweden.gov.se) contain information about the Convention along with relevant external links. The websites of the county administrative boards contain valuable regional environmental information and, in general, central government agencies provide a not inconsiderable amount of environmental information on their websites. The municipalities also provide this kind of environmental information. Moreover, the Swedish Board of Agriculture has undertaken analyses and investigations concerning agriculture and the environment that are available on the Board's website (www.jordbruksverket.se). The Swedish Board of Fisheries regularly collects large amounts of data concerning the environmental aspects affected by its activities and makes them available to the public as environmental information. The data is entered into databases, large parts of which are available via the Board's website (www.fiskeriverket.se). The National Board of Housing, Building and Planning also disseminates information on environmental issues via its website (www.boverket.se), and also via the Swedish Environmental Protection Agency's Environmental Objectives Portal (www.miljomal.se).

Article 3, paragraph 4

13. The basis for the recognition of and support for environmental NGOs is that they are able to operate freely without harassment, which is secured by the rules on freedom of information, freedom of association, freedom of assembly and freedom of speech. These freedoms are included in the Constitution and are set out in chapter 2 of the Instrument of Government. In addition, they are secured through Sweden's obligations under, inter alia, the European Convention on the Protection of Human Rights and Fundamental Freedoms.

14. Most organizations in the non-profit sector are incorporated in the form of a non-profit association. The creation of such associations is facilitated because it is relatively easy to form such an association and because such non-profit associations enjoy certain tax relief.

15. The knowledge possessed by these organizations is drawn on through referral procedures and other forms of consultations, including the statutory forms of consultation under the Environmental Code (SFS 1998:808). There are also a number of other formalized forums for cooperation and dialogue between the Government Offices and representatives of different types of associations and popular movements.

16. Grants are also provided for environmental NGOs in Sweden. Each year, the Swedish Environmental Protection Agency distributes funds to organizations in the environmental area. For example, in 2010 the Swedish Environmental Protection Agency has provided grants to the Swedish Society for Nature Conservation to support the development of opportunities to use the extended right for environmental organisations to take legal action under Chapter 16, Section 13 of the Swedish Environmental Code. The Swedish Transport Administration also gives grants to non-profit organizations for work in the area of environment and road safety. Furthermore, the Swedish Consumer Agency provides grants to non-profit organisations and an environmental focus is common among those organisations that receive grants. The Act on financial measures for dealing with waste products from nuclear activities (2006:647) and the Ordinance on financial measures for dealing with waste products from nuclear activities (2008:715) contain provisions on financial grants to non-profit organisations. This support aims to improve the prospects of a comprehensive assessment of the environmental consequences of projects, and increase public influence in this process.

Article 3, paragraph 7

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

(i) Measures taken to coordinate 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;

A seminar has been organised to inform officials in the Government Offices working within the framework of relevant international forums about Article 3, paragraph 7 and the Almaty Guidelines.

(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;

Information on international forums is available via the Government website (www.regeringen.se).

(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;

There are various forms of consultation with respect to ongoing work in international forums. Consultations at national level are regularly held ahead of meetings of the parties and negotiations in international environmental conventions and other forums, for example. These usually take the form of meetings between representatives of the Government and of stakeholders such as NGOs, sectoral organisations, researchers and relevant agencies.

(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;

The provisions of the Convention on also working to promote the application of principles of the Convention in other international processes are well in line with Swedish endeavours to bring about greater transparency in the European Union (EU) and in international contexts. Sweden has participated actively in work on the guidelines for public participation in international forums. Earlier on, Sweden also decided to take part in the Partnership for Principle 10 at the World Summit in Johannesburg in 2002. As part of its Eastern Europe Programme, the Swedish Environmental Protection Agency has also held courses in environmental law that have dealt with the principles of the Convention. Furthermore, Sweden has actively supported the process within the United Nations Environment Programme (UNEP) that led to the adoption of the Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters at the meeting of the organisation's Governing Council in February 2010. Although the guidelines are intended to support the development of national legislation in the area at country level, as is clear from their title, the process that led to their adoption was an international one. In combination with the wider dissemination of the Aarhus Convention's principles at national level implied by the guidelines, this increases the prospects of these principles shaping work in international forums and organisations in the future.

Article 3, paragraph 8

17. Under Sweden's Constitution, every citizen is guaranteed freedom of speech, freedom of information and freedom of association. The European Convention also protects these fundamental rights.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

18. Implementation has not resulted in any particular problems.

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

19. The reader is referred to the above text.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

20. No information was provided under this heading (but see the links provided in the relevant sections above).

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

21. Sweden has a long tradition of openness and transparency, or insight, in the activities of public authorities. Under the principle of public access to official documents, set out in the Constitution, the public and the media have to have insight into the activities of the State, local government and public authorities. Generally, when the principle of public access to official documents is discussed, what is being referred to in the first place are the rules on the public nature of official documents in chapter 2 of the Freedom of the Press Act, which is part of the Constitution. The principle that all citizens are entitled to examine documents held by public authorities was introduced in Sweden in 1766 through the adoption of the first Freedom of the Press Act. The regulations in chapter 2 of the Freedom of the Press Act give the public the right to examine both documents received by and documents drawn up by a public authority. An authority can only decide that a document shall be secret pursuant to a secrecy provision in an act of law. In addition, an authority is required to provide public information from official documents on request.

22. The principle of public access to official documents is also manifested in other ways. Officials in public authorities in Sweden have freedom of expression. This means that there is no general duty to observe confidentiality, and instead the general rule for officials is freedom of speech. In addition, officials in Swedish authorities have a far-reaching right to disclose information subject to secrecy in order for the information to be published in the media. Even if the freedom to communicate information does not give the public a right to information, the principle of freedom of communication does give officials an opportunity to inform the media about what is happening in their area. Other manifestations of the principle of public access to official documents are open debates and open court hearings.

