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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

Third meeting
Riga, 11–13 June 2008
Item 6 (a) of the provisional agenda
Procedures and mechanisms facilitating
the implementation of the Convention:
Reports on implementation

IMPLEMENTATION REPORT SUBMITTED BY BULGARIA*

Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.

* The present document was submitted on the above date due to resource constraints.

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. This report was updated by the following experts of the Ministry of Environment and Water:

- (a) Nelly Ilieva, State Expert in the Directorate “Strategies and Coordination on Issues of the European Union and International Cooperation”;
- (b) Aneta Dzhorina, Junior Expert in the Directorate “Strategies and Coordination on Issues of the European Union and International Cooperation”;
- (c) Vanya Grigorova, Director of the Directorate “Preventive Activity”;
- (d) Irena Mochurova, senior legal adviser in the Directorate “Legal Legislative and Administrative Servicing”.

2. Non-governmental ecological organizations were invited to be involved in the development of the draft report. No proposals were received by the non-governmental organizations (NGOs) at this stage. The draft report was placed on the Internet site of the Ministry for comments and proposals from the public for a term of 30 days. NGOs working in the sphere of preservation of environment were especially informed and were invited to present notes and proposals. The draft report was seen by 170 unique visitors to the site within the framework of the indicated term. Three comments were received with regard to the draft report – by the ecological NGOs Infoecoclub-Vratsa, the American Chamber of Commerce in Bulgaria and a consultancy company .

3. The non-governmental organization Infoecoclub-Vratsa considers that the requirements of the Convention were not appropriately transposed into the Bulgarian legislation as well as that its implementation is not effective. This stance was formed in the most general terms; there are no specific facts and examples that support the thesis of the organization, and some of the statements are false and improper. The American Chamber of Commerce in Bulgaria proposes that business should be actively involved in the preparation of the drafts of new legislative instruments, strategies, plans, and programmes in the sphere of environment. In principle, business as well as the other sectors were included in the working groups and were informed in due time during the preparation of the drafts of the documents. The proposal of this organization, aimed at the more active involvement of the business in the process of decision-making about environment, shall be discussed.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

4. No information was provided under this heading.

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

Legislative measures

5. The Access to Public Information Act (Arts. 15 and 16) requires public authorities to publish certain public information and make it available to the public.
6. The Environmental Protection Act (Art. 22 (1)) (as amended - State Gazette (SG), issue 77 of 2005) provides for the Minister of Environment to prepare an annual state of environment report and present it to the Council of Ministers; the Council of Ministers annually submits to the General Assembly a report on the state of the environment proposed by the Minister of Environment and Water, which it publishes after its acceptance as a National Report on the State and Preservation of the Environment.
7. Articles 24 and 25 of the Environmental Protection Act (EPA) obligate each manager of an administrative structure annually to publish data from the information displays and resources of information about environment.
8. Article 25a, (New - SG, issue 77 of 2005), paragraph 1, of the Environmental Protection Act identifies the competent authorities and the persons pursuant to Article 21.
 - (a) Article 21, paragraph 1: Competent authorities under this chapter shall be the central and territorial authorities of the executive power which collect and have information available about the environment.
 - (b) Article 21, paragraph 2: Competent authorities within the meaning of paragraph 1 shall also be the other authorities and organizations which dispose of the funds of the consolidated State budget and collect and dispose of information about the environment with the exception of the authorities of the legislative and judicial power.
 - (c) Article 21, paragraph 3 (new - SG, issue 77 of 2005): Each natural or juristic person who renders public services related to the environment and who implements these activities under the control of the authorities and the organizations pursuant to paragraphs 1 and 2 shall be obligated to provide information about the environment in accordance with the procedure established by this chapter and also shall create an Internet site and maintain through it information database about the environment which shall be free and publicly accessible.
9. Article 25a, paragraph 2, states that the database pursuant to paragraph 1 shall contain at least the following information:
 - (a) Texts of international contracts, conventions or agreements, and legislation related to environment;
 - (b) Strategies, plans and programmes related to the environment;

- (c) Reports on the progress or implementation of instruments and documents pursuant to items 1 and 2, if such were prepared or maintained in an electronic kind;
- (d) The national and regional reports on the state of the environment as well as other reports on the state of the environment anticipated in the law or in the subordinate legislation;
- (e) Data or generalized data incoming from the monitoring of the activities which exert or may exert impact over the environment;
- (f) Public registers in accordance with the procedure established by this act or of other special acts in the sphere of environment.

