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ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(Second meeting, Almaty, Kazakhstan, 25 - 27 May 2005)
(Item 6 (a) of the provisional agenda)

IMPLEMENTATION REPORT

Malta^{*/}

Based on the reporting format annexed to decision I/8

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

This report has been drawn up by the relevant experts on access to information within the Malta Environment and Planning Authority, which falls under the Ministry for Rural Affairs and the Environment.

^{*/} This document was submitted after the second meeting of the Parties in accordance with Decision II/10 of the Meeting of the Parties (ECE/MP.PP/2005/2/Add.14) that called upon all Parties at the time of the deadline for submission of the implementation reports and that failed to submit such reports to the secretariat to do so by 15 September 2005. The document will be considered at the sixth meeting of the Working Group of the Parties to the Aarhus Convention (5-7 April 2006).

As a general comment, it is worth noting that Malta has ratified the Aarhus convention and has transposed the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information by Legal Notice (LN) 116/05, so as to ensure the effective implementation of this Convention and the Directive. A copy of this Legal Notice has been attached to this report.

The Environment Protection Act (2001), the Development Planning Act (1992 as amended), and the following subsidiary legislation together with guidelines drafted for administrative purposes, were used as a basis for the compilation of this report. In fact, the information provided in the replies to ensuing questions of this report may also be substantiated by the attached legislation, namely:

- LN 116/2005 concerning the Freedom of Access to Information on the Environment Regulations, 2005;
- LN 234/2002 concerning the Integrated Pollution Prevention Control Regulations, 2002;
- LN 230/2004 concerning the Integrated Pollution Prevention and Control (Amendment) Regulations, 2004;
- LN 204/2001 concerning the Environment Impact Assessment regulations .

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

ARTICLE 3

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

Administrative arrangements are in place to ensure that the public is given the necessary assistance and guidance as well as to promote educational and environmental awareness. There is also appropriate recognition of and support to associations, organizations or groups promoting environmental protection, such as NGOs. The rights of persons exercising their rights under the provisions of the Convention are adequately protected.

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

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

6. Give relevant website addresses, if available:

www.mepa.org.mt

ARTICLE 4

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

Definitions are catered for in Regulation 2 of LN 116/05,

- (a) With respect to paragraph 1, measures taken to ensure that:
- (i) Any person may have access to information without having to state an interest;
This requirement is accommodated in Regulation 3 of LN 116/05.
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
This requirement is accommodated in Regulation 4 and 5 of LN 116/05.
 - (iii) The information is supplied in the form requested;
This requirement is accommodated in Regulation 6 of LN 116/05.

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

This requirement is accommodated in Administrative measures that are in place to ensure compliance with Regulations 4 and 5 of LN 116/05. In order to further ensure strict compliance with the time limits set out in the Legal Notice, administrative measures and guidelines have been drawn up by the authority.

- (c) With respect to paragraphs 3 and 4, measures taken to:
- (i) Provide for exemptions from requests;
This requirement is accommodated in Regulation 7 of LN 116/05.
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
This requirement is accommodated in Regulation 7(3) of LN 116/05.
- (d) With respect to paragraph 5, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;

This requirement is accommodated in Regulation 5 of LN 116/05.

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

This requirement is accommodated in Regulation 7(4) of LN 116/05.

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

This requirement is accommodated in Regulation 7(5) of LN 116/05.

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

This requirement is accommodated in Regulation 8 of LN 116/05.

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

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

No refusal to the request for information has ever been issued.

10. Give relevant web site addresses, if available:

www.mepa.org.mt

ARTICLE 5

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

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

- (i) Public authorities possess and update environmental information;

This requirement is accommodated in Regulation 9 of LN 116/05.

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

This requirement is accommodated in Regulation 10 of LN 116/05.

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

This requirement is accommodated in Regulation 10(4) of LN 116/05.

(b) With respect to paragraph 2, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;

This requirement is accommodated in Regulation 10(2) of LN 116/05 and guidelines drafted by the authority.

(c) With respect to paragraph 3, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;

This requirement is accommodated in the guidelines drafted by the Authority.

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

This requirement is accommodated in Section 7(1)(b)(vii) of the Environment Protection Act 2001.

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

This requirement is accommodated in Regulation 10 of LN 116/05.

(f) With respect to paragraph 6, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

Specific reporting conditions are currently being incorporated in environmental permits.

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

Internal administrative measures allow for this requirement.

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

As an EU Member State, Malta has established the Malta Standards Authority (MSA) as the competent body that administers the Eco-Label Scheme in Malta. The EU Eco-Label scheme is a unique certification scheme aimed to help European consumers distinguish greener, and more environmentally friendly products and services. The scheme is governed by Regulation (EC)

No. 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community Eco-label Award Scheme. The Eco-Flower has become a European-wide symbol for products, providing simple and accurate guidance to consumers. All products bearing the

"Flower" have been checked by independent bodies for complying with strict ecological and performance criteria. A product with the "Flower" adds value, since it has a reduced impact on the environment, and meets strict performance standards.

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

Pollution inventories or registers, are already a requirement of Member States of the European Union.

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

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

14. Give relevant website addresses, if available:

www.mepa.org.mt

ARTICLE 6

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

The questions are answered by one generic answer below:

The requirements stated above are accommodated in the Environmental Impact Assessment (EIA) regulations and the Integrated Pollution Prevention and Control (IPPC) regulations (attached), which, amongst other things, provide for a detailed consultation process with the public which ultimately leads to an inclusive decision-making process which is held in open sittings.

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

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

18. Give relevant web site addresses, if available:

www.mepa.org.mt

ARTICLE 7

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

These requirements are accommodated in the draft SEA regulations which will transpose the SEA regulations.

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

These requirements are accommodated in the draft SEA regulations which will transpose the SEA regulations.

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

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

23. Give relevant website addresses, if available:

www.mepa.org.mt

ARTICLE 8

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

These requirements are catered for in Section 10 of the Environment Protection Act which, inter alia, provides that all Regulations issued under the said Act are to have a 4-week public consultation period prior to their coming into force.

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

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

27. Give relevant website addresses, if available:

www.mepa.org.mt

ARTICLE 9

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

A generic answer will be provided for in this section's questions.

A first system of review of such a decision is provided through an internal challenge within the Authority. An overriding judicial review procedure before the Courts of Justice is also catered for in Section 469A of the Code of Civil Procedure of Malta. A decision of the Courts is binding on the Authority.

It is, however, being proposed that more substantive provisions in relation to these requirements will be included in specific draft regulations intended to transpose the provisions of the Directive on Access to Justice.

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

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

31. Give relevant website addresses, if available:

www.mepa.org.mt

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

The implementation of the Convention is very valuable in the contribution 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 and hence indirectly to the aims of the Millennium Development Goals and Sustainable Development in general