23. The Swedish system is a good arrangement for fulfilling the provisions of the Convention concerning public access to environmental information.

24. The constitution guarantees every citizen freedom of information. Foreign citizens are equated with Swedes (chapter 2, article 22, second paragraph, point 1 of the Instrument of Government and chapter 14, article 5, second paragraph, of the Freedom of the Press Act).

Relevant definitions

Public authority

25. In view of the difference between what is meant by a “public authority” in the Convention and in Swedish law, it has been necessary to adopt a new law to implement the provisions of the Convention on environmental information concerning such information that is held by certain private sector bodies that perform administrative functions but are not public authorities in terms of Swedish law. Public authorities and other public bodies come under the principle of public access to official documents, which has been in place for centuries.

Environmental information

26. The principle of public access to official documents does not make any distinctions about the information held by the authority. Official documents that are not covered by secrecy provisions are public regardless of whether they contain environmental information or any other information. A special definition of the concept in accordance with the Convention has been introduced for non-public bodies covered by the Environmental Information Act.

Article 4, paragraph 1

Article 4, paragraph 1 (a)

27. *Any person may have access to information without having to state an interest;* Regulation of this matter in the Constitution guarantees citizens access to information held by public authorities. The authorities must not inquire into the applicant’s identity or the purpose of the request except insofar as this is needed to enable the authority to judge whether there is any obstacle to the release of the document (chapter 2, articles 1, 12 and 14 of the Freedom of the Press Act). This means that information that is not covered by secrecy provisions has to be released without the authority being allowed to inquire into who has requested the information and for what purpose. Because the Swedish “public authority” concept does not correspond fully to that of the Convention, a special Environmental Information Act has been introduced for certain private sector bodies that perform administrative functions. Under this Act anyone is entitled to examine environmental information without having to state their name or the reasons for their request except insofar as this is needed to make it possible to judge whether there is any obstacle to the release of the information.

28. Under chapter 2, article 13 of the Freedom of the Press Act, anyone who wishes to examine an official document is also entitled to obtain a transcript or copy of the document. The same follows from the Environmental Information Act.

Article 4, paragraph 1 (b)

29. Under the Environmental Information Act, environmental information has to be released in the form requested except when it is already available in another form or it is reasonable to make it available in another form. The regulations in the Constitution must also be regarded as

consistent with the requirements of the Convention, inter alia, because an official document has to be made available to the person who wishes to examine it in such a form that it can be read, listened to or otherwise comprehended (chapter 2, article 12 of the Freedom of the Press Act). There is an explicit obligation for the public authorities to ensure that it is possible for individuals to contact them by fax and e-mail and that they can reply in the same way (section 5 of the Administrative Procedure Act). The public authorities have to meet high standards concerning accessibility and responsiveness, and information technology is a central tool in developing the service provided by the administration.

Article 4, paragraph 2

30. Under the regulations of chapter 2 of the Freedom of the Press Act, a document requested has to be made available forthwith or as soon as possible. A request for a copy has to be dealt with promptly. The Constitution does not specify a timeframe, but according to firmly established case-law, the provisions mean that a reply in the matter of making a document available has to be given the same day but that a delay of one or a few days can be accepted if it is necessary to enable the authority to determine whether the document can be made available. The introduction of a fixed deadline of one month in Swedish law would be a distinct deterioration in relation to the present state of the law. Under the Environmental Information Act, information shall be made available as soon as possible, but no later than one month after the information has been requested.

Article 4, paragraph 3 and 4

31. Under chapter 2 of the Freedom of the Press Act, the general rule on access to information held by the public authorities is that an official document is public unless otherwise provided. The right to examine documents may only be restricted if this is necessary having regard to certain specified interests (chapter 2, article 2 of the Freedom of the Press Act). The restrictions in the right to examine official documents must be specified carefully in provisions in the Public Access to Information and Secrecy Act (2009:400). The provisions of the Public Access to Information and Secrecy Act are in line with articles 4, paragraphs 3 and 4, of the Convention. The provisions of the Convention are also expressed in the Environmental Information Act.

32. The fundamental idea in the Swedish legal system is that, on its own, the interest of secrecy can never decide the strength of secrecy protection; instead, it must always be weighed against the interest of insight and that the weight of the interest of insight can be different in different contexts. This balance is already struck when a secrecy provision is introduced, and is expressed by stating in the provision whether a presumption of public nature or a presumption of secrecy shall apply to the information covered by the provision. In addition, a balance has to be struck for each request for the release of environmental information from public authorities as to whether it is apparent that the information is of such importance from an environmental perspective that general awareness of the information has precedence over the interest to be protected by secrecy (chapter 10, section 5, first paragraph, of the Public Access to Information and Secrecy Act). The Environmental Information Act also contains a provision to the same effect. A secrecy-override rule for information about emissions to the environment is also present in the Public Access to Information and Secrecy Act and to the Environmental Information Act (chapter 10, section 5, second paragraph, of the Public Access to Information

and Secrecy Act, and section 7, third paragraph, of the Environmental Information Act. A decision rejecting a request for environmental information can be appealed, see the further information under article 9.

Article 4, paragraph 5

33. If a request to examine a document held by an authority is made to the wrong authority, then, under the law, the authority should refer the applicant to the right authority (section 4, third paragraph, of the Administrative Procedure Act). The Environmental Information Act also contains a provision to the same effect. Under the general duty to provide service that applies to all public authorities, the authority has to assist the application in the way specified in article 4, paragraph 5.

Article 4, paragraph 6

34. Under chapter 2, article 12 of the Freedom of the Press Act, if a document cannot be made available without disclosure of such part of it as contains classified material, the rest of the document has to be made available. Section 7 of the Environmental Information Act states that release may be refused “in full or in part”. There is thus an obligation to release the parts of the requested documents that are not covered by secrecy.