10. Article 25a, paragraph 3, states that the information pursuant to paragraph 2 shall be periodically updated.

11. Article 31 states that national radio and TV operators are required to cooperate with the public authorities for the dissemination of environmental information.

Regulatory measures

12. Orders of the Minister of Environment and Water (MOEW):

- (a) Order N110/11.02.2003 on the Establishment of a Catalogue of Environmental Data Sources;
- (b) Order N 111/11.02.2003, which determines the obligations of certain administrative structures to provide environmental information, and shall be included in the Catalogue of Data Sources;
- (c) New Order No RD-953/18.12.2006, which shall not revoke the obligations under Order No 111/11.02.2003 on the Catalogue for Sources of Information on the Environment, but shall update the procedure for keeping the registers about the applications received for the provision of access to public information.

Article 3, paragraph 3

13. With respect to ecological education, a memorandum of understanding between the Ministry of Environment and Water and the Ministry of Education and Science has been signed.

Article 3, paragraph 4

14. Pursuant to article 8, paragraph 3, of the National Budget Act for the year 2007, funds were anticipated for financing projects of NGOs of general significance and one of the four priorities is the preservation of environment. Associations, organizations or groups working for the preservation of the environment may apply with projects under the operational programmes for financing of Bulgaria on the part of the European Union (EU). Representatives of NGOs are included in over 20 working groups, boards and committees with ministries related to the protection of the environment.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

15. No information was provided under this heading.

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

16. Information centres for the public were created in the MOEW and its regional bodies where each citizen may obtain information about the environment. A considerable amount of information is already available on the Ministry's website, as well at those of its regional authorities. A "one-stop-shop" service to register the filed applications for access to information was established in the MOEW in 2000, which allowed for proper file management and compliance with applicable deadlines.

17. MOEW organized nationwide environmental public awareness campaigns targeting various interest groups. With regard to the Communication Strategy for the EU projects are implemented for getting the public and the local authorities acquainted with the requirements of the new European environmental legislation.

18. Within the framework of several projects under the Stability Pact, guidelines have been developed and seminars have been held to familiarize various target groups with their rights deriving from the implementation of the Convention in Bulgaria.

19. MOEW has built a partnership with NGOs on the principles of equality and transparency. Environmental NGOs take part in the decision-making process as members of advisory bodies to and working groups of the Ministry. At the earliest possible stages the NGOs are provided with the opportunity to express their positions on legal acts, strategies, plans, and programmes drafted by the Ministry concerning the environment and sustainable development.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

20. www.moew.government.bg, nfp-bg.eionet.eu.int/cds_eng/main.htm .

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

Relevant definitions

Article 2, paragraph 2 (definition of “public authority”)

21. There is no definition in the Bulgarian legislation which fully transposes the Convention’s definition of “public authority”. According to Article 21, paragraphs 1 and 2, of the EPA, “public authorities” are the competent authorities, defined as follows:

(a) Central and local executive authorities that collect and hold information relating to the environment;

(b) Bodies and organizations that dispose of resources of the consolidated national budget and that collect and hold information relating to the environment, with the exception of the legislative and judicial authorities.

22. Article 21, paragraph 3, of the EPA (new - SG, issue 77 of 2005) states that each natural or legal person who renders public services related to the environment and who implements this activities under the control of the authorities and the organizations pursuant to paragraphs 1 and 2 shall also be obligated to provide information about the environment in accordance with the procedure established by this chapter.

Article 2, paragraph 3 (definition of “environmental information”)

23. The definition of “environmental information” is fully transposed in Articles 18 and 19 of the EPA.

Article 4, paragraph 1

24. According to Article 17 of the EPA, anyone shall have the right of access to available information relating to the environment without having to prove a specific interest.