Article 4, paragraph 7

35. Under general rules of administrative law, a decision involving a rejection of a request to examine an official document shall in principle contain the reasons for the refusal and also contain instructions about how to appeal the decision (sections 20 and 21 of the Administrative Procedure Act). The same applies when corresponding decisions rejecting an application are taken by a municipal authority or by a court dealing with a matter as a court of first instance. There are no explicit deadlines for drawing up decisions rejecting applications. The requirements concerning prompt processing that follow from current regulations and firmly established case-law have already been described. In addition, section 7 of the Administrative Procedure Act contains a general requirement that matters be handled promptly, and under chapter 2, article 15, second paragraph, of the Freedom of the Press Act, an appeal against a decision to reject a request to examine an official document has to be examined promptly.

Article 4, paragraph 8

36. Under chapter 2, article 12 of the Freedom of the Press Act a document that may be released has to be made available free of charge at the place where it is held. A charge may be levied for copies (chapter 2, article 13, of the Freedom of the Press Act). A special ordinance on charges applies to central government authorities (SFS 1992:191). The charges that may be levied under it are calculated to recover costs. Under the general rule, the first 10 copies are free and the charge thereafter is SEK 50 plus SEK 2 per copy. According to the cost-price principle, municipalities are not allowed to charge fees that more than cover the costs of the service being provided. The basis for deciding municipal charges is set out in the charge schedules adopted by the municipal assembly. The Environment Information Act contains provisions stating that

reasonable reimbursement may be obtained for costs associated with releasing information and that there has, in that case, to be a pre-determined schedule of charges for this.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

37. Implementation has not resulted in any particular problems.

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

38. Public authorities and private-sector bodies hold a very great deal of information. In order to access the information, private individuals need to know that the information exists and how to get access to it. To facilitate searches in the masses of information held in the archives, the Swedish National Archives has developed a search system that is available via the Internet. The National Archival Database of Sweden (NAD) is a cross-sectoral database and information system in the Swedish archives system. The purpose of the NAD is to provide a national information system for Swedish archives so as to improve the accessibility and use of archives and collections held by archive institutions in Sweden. In the NAD, the user is able to search, in a single context, information about the archives and collections held by both public and private archive institutions, libraries and museums. The NAD supplies a national archive creator register with archive references, a register of archive institutions with contact information and auxiliary databases for the topographic divisions of Sweden and the history of the administration. The NAD also contains detailed archive lists from archives held by the Swedish National Archives and the regional archives. Anyone who wants to know what activity have been conducted at a particular place can begin their research in the NAD. Using the NAD, it is possible to search archives from public authorities and other organizations with environment-related activities such as the Swedish National Licensing Board for Environment Protection, the Swedish Council for Environmental Information, the Environmental Advisory Council and committees of inquiries related to the environment. The NAD provides information on where the archives are held and overviews of the contents of the archives. The NAD is accessible via the Internet at: www.nad.ra.se.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

39. No information was provided under this heading (but see the links provided in the relevant sections above).

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

Article 5, paragraph 1

40. There are a number of provisions that result in a large volume of environmental information being held by the public authorities. One example is the provision in chapter 26, section 20, of the Environmental Code, under which the operator of an environmentally hazardous activity shall present an annual environmental report to the supervisory authority and the provisions on safety reports in the Act (1999:381) on measures to prevent and limit the consequences of serious accidents involving chemicals. Operators can use the Swedish Portal for Environmental Reporting (SMP) to make their reports electronically, thus increasing the reliability of the information. The supervisory authority is also able to order an operator to submit the information and documents that the authority requires for its supervision. In addition, there are several provisions in other statutes intended to provide authorities with information about the state of the environment. These mean that there is rich access to information at the public authorities about conditions in both public activities and in the private area. The supervisory authorities continually gather information in their areas of responsibility.

41. Operations that entail a danger that an accident will cause serious damage to people or the environment are covered by special provisions in the Act (2003:778) on Protection against Accidents on the obligation to take measures to prevent or limit damage. Such operators are required to analyse the risks of accidents and to inform the authorities if emissions of harmful substances take place or if there is an impending risk of such emissions. If an accident does happen, the municipality and the Swedish Civil Contingencies Agency have to be notified under the provisions of the Ordinance (2003:789) on Protection against Accidents. There are also special provisions in the Ordinance requiring the county administrative board to inform the public in the event of an emergency situation relating to the risk of radioactive radiation. Using a special system for warning and notification of the public, large groups of people can be warned and receive information in connection with accidents or events that risk causing disruptions to society. The system makes it possible for public civil protection bodies to quickly reach the general public with warnings and information. A number of public authorities can trigger this system, including the police, the county administrative boards and the Swedish Civil Contingencies Agency. A separate warning system has been developed for use in accidents at nuclear power stations. A special feature of this system is that an alarm to the general public is already triggered by the operator at a very early phase of an accident as soon as a number of criteria set up by the authorities have been met. After that the relevant county administrative board takes over the handling of civil protection measures including information to the general public.

Article 5, paragraph 2

42. Under their general duty to provide service, the authorities have a responsibility for supplying information about the documents they hold. The public are given guides to the information held by the public authorities by, for example, the websites (www.sverige.se) and the Citizens Guide (www.samhallsguiden.se). The website of the Swedish Environmental

Protection Agency (www.naturvardsverket.se) is an important source of environmental information that also contains relevant links. The public can use the Swedish Government website (www.regeringen.se) to examine official publications in the area of the environment, such as the texts of statutes and legislative proposals.

43. The Swedish authorities are required to keep registers in the form of chronological records registering documents received and drawn up. Work is under way to make these records available via the Internet. The Swedish Environmental Protection Agency and the Swedish Chemicals Agency have special registers containing various types of environmental information. The Environmental Information Act also requires that environmental information is arranged clearly.

44. As part of their duty to provide service, the public authorities also have a responsibility for supplying information, guidance, advice and other assistance to individuals. Questions have to be answered as quickly as possible and a person who has contacted the wrong authority has to be helped to find the right one. No costs are associated with searches in chronological records or other registers.

Article 5, paragraph 3

45. All authorities in the environmental area have databases that are accessible via the public telecommunications network. Work has also been done on metadata to increase the efficiency of searchability in databases. The website of the Swedish Environmental Protection Agency contains a great deal of information that is available electronically, including a large number of publications that can be downloaded free of charge. There has long been a register of facilities for which a permit decision has been issued. This is kept in paper form in the environmental register held by each environmental court. In 2011, the environmental register will be available to the general public online as a searchable database.

Furthermore, in order to increase the accessibility of environmental data, the Swedish Environmental Protection Agency has established a data-hosting system that makes data concerning the state of the environment freely available online. Data can be searched, downloaded and processed further. The data hosts can be reached via the Swedish Environmental Protection Agency website (www.naturvardsverket.se/sv/Tillstandet-i-miljon/Miljoovervakning/Miljoovervakningsdata). The Swedish Environmental Protection Agency has also developed a meta data portal, the Environmental Data Portal, to further improve the searchability and accessibility of environmental data and reports. The portal also offers viewing and download services. It is an important element in the Swedish Environmental Protection Agency's work to implement the INSPIRE Directive. It offers several ways to search for information, including geographical searches (miljodataportalen.naturvardsverket.se).

As part of the implementation of the INSPIRE Directive, among other things, Lantmäteriet (the Swedish mapping, cadastral and land registration authority) has produced and launched a geodata portal (www.geodata.se) making geographical environmental information (geographical information that is in electronic form and useful for businesses, and measures that could affect people's health or environment) from around 20 government agency websites available. The geodata portal offers the general public and agencies the possibility to search, view and

download environmental information. Information about Landmäteriet's geoportal is also available in English on the site.

Article 5, paragraph 4

46. The Swedish Environmental Protection Agency is responsible for coordinating environmental monitoring in Sweden and operates the national environmental monitoring programme. Each year, it publishes an annual report for environmental monitoring, and the Agency also has an Environmental Objectives Council that submits an annual report, called de Facto, to the Government. The de Facto report presents a summary overview of the environmental situation in Sweden and developments in relation to Sweden's environmental objectives. Information about work on these environmental objectives, including de Facto, is available via the Internet at the Environmental Objectives Portal (www.miljomal.se). An in-depth evaluation of work on the environmental objectives is also conducted every four years. The results of national environmental monitoring are available on the website of Swedish Environmental Research Institute (www.ivl.se). The Geological Survey of Sweden, the Swedish University of Agricultural Sciences, the Swedish Board of Fisheries and the Swedish Meteorological and Hydrological Institute, and others, also publish such reports. As explained under (c) above, in order to improve the searchability and accessibility of reports, for example, the Swedish Environmental Protection Agency has developed the meta data Environmental Data Portal, which includes downloadable reports.

Article 5, paragraph 5

47. The Swedish Government Offices publishes information on the Internet, distributes press releases, holds meetings and publishes printed materials. Conventions and international agreements are published on the Internet as soon as possible. Statutes are currently available on various websites, including the legal databases of the Government Offices, which contain laws, ordinances, terms of reference for Government-appointed committees and inquiries and annual reports on these committees and inquiries, as well as on the website of the Riksdag (Swedish Parliament (www.riksdagen.se)). Information concerning strategies and policies is available on the websites of both the Government and central government agencies. Information on how work on different questions is conducted is available first and foremost in texts from the Ministry of the Environment. One example of a situation report is the follow-up of the environmental objectives, which is presented both in print and on the Internet. Both the Ministry of the Environment and central government agencies, including the Swedish Environmental Protection Agency and the Swedish Chemicals Agency, publish information on their international work on their websites, with links to conventions and other international documents. One example of how information about a convention is spread is the Portal on biological diversity. In addition to information about the Convention on Biological Diversity, this contains both Swedish and international laws and policy documents in the area (www.biodiv.se). The authorities also spread information in other ways than by electronic means. Many environmental authorities and county administrative boards publish newspapers or newsletters that are distributed in printed form or by email.

Article 5, paragraph 6

48. Consumers are entitled to information about the contents of a product, how it has been produced and the quality of the product, etc. so to be able to assess the consequences of their choices. Producers in Sweden are responsible for providing and disseminating information about the environmental properties of products. The Environmental Code also contains requirements concerning the environmental impact of goods and services. The systems regulated by law also include the classification and marking of chemical products, product information sheets and environmental reports.

49. Businesses can also certify their products using environmental labels to show that the products comply with specific environmental requirements (for example the Swan, TCO labelling, the EU Flower label, the KRAV label).

Article 5, paragraph 7

50. Under the principle of public access to official documents, everyone has a right of insight into the activities of a public authority and the right to examine official documents received by or drawn up by the authority. Legislative proposals and similar documents are regularly referred to authorities, interest organizations and others for consultation. The subsequent government bill contains a summary and analysis of the consultation responses. Information for decisions such as committee terms of reference, inquiry reports and government bills are posted on the Internet (www.regeringen.se). In most cases, the consultation responses, annual reports, environmental objective reports, etc., of public authorities and other institutions are directly available on their websites.

Article 5, paragraph 8

51. The voluntary systems for providing product-related environmental information include environmental labelling, environmental reporting and environmental product declarations. There is widespread environmental labelling of consumer products in particular. The State participates in work on the Swan and the EU Flower through the Eco-labelling Miljömärkning Sverige AB (MISAB). There are also a number of other labels such as *Bra Miljöval* (Good Environmental Choice), the label of the Swedish Society for Nature Conservation. The website of the Swedish Chemicals Agency provides information about chemical products, pesticides, etc.