25. According to Articles 26 and 27 of the Access to Public Information Act, access to public information shall be granted in the following forms:

(a) Examination of the information (original or copy);

(b) Verbal explanation;

(c) Paper copy;

(d) Copy on technical bearer.

26. The bodies shall comply with the requested form of access to public information, with certain exceptions.

Article 4, paragraph 2

27. According to Article 20 (2) of the EPA, information relating to the environment shall be provided within 14 days after the date on which the applicant was notified about the decision of the competent authority to provide access to the information requested.

28. According to Article 28 (1) of the Access to Public Information Act, each request for access to public information shall be considered within the shortest possible time, but not later than 14 days as of the date of registration.

Article 4, paragraphs 3 and 4

29. According to Article 20 (1) of the EPA, access to information relating to the environment may be denied where the request is for:

- (a) Classified information constituting a State secret or an official secret;
- (b) Information constituting an industrial or commercial secret, designated as such by law;
- (c) Intellectual property;
- (d) Information constituting personal data, where the natural person concerned has not consented to the disclosure of the said information, and according to the requirements provided for in the Protection of Personal Data Act;
- (e) Information which would adversely affect the interests of a third party which has supplied the information requested without that party being under or capable of being under a legal obligation to do so, and where that party does not consent to the release of the information;
- (f) Information that will adversely affect the environmental media.

30. According to Article 33 of the Access to Public Information Act, if the body does not hold the requested information and is not aware of its location, it shall notify the applicant accordingly within 14 days.

31. According to Article 29 (1) of the Access to Public Information Act, where it is not clear what information is being requested or it is too broadly defined, the applicant shall be advised accordingly and shall be provided an opportunity to specify the requested information.

32. According to Article 20 (4) of the EPA, upon making a decision to refuse provision of any information covered under paragraph 1, the competent authority shall take into account the public interest served by disclosure of any such information.

33. According to Article 14/2 (3) of the Access to Public Information Act, the authorities shall be obliged to announce information which has been collected or came to their knowledge during the performance of their activities, where such information is, or could be, of interest to the public.

Article 4, paragraph 5

34. According to Article 32 (1) of the Access to Public Information Act, when the body does not hold the requested information, but is aware of its location, it shall re-send the application within 14 days as of receipt of the request and shall notify the applicant of the re-sending.

Article 4, paragraph 6

35. According to Article 20 (5) of the EPA, in case of restricted access, the available information relating to the environment shall be provided in the part therein as can possibly be separated out from the restricted information.

36. According to Article 37 (2) of the Access to Public Information Act, partial access may be granted to such parts of the information, to which access is not restricted.

Article 4, paragraph 7

37. According to Article 38 of the Access to Public Information Act, a decision refusing access to public information shall state the legal and factual grounds for the refusal under this act, the date of the decision and the procedure for its appeal.

38. According to Article 28 (2) of the Access to Public Information Act, the competent authorities, or persons explicitly authorized by them, shall decide on whether to grant or deny access to public information and shall notify the applicant about the decision in writing.

Article 4, paragraph 8

39. According to Article 20 (1) of the Access to Public Information Act, the access to public information shall be free of charge. The expenses incurred for granting access to public information shall be recovered in accordance with tariffs determined by the Minister of Finance, and shall not exceed the actual costs incurred. A justification of the expenses shall be provided to the applicant upon request.

40. According to Article 22 of the Access to Public Information Act, no additional expenses shall be charged for corrections and/or addendum to the granted public information in cases where the information is incorrect or incomplete and this has been requested by the applicant on stated grounds.

41. According to Article 29 of the EPA, the charge made for the provision of expressly processed information shall be negotiated in each particular case.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

42. No information was provided under this header.

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

43. In the Ministry of Environment and Water and its regional authorities there is a very well-organized access-to-information system that is subject to constant development.

44. The access to information procedure in the MOEW and its bodies is regulated by three ministerial orders regarding the establishment of a register of access-to-information requests, a list of issued legal and administrative acts, and a request processing procedure. A “one-stop-shop” service has been introduced, whereby all access-to-information requests are filed and allocated for consideration.