52. Environmental labelling covers a large number of products and is a good aid for consumers. It is also a driver for companies to label their products. Environmental auditing is another way of giving the general public information about the effects of an activity on the environment. The state participates in the development of environmental management systems through its ownership share of the Swedish Environmental Management Council (SEMC) and through development work by the Swedish Agency for Economic and Regional Growth. In the business sector, the introduction of environmental management systems and certification (such as EMAS och ISO 14001) is becoming more and more common, which means that there are increasing numbers of environmental audits. Some public authorities also use environmental management systems and evaluate whether they are certifiable. The Ordinance concerning environmental management at government agencies (2009:907) sets requirements for a wide

range of agencies to have an environmental management system that integrates environmental considerations into their activities, thus ensuring that the direct and indirect environmental impact of activities are systematically taken into account. Any agency that has a significant impact on the environment should register with the Eco-Management and Audit Scheme (EMAS) or seek ISO 14001 certification. The Swedish Environmental Management Council (www.miljostyrning.se) is responsible for a national system of certified environmental product declarations. These declarations are intended to provide readily accessible, quality-assured and comparable information about the environmental impact of products and services.

Article 5, paragraph 9

53. Sweden has now ratified the PRTR Protocol. The previous Swedish National Pollutant Release and Transfer Register (PRTR) has been replaced by a new register located on the website “Utsläpp i siffror” (“Emissions in figures”). The site can be accessed through the Swedish Environmental Protection Agency website or directly at www.utslapsiffror.naturvardsverket.se. The register contains a database of emissions from around 1 000 of the largest enterprises in Sweden with activities classed as hazardous for the environment. The website provides the public with information about national emissions, and means that the PRTR is accessible and searchable online.

54. In the EU, a pollutant emission register has been developed to prevent and limit the consequences of serious accidents involving hazardous substances and to provide readily accessible and comparable information about emissions of pollutants from industry (www.prtr.europa.eu/Home.aspx).

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5.

55. Implementation has not resulted in any particular problems.

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

56. The reader is referred to the above text.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

57. No information was provided under this heading (but see the links provided in the relevant sections above).

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

58. There is a long tradition of public participation in environmental decision-making. For almost 40 years there has been an environmental permit procedure for industrial activities and other major installations with an environmental impact (defined as environmentally hazardous activities in Sweden) that includes:

- (a) consultations with the public before a permit application is submitted to the permit authority;
- (b) the publication of notice of the application and the collection of opinions from the public, among others;
- (c) a public meeting before the permit authority; and
- (d) a notice publishing of the ruling of the permit authority.

59. On the whole, the decision-making process has lived up to the requirements of the Convention concerning the possibilities for the public to take part in environmental decision-making. Over the years, it has been expanded to refer to additional types of activities at the same time as the formal requirements concerning, inter alia, the supporting information – the environmental impact assessment and the application – have increased and been made more specific.

Article 6, paragraph 1

Article 6, paragraph 1 (a)

60. The activities covered by annex I to the Convention are subject to permit requirements under the Environmental Code. These permit processes are covered by rules on environmental impact statements and other information for decisions in chapter 6 of the Environmental Code, which guarantee public participation in accordance with the Convention. There are also provisions on permit processes in other legislation that refer to the consultation rules of the Environmental Code. This applies, for example, to the Electricity Act (1997:857), the Roads Act (1971:948), the Railway Construction Act (1995:1649) and the Act (1983:293) on Establishing, Expanding and Cancelling Public Fairways and Public Ports. The construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km (point 17 of the Convention annex) does not require a permit under the Ordinance on Environmentally Hazardous Activities and Public Health Protection. Such works require a permit under the Electricity Act, which refers to chapter 6 of the Environmental Code as regards the procedure for preparing an environmental impact statement in making a permit application. Road construction is examined by the Swedish Transport Administration in consultation with the county administrative board. If they have different views in the matter, the matter is referred, to the Government for examination. Anyone planning to build a road has to conduct a preliminary study. A road investigation has then to be conducted if the preliminary study has shown that alternative routes need to be studied. A workplan must then be drawn up for the construction of a road. Under the Roads Act a workplan has to be equated with the issue of a permit. Both a road investigation and a work plan require environmental impact statements under chapter 6 of

the Environmental Code. Under section 3 of the Railway Construction Act, an adopted railway plan for railway construction is equated with the issue of a permit under the Environmental Code. As is the case for road construction, a party planning to build a railway has to conduct a preliminary study and possibly a railway investigation before the railway plan is adopted. Both a railway investigation and a railway plan require environmental impact statements and consultations under Chapter 6 of the Environmental Code. Section 1 (b) of the Act on Establishing, Expanding and Cancelling Public Fairways and Public Ports also refers to chapter 6 of the Environmental Code as regards the drafting of an environmental impact statement. In the same way, there are references to chapter 6 of the Environmental Code in a number of other acts concerning activities that require permits under the Environmental Code, but that are also subject to permit requirements under other acts. Examples are the Nuclear Activity Act (1984:3) and the Continental Shelf Act (1966:314).

Article 6, paragraph 1 (b)

61. Under the provisions of the Environmental Code or provisions that refer to the Code, the rules on environmental impact statements and the associated consultation requirements are applicable to activities that may have a considerable impact on the environment. Furthermore, Chapter 7, Section 28 a of the Environmental Code contains a specific requirement for a permit to conduct activities or take measures that may have a considerable impact on the environment in a natural area listed pursuant to Chapter 7, Section 27 of the Environmental Code (Natura 2000 areas). The regulations concerning environmental impact statements and the associated consultations must also be applied to these permit applications.