45. Pursuant to Article 15, paragraph 2 (amended - SG, issue 24 of 2006), of the Access to Public Information Act, each manager of an administrative structure within the system of the executive power shall prepare an annual report on the applications received for access to public information, which shall also include data about the rejections made and the reasons for them. The annual report shall constitute a part of the annual reports pursuant to article 62, paragraph 1, of the Administration Act. Order No 111/11.02.2003 was also updated in relation to the preparation of these reports and the optimization of work by signed new Order No RD 953/18.12.2006 of the Minister of Environment and Water.

46. The applications registered for access to public information in the MOEW, sector service, for the time period from 1 January 2005 to 30 June 2007 added in total to 348. Respectively in conformity with the applicants they were 8 journalists, 114 citizens, 86 NGOs, 148 others.

47. The resolutions for rejection for the provision of access to public information were prepared for six of the applications filed as:

(a) The requested information refers to instruments which are not completed and which do not have their independent significance in conformity with the provisions of article 13, paragraph 2, item 1, of the Access to Public Information Act;

(b) Owing to disagreement on the part of third persons for the provision of the information on the grounds of article 37, paragraph 1, item 2, of the Access to Public Information Act.

48. Specially designated officers in the Ministry and its bodies are responsible for providing access to information. Employees of the Ministry and its bodies have been trained in application of the Convention at several seminars held for this purpose. A “Guide for Implementation of the Aarhus Convention” has been developed and uploaded to a special section of the Ministry’s website dedicated to the Convention.

49. The Ministry was recognized for its work in the area of information provision, being distinguished by the NGO Access to Information Programme as one of the public institutions in Bulgaria providing very good access to the information it holds.

**X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 4**

50. www.moew.government.bg.

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

Article 5, paragraph 1

51. According to article 24 of the EPA, on an annual basis, each head of an administrative structure in the system of the executive branch of government shall publish data for the displays and resources of processed environmental information.

52. According to Article 25 (1) of the EPA, the MOEW shall issue an order determining the description of the information displays and resources.

53. In conformity with Article 25a of the Access to Public Information Act (New - SG, issue 77 of 2005), the following applies:

(a) According to paragraph 1, the competent authorities and the persons pursuant to Article 21, shall create an Internet site and maintain through it an information database about the environment which is free and publicly accessible;

(b) According to paragraph 2, the database pursuant to paragraph 1 shall contain at least the following information:

- (i) Texts of international contracts, conventions or agreements and legislation related to the environment;
- (ii) Strategies, plans and programs related to the environment;
- (iv) Reports on the progress or the implementation of the instruments and documents pursuant to items 1 and 2 if such were prepared or maintained in an electronic form;
- (v) The national and regional reports on the state of the environment as well as other reports on the state of the environment anticipated in the law or in the subordinate legislation;
- (vi) Data or generalized data incoming from the monitoring of the activities which exert or may exert an impact on the environment;
- (vii) Public registers in accordance with the procedure established by this act or of other special acts in the sphere of the environment;

(c) According to paragraph 3, the information pursuant to paragraph 2 shall be periodically updated.

54. According to Article 23 of the EPA, in the event of accidental or other pollution, where the limit values for pollutants discharge in the environment as established by a legislative act or an individual administrative act are exceeded, the polluters, as well as the persons responsible for observance of the limit values, shall be obliged to notify immediately the competent regional governors, mayors of the municipalities concerned, the relevant Regional Inspectorates for

Environment and Water (RIEWs), the basin directorates, and the authorities of the Ministry of State Policy for Disasters and Accidents, and, in the event of a change in the radiation level, the Nuclear Regulatory Agency as well.

55. Pursuant to Article 23, paragraph 2, of the Access to Public Information Act the competent authorities covered under paragraph 1, shall be obliged to notify immediately the Ministry of Health and the affected community about the occurrence of pollution in excess of the emission limit values, suggesting measures for protection of human health and of property.