Article 6, paragraph 2

62. Under the rules in the Environmental Code, anyone who intends to conduct an activity that requires a permit or a decision on permissibility has to consult with the country administrative board, the supervisory authority, and individuals who are likely to be particularly affected. The corresponding process is also guaranteed in transboundary contexts. Even before the consultation, the party who intends to conduct the activity shall provide information about the location, extent and nature of the activity and its anticipated environmental impact to the authorities and to any individual particularly affected. When an environmental impact statement has been drawn up in a case or matter concerning an environmentally hazardous activity or water operation, notification to this effect has to be published together with the notice of the application. The Environmental Code also contains requirements concerning the contents of the notice. Notice of the environmental impact statement has also to be published in other cases where an activity or measure is likely to have a significant environmental impact. After that, the application and the environmental impact statement have to be made available to the public, which has to be given the opportunity to comment on them before the case or matter is dealt with. The documents in a permit application have to be made available not only at the decision-making authority but also at a keeper of the file, which can, for example, be a municipal office near the place where the activity is to be conducted.

Article 6, paragraph 3

63. A pre-condition for a functioning process is that the public must be offered a reasonable amount of time to gather information, take a position, and submit views. Under chapter 6, section 4 of the Environmental Code, consultations have to be held in good time. The general guidelines issued by the Swedish Environmental Protection Agency on environmental impact statements state that consultations have to be held in such a way as to give individuals a reasonable amount of time for reflection and that those affected should have at least three weeks to submit their views. The operator should ensure that the consultation is held in such a way that it is possible for individuals to submit both oral and written views.

Article 6, paragraph 4

64. Under the Environmental Code, the party who intends to conduct the activity in question has to provide information, even before the consultation, about the location, extent and nature of the activity and its anticipated environmental impact to the authorities and to any individual particularly affected.

Article 6, paragraph 5

65. Under the Environmental Code, anyone who intends to conduct an activity that requires a permit or a decision on permissibility has to consult with the county administrative board, the supervisory authority and individuals who are likely to be particularly affected. If the activity is likely to have significant effects on the environment, consultations also have to be held with other central government authorities and with the municipalities, members of the public and the organizations that are likely to be affected.

Article 6, paragraph 6

66. Everyone is entitled to examine the content of the information under the principle of public access to official documents. There is no charge for examining the information. The Environmental Code also contains explicit rules about what information an environmental impact statement has to contain and has to be made available to the general public when notice of an application and an environmental impact statement are published.

Article 6, paragraph 7

67. After publication of the notice of the application and the environmental impact statement, the documents have to be made available to the public and the public has to be given the opportunity to comment on them before the case or matter is dealt with (chapter 6, section 8 of the Environmental Code).

Article 6, paragraph 8

68. Under the rules of the Environmental Code, the decision-making authority has to consider the result of consultations and opinions on the environmental impact statement and the application (chapter 6, section 9, of the Environmental Code).

Article 6, paragraph 9

69. The environmental court has to deliver its judgment on the permit as soon as possible in view of the nature of the case and other circumstances (chapter 22, section 21 of the Environmental Code). If a main hearing has been held, the judgement has to be delivered within two months of the completion of the hearing unless there are exceptional circumstances. The parties have to be informed of the contents of the judgement in writing or by making the judgement available through the keeper of the file. Notices of judgements in application cases are published to a great extent. This is equally true of the decisions of the county administrative boards in application cases. The Swedish principle of public access to official documents also means that everyone has the opportunity to examine the text of the decision. The Administrative Procedure Act (1986:223) and the Administrative Court Procedure Act (1971:291) also contain rules about giving notification of judgements and decisions. The provisions of the Environmental Code, the Code of Judicial Procedure, the Administrative Procedure Act and the Administrative Court Procedure Act also regulate the contents of a judgment or decision.

Article 6, paragraph 10

70. When the conditions for an activity that has a permit are reconsidered or updated, largely the same rules about environmental impact statements and consultations apply as to an application for a new permit. If a change in conditions means that human health or the environment may be affected, the application is regularly published in local newspapers so that the public is aware of the application and can submit views on it. Public participation is therefore guaranteed in the same way for an update and for a new activity. However, if the operator applies for an update on his own initiative, an environmental impact statement is not formally required.

Article 6, paragraph 11

71. The Ordinance (2002:1086) on the Release of Genetically Modified Organisms in the Environment contains provisions on public participation. Under these provisions, the supervisory authority has to give the public and other interested parties the opportunity to make comments before taking a decision in the matter of the permit for deliberate release. The supervisory authority also has to establish routines for such a consultation procedure. These routines have to give interested parties a reasonable amount of time to submit their views (chapter 2, section 10). The Ordinance also contains provisions about information to the public (chapter 4, section 5).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

72. Implementation has not resulted in any particular problems.

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

73. The reader is referred to the above text.

XVIII. WEB SITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

74. No information was provided under this heading (but see the links provided in the relevant sections above).

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

75. As regards physical planning and land use, rules in the Planning and Building Act (1987:10) require plans to be published and consultations to be held before decisions are taken. There are also rules on public participation in other planning, such as planning for waste management. Moreover, decisions are normally preceded by a referral procedure under which the authorities and organizations affected are given the opportunity to express their views. Action programmes are also referred to those affected when this is deemed appropriate. One example is work on a national strategy for sustainable development where, for instance, meetings and dialogues were held with various groups in society.

76. Under rules in the Environmental Code, plans and programmes that are likely to have a significant effects on the environment have to be subject to an environmental assessment. As part of this, the authorities affected and the public have to be given the opportunity to participate in the planning process and submit views that have to be taken into consideration.