Article 5, paragraph 2

56. According to article 15 (1) of the Access to Public Information Act, to achieve transparency of the administrations activities, and for the purpose of maximum facilitation of access to public information, every chief officer of an administrative structure within the system of the executive power shall publish on a regular basis up-to-date information containing:

- (a) A description of his/her powers as well as data on the organizational structure, functions and responsibilities of the administration led by him/her;
- (b) A list of the acts issued within the scope of its powers;
- (c) A description of the data volumes and resources used by the respective administration;
- (d) The name, address, telephone number and the working hours of the respective administration's office authorized to receive requests for access to public information.

57. According to Article 24 of the EPA, on an annual basis, each head of an administrative structure in the system of the executive branch of government shall publish data for the arrays and resources of processed environmental information.

58. According to Article 25 (1) of the EPA, the MOEW shall issue an order determining the description of the information arrays and resources, when they contain environmental information.

Article 5, paragraph 3

59. According to Article 25 (3) of the EPA, the description of the information arrays shall be published on the Internet site of the MOEW.

Article 5, paragraph 4

60. In conformity with Article 22 (1) of the EPA (as amended – SG, issue 77 of 2005), the Council of Ministers annually submits to the General Assembly a report on the state of the environment proposed by the MOEW, which it publishes after its acceptance as National Report on the State and Preservation of the Environment.

61. In conformity with Article 22 (2) of the EPA (as amended – SG, issue 77 of 2005), the report pursuant to paragraph 1 shall be submitted to the National Assembly within a term of

three months after the provision of the data and the information by the National Statistical Institute.

Article 5, paragraph 5

62. According to Article 19 (2) of the EPA, Information relating to the environment shall mean any information in written, visual, aural, electronic or other physical form regarding as well as the activities and/or measures, including administrative measures, international agreements, policies, legislation, plans and programmes impacting or capable of impacting the environmental media.

63. According to Article 25 (1) of the EPA, the MOEW shall issue an order determining the description of the information arrays and resources, where the said arrays and resources contain any information covered under Article 19 of the EPA.

Article 5, paragraph 6

64. A article 133 (1) of the EPA, by applying the National Eco-management and Audit Scheme, a sustained improvement in the performance of the various organizations is achieved in terms of both environmental protection and provision of relevant information to the public and other parties concerned.

Article 5, paragraph 7

65. In conformity with Article 22 (1) (as amended – SG, issue 77 of 2005) of the Environmental Protection Act, the Council of Ministers annually submits to the General Assembly a report on the state of the environment proposed by the Minister of Environment and Water, which it publishes after its acceptance as National Report on the State and Preservation of the Environment.

Article 5, paragraph 8

66. According to Article 137 of the EPA, the objective of the National Eco-label Award Scheme shall be to promote development, production, distribution and use of products which have the potential to reduce adverse environmental impacts in comparison to other products of the same product group. The National Eco-label Award Scheme shall be implemented by means of provision of accurate, non-misleading and scientifically based information to consumers on such products.

Article 5, paragraph 9

67. According to article 130 (1) of the EPA, the Executive Environment Agency (ExEA) shall keep a public register of the results of emissions monitoring as provided for in the integrated permits. The data of the register shall be transmitted to the European Register of Noxious Substance Emissions.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

68. No information was provided under this heading.

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

69. Transparency and efficient access to environmental information in Bulgaria is ensured mainly through the websites of the public institutions and through their information centres and their published reports, bulletins, and other specialized editions. This is part of the wider trend of providing available environmental information via electronic tools, and is one of the priorities of the MOEW.

70. In conformity with the rules for acceptance and issuance of electronic documents in the administration of the MOEW, ratified by the Minister of Environment and Water, since the beginning of 2005 it has been possible to file applications signed by universal electronic signature through the input for acceptance of electronic documents on the MOEW website.

71. The ExEA, jointly with the MOEW, and with the technical assistance of the Austrian Environmental Agency, has developed a Catalogue of Environmental Data Sources in Bulgaria.

72. In conformity with the requirements of the new ecological legislation, the MOEW and the ExEA shall maintain about 20 registers and databases related to the environment.

73. The reports and bulletins published by the MOEW and the ExEA are accessible via the Internet at: <http://nfp-bg.eionet.eu.int/ncesd/bul/bulletins.html>.