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

77. No information was provided under this heading

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

78. Implementation has not resulted in any particular problems.

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

79. The reader is referred to the above text.

**XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 7**

80. No information was provided under this heading.

**XXIV. EFFORTS 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**

81. The Government and other legislative bodies regularly use a consultation procedure in connection with the drafting of rules of general interest. The widespread gathering of comments from public authorities, organizations and other associations as part of the preparation of matters is a characteristic and important part of the political decision-making process in Sweden. The obligation to prepare government business is regulated specially in the Constitution (chapter 7, article 2 of the Instrument of Government). The Riksdag Committee on the Constitution also considers in its annual examination of the Government whether administrative matters have been handled in accordance with the applicable principles of administrative law. Under the Administrative Procedure Act, when authorities handle matters, they have to consider the possibility of obtaining information and opinions from other authorities by themselves if necessary. To make it easier, for example, for the public to submit views on proposals referred for comments, more “e-democracy” is being developed to increase the accessibility of information and the opportunities for dialogue with the aid of electronic information tools.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

82. Implementation has not resulted in any particular problems.

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

83. The reader is referred to the above text.

**XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION
OF ARTICLE 8**

84. No information was provided under this heading.

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

Article 9, paragraph 1

85. The right to appeal a decision concerning the release of an official document is set out in chapter 2, section 15, of the Freedom of the Press Act. Decisions taken by an administrative authority are appealed to the courts. Under chapter 6, section 3, of the Public Access to Information and Secrecy Act (2009:400) if a request to examine a document cannot be complied with in full or in part, the person who has made the request shall be notified of this. He or she shall also be notified that it is possible to request that the question be referred to the authority and that a decision of the authority is required before a ruling can be appealed.

86. Under chapter 6, section 7, of the Public Access to Information and Secrecy Act, a person who has requested the release of a document but whose request has been refused or who has only been allowed to examine the document with a restriction can appeal the decision. Normally, the applicant can appeal the decision to the administrative court of appeal (or if it is the administrative court of appeal that has taken the decision – to the Supreme Administrative Court). Decisions of the general courts are appealed to the next highest instance.

87. A decision of a private sector body covered by the Act on Environmental Information Held by Certain Private Sector Bodies is appealed to the administrative court of appeal (section 9).

88. The public authorities have considerable possibilities of reconsidering their decisions. If an authority finds that the decision it has issued is manifestly wrong, the authority is obliged under Section 27 of the Administrative Procedure Act to change the decision under certain circumstances. The reconsideration procedure is free of charge.

89. The decision of an authority not to release information has to state the reasons in writing (section 20 of the Administrative Procedure Act; section 23 of the Ordinance (1996:271) on Cases and Matters in the General Courts). The Environmental Information Act also contains such a requirement (section 8).

90. When a court has decided after an appeal to grant an application to examine an official document, the authority holding the information has to ensure that the applicant has access to the document.

91. To ensure that authorities handle their business correctly, the actions and omissions of the public authorities are examined by the Parliamentary Ombudsmen (JO; www.jo.se) and the Chancellor of Justice (JK; www.jk.se). Following a complaint or on their own initiative, the Parliamentary Ombudsmen can examine whether an authority has acted as it is supposed to. The Parliamentary Ombudsmen cannot order an authority to act, but as a rule the authorities follow their decisions and recommendations. The Chancellor of Justice supervises central government authorities, employees and service providers, etc. However, the Parliamentary Ombudsmen and the Chancellor of Justice are the bodies that exercise extraordinary scrutiny and not ordinary supervisory authorities. Both the Parliamentary Ombudsmen and the Chancellor of Justice are

able to bring charges as special prosecutors against officials who have committed criminal offences by violating their obligations in the exercise of their duties.

Article 9, paragraph 2

92. The right to a determination by a court of law of the substantive and formal validity of decisions, etc., covered by article 6 is provided for in different parts of Swedish legislation. In most cases, permit decisions are taken under the rules of the Environmental Code. Those decisions can be appealed either via a superior authority to an environmental court and then to the Environmental Court of Appeal or from an environmental court to the Environmental Court of Appeal and finally the Supreme Court. A review can examine both the formal and the substantive aspects of the decision. It can be mentioned in this context that satisfactory consultations including an adequate and well-conducted environmental impact statement are required before a court considers a permit application. If the legal requirements are not met in these respects, an application may be rejected.

93. Certain permit decisions are taken by the Government as the first instance or after an appeal to the Government. Such government decisions can be reviewed by a court of law under the Act (2006:304) on judicial review of certain government decisions.

94. Certain decisions covered by the Convention are issued under the Planning and Building Act (1987:10). New rules in that Act giving environmental NGOs the right to appeal such decisions entered into force on 1 January 2008 (chapter 12, section 6, of the Planning and Building Act).

95. A decision may be appealed by a person who is affected by the decision if it has gone against him or her (chapter 16, section 12 of the Environmental Code; section 22 of the Administrative Procedure Act). Environmental NGOs have a right to appeal under chapter 16, section 13, of the Environmental Code, as well as under a number of special acts. Since Sweden acceded to the Convention, the provision in the Environmental Code has been clarified so that it now clearly states that the possibilities of making an appeal also cover reconsideration, conditions and approval of establishments as well as supervisory decisions under Chapter 10 of the Environmental Code (which concerns activities that cause environmental damage). Furthermore, the right for environmental NGOs to appeal has been expanded to apply to more types of organisation, and the required number of members has been reduced. Non-profit organisations that have safeguarding the interests of nature conservation or environmental protection as their main aim, that has at least 100 members or prove by other means that they have the support of the public, and that have conducted activities in Sweden for at least three years now have the right to appeal. Under the Act on Judicial Review of Certain Government decisions, environmental NGOs also have an explicit right to apply for judicial review of permit decisions by the Government that are covered by article 9, paragraph 2, of the Convention.

Article 9, paragraph 3

96. As is the case for permit decisions, there are rules in the Environmental Code and in administrative law legislation making it generally possible to appeal against the decisions of public authorities. It is therefore possible to have decisions of public authorities that are contrary

to environmental legislation examined by the courts. Over and above this, there is an explicit right for environmental NGOs to appeal supervisory decisions taken under chapter 10 of the Environmental Code (which regulates operations that cause environmental damage). There are also rules concerning the acts and omissions by persons that contravene national environmental regulations. In certain cases it is possible for individuals and environmental NGOs, inter alia, to bring an action for damages at an environmental court or to bring an action against an operator to have his activity prohibited (chapter 32, sections 12–14, of the Environmental Code). In the event of a breach of an environmental provision carrying a penalty, an injured party can also initiate a private prosecution under chapter 47, of the Code of Judicial Procedure. Anyone at all can report the breach by persons of environmental legislation to the supervisory authorities, the police or a prosecutor for examination.

97. If the provisions of environmental law are not followed, the supervisory authority has to intervene. The central supervisory authorities have to intervene in their turn if a subordinate supervisory authority does not carry out its duties. Under the rules of the Environmental Code, the supervisory authorities have to supervise, to the extent necessary, compliance with the Environmental Code and regulations, judgments and other decisions issued under the Code and have to take the measures needed to ensure that faults are corrected. Their supervision has to ensure compliance with the purpose of the Environmental Code and regulations issued under the Code (chapter 26, section 1, of the Environmental Code). The supervisory authorities normally act on their own initiative, but the public is entitled to make a report to the authorities if, for instance, they think that something should be checked. Such a report to a supervisory authority has to be registered as a matter and be closed by some form of decision. If the supervisory authority discovers deficiencies it can, for example, decide on an environmental sanction charge, orders or prohibitions.

98. The activities of all public authorities are checked by the Parliamentary Ombudsmen and the Chancellor of Justice. The public, including environmental NGOs, are always able to report infringements of various environmental regulations to supervisory authorities, and the public can also take direct contact with the Parliamentary Ombudsmen, who examine complaints concerning deficiencies and omissions in the exercise of public authority. The Parliamentary Ombudsmen supervise the application of laws and other statutes in public activities.

Article 9, paragraph 4

99. There are no court fees or requirements concerning legal representation to gain access to justice in appeals of a permit decision or a decision on the examination or release of environmental information. Nor is a person who appeals against a decision responsible for the opposite party's litigation costs. The same applies to supervisory decisions.

100. The supervisory authorities are able to issue orders and prohibitions and also to combine them with administrative fines (*astreinte*). The authorities can also order environmental sanction charges and are obliged to report infringements of the provisions of the Environmental Code or regulations issued under the Code to the police or prosecution authority if a criminal offence is suspected.

101. Under Swedish law, the general rule is that judgments and decisions in cases at courts of law and public authorities have to be documented in writing; at any rate, if so requested by a party (see for example chapter 17, section 9, of the Code of Judicial Procedure; section 31 of the Administrative Court Procedure Act; and section 21 of the Administrative Procedure Act). Decisions and judgments are available to the public under the rules on the public nature of official documents in the Swedish principle of public access to official documents. Over and above this, there are rules that judgments have to be kept available at the office of the court, with the keeper of the file, etc. when they have been issued (see for example chapter 22, section 21, of the Environmental Code and chapter 17, section 9, of the Code of Judicial Procedure).

Article 9, paragraph 5

102. Under Swedish law, a decision of a court or other authority that can be appealed always has to contain information about how to appeal the decision (see for example section 21 of the Administrative Procedure Act). As mentioned above, the decisions are available to the public.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

103. Under the Constitution, a decision on the release of an official document that has been taken by a Government minister cannot be appealed to a court of law. However, the principle of public access to official documents set out in the Constitution satisfies the purposes of the Convention. Sweden has entered a reservation on this point in relation to the requirements of the Convention.

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

104. A general right for environmental NGOs to appeal, inter alia, permit decisions, was introduced into the Environmental Code in 1999. According to a subsequent survey by the all-party Environmental Code Committee, the experience of the right of environmental NGOs to take legal action is positive (see Swedish Government Official Reports SOU 2005:59 – The Environmental Code: environmental quality standards, environmental NGOs in the environmental decision-making and charges). The survey shows that environmental NGOs had only used the possibility of appealing rulings in a few cases and that there was no evidence of abuse of the possibilities of appealing, but that the operators still feared that the right of the organizations would lead to delayed and dearer projects. The environmental NGOs have played an important role in environmental permit examinations by contributing knowledge and making operators and permit-granting authorities give clear reasons for the positions they take. Moreover, the environmental NGOs proven to provide an effective way of channelling views from many parties to cases.

When government agencies and courts conduct environmental investigations, the principle of *ex officio* investigation applies. This principle means that the investigation authority has an obligation to ensure that every matter is satisfactorily investigated, and that the authorities are not bound by circumstances presented by the parties. The application of this obligation to

investigate can be seen as an element that helps reduce the need for the public to be represented by legal experts, which in turn means lower costs of legal proceedings to the public.

**XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION
OF ARTICLE 9**

105. No information was provided under this heading (but see the links provided in the relevant sections above).

**XXXII. CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION
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**

106. The Convention has great potential because of its overall aim of protecting everyone's right to live in a good environment through a right of access to information, to participate in decision-making concerning the environment and to access to justice in environmental matters. As regards openness to the public, Sweden has a long tradition of a well-functioning set of regulations with the same purpose as the Convention, and we therefore want to stress our positive experience of these rules. The openness involved in giving the public various opportunities for insight into the activities of public authorities is an important part of a functioning democracy. The right to examine information held by authorities contributes to good cooperation between decision makers and the public and to greater knowledge. This is very important concerning environmental matters, but naturally also for society as a whole.

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

The Ordinance on the release of genetically modified organisms in the environment (2002:1086) contains provisions on public participation. Under the provisions of the Ordinance, the supervisory authority has to give the public and other interested parties the opportunity to make comments before taking a decision in the matter of the permit for deliberate release. The supervisory authority also has to establish routines for such a consultation procedure. These routines have to give interested parties a reasonable amount of time to submit their views (Chapter 2, Section 10). The Ordinance also contains provisions about information to the public (Chapter 4, Section 5).