74. Pursuant to Article 22, paragraph 3 (new - SG, issue 77 of 2005) of the EPA, the Regional Inspectorates for Environment and Water shall annually, within a term of up to 30 April, prepare a regional report on the state of the environment in their relevant territories for the preceding year. The content and the scope of the regional report shall be defined by instructions of the MOEW.

75. Information on accidents and disasters in Bulgaria is provided to the public by the Civil Protection Agency, MOEW and ExEA.

76. All acts adopted by the National Assembly, as well as the regulations and decisions enacted by the Council of Ministers are published in the *State Gazette*. Digital versions of the full texts can be found in legal databases as APIS, CIELA, DIGESTA, etc; maintained by various private companies. In the "European Integration" section of the Ministry's website, the complete texts of the national environmental laws and regulations, harmonized with European ones, are published. In this section, Bulgarian translations of the main EU legal acts in the field of environment are also published. There is also a link to the European Commission's website, where the environmental acquis are published.

77. A "List of Conventions to which Bulgaria is a Party" is published in the "International Cooperation" section of the Ministry's website.

78. The main strategies, action plans and programmes in the field of environment are published at the especially dedicated section, “Strategies and Programmes”, of the Ministry’s website.

79. The main policy documents such as strategies, programmes and action plans, can be found in the Ministry’s information centre, as well as in the respective sector departments.

80. There is a special section entitled “Dialogue” on the Ministry’s website, where all important new draft laws, strategies, plans, and programs are published for comment and where respective policy implementation reports are also provided.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

81. www.moew.government.bg/, <http://nfp-bg.eionet.eu.int/ncsd/index.html>.

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

Article 6, paragraph 1

82. The list of activities enclosed as annex I to the Convention is completely transposed in Annex I of the EPA.

83. Article 6, paragraph 1 (b), of the Convention is transposed with the provisions of:

- (a) Article 93 of the EPA;
- (b) Article 2 of the Regulation on the Conditions and Terms for Carrying Out Environmental Assessment of Plans and Programmes (SG 57/2004).

Article 6, paragraph 2

84. Article 6, paragraph 2, of the Convention is transposed with the provisions of:

- (a) Articles 87, 95, and 97 of the EPA;
- (b) Articles 19, 20, 21 and 22 of the Regulation on the Conditions and Terms for Carrying Out Environmental Assessment of Plans and Programmes;
- (c) Articles 9 and 16 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessment (EIA).

Article 6, paragraph 8

85. Article 6, paragraph 8 of the Convention is transposed with the provisions of:

- (a) Articles 87 and 99 of the EPA;
- (b) Article 18 of the Regulation on the Terms and Conditions for Carrying out

Environmental Impact Assessment of Investment Proposals for Construction, Activities and Technologies;

(c) Article 26 of the Regulation on the Conditions and Terms for Carrying Out Environmental Assessment of Plans and Programmes.

Article 6, paragraph 9

86. Article 6, paragraph 9, of the Convention is transposed with the provisions of:

(a) Articles 88 and 99 of the EPA;

(b) Article 27 of the Regulation on the Conditions and Methods for Carrying Out Environmental Assessment of Plans and Programmes.

Article 6, paragraph 10

87. Article 6, paragraph 10, of the Convention is transposed with the provisions of Articles 85 and 93 of the EPA.

Article 6, paragraph 11

88. Pursuant to Article 50 of the Law on Genetically Modified Organisms (GMOs) the following applies:

(a) According to paragraph 1, the MOEW shall organize public discussion, which shall be held not later than 45 days after the opinion of the Consultative Commission on GMOs with the Minister of Environment and Water concerning application;

(b) According to paragraph 2, the summary of the technical dossier, the summary of the assessment of the risk pursuant to Article 43 and the standpoint of the Commission pursuant to Article 49, paragraph 5, shall be presented at the public discussion;

(c) According to paragraph 3, the information determined as confidential in accordance with the procedure established by Chapter 6 may not be subject to discussion;

(d) According to paragraph 4, the subject-matter of public discussion and the location where the needed information is at the disposal of the interested persons shall be announced not later than 30 days prior to the date of the discussion in a central daily paper, through the local information of mass media, through placement of announcements in the relevant town-halls within the region of release of GMOs into the environment, and announcements as well on the Internet site of the information system pursuant to Article 4, paragraph 2. The date and the location where the public discussion shall be held shall also be announced in the notification;

(e) According to paragraph 5, each person may present a standpoint on the subject-matter of the discussion in writing or in electronic form;

(f) According to paragraph 6, the applicant or his representatives and the members of the Commission shall also be invited for participation in the public discussion;

(g) According to paragraph 7, minutes shall be kept at the public discussion which shall be applied to the documents for the issuance of the permit.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

89. The legislation regarding the environmental assessment has been in force since 1 July 2004, and not enough experience has been gathered so far to summarize the difficulties encountered.

90. Regarding the procedure on the EIA, the public and the public concerned are involved in the whole decision-making process; from the first announcement for an investment proposal (at the beginning of the process) until the announcement for the decision taken (at the end of the process). The identification of the public concerned, which is involved in the consultation process during the EIA, is an obligation of the investor (according to the legislation). In some cases, it complicates the procedure when there are other persons who would like to participate in the consultations at a later stage of the process.

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

91. Summarized statistic data on the public participation (number of participants) in the decision-making process is not available. More activity on the part of representatives of the local public can be noticed in the EIA process, especially when private interests are concerned. The representatives of the environmental NGOs are usually more active in cases of large infrastructure projects or when protected areas are concerned.

XVIII.WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

92. www.moew.government.bg/, www.riosv-pd.hit.bg/, www.riosv-vt.hit.bg/, <http://riosvmon.net-surf.net/>, <http://riosvsz.dir.bg/>, www.rioswpz.hit.bg/, www.vracakarst.com/riosv/, <http://riewpleven.hit.bg/>, www.riosv.icon.bg/, www.riew-varna.org/, <http://riosvrs.hit.bg/>.

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

93. According to Article 75 (3) of the EPA, the process of elaboration and public discussion of the National Environmental Strategy shall furthermore involve representatives of the research community and of non-governmental environmental and branch organizations.

Relevant definitions

94. The definition of “public” is transposed in item 24 of the Supplementary Provisions of the EPA. “Public” shall be one or more natural or legal persons and the associations, organizations or groups thereof, established in accordance with the national legislation.

95. The definition of “public concerned” is fully transposed in item 25 of the Supplementary Provisions of the EPA (supplemented – SG, issue 77 of 2005). “Public concerned” shall be the public referred to in item 24, which is affected or is likely to be affected, or which has an interest in the procedures for approval of plans, programmes and development proposals, as well as in the decision-making process on the issuance or updating of permits according to the procedure established by this Act, or in the conditions set in the permits, inclusive of the ecological NGOs created in compliance with the national legislation.

96. The definition of “Environmental Information” is transposed in Article 18 of the EPA. The information relating to the environment shall be:

- (a) Available primary information;
- (b) Available pre-processed information;
- (c) Expressly processed information.

97. In Article 19 of the EPA, “information relating to the environment” shall mean any information in written, visual, aural, electronic or other physical form regarding:

- (a) The state of the environmental media as follows: ambient air, atmosphere, water, soil, bowels of the earth, landscape, natural sites, mineral diversity, biological diversity and the components therein and the interaction between them;
- (b) (Supplemented - SG, issue 77 of 2005) The factors pursuant to Article 5, as well as the activities and/or measures, inclusive of the administrative measures, international contracts, policy, legislation in the sphere of the environment, plans and programmes, which exert or are in a position to exert impact over the components of the environment;
- (c) The state of human health and safety, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in item 2;
- (d) Cultural and historical heritage sites, buildings and installations, inasmuch as they are or may be affected by the state-of-the-environmental media or, through the said media, by the factors, activities or measures referred to in item 2;
- (e) Costs-benefit analysis and other economic analyses and assumptions used within the framework of the measures and activities referred to in item 2;
- (f) Emissions, discharges and other harmful impacts on the environment.

98. According to Article 21, paragraphs 1 and 2, of the Environmental Protection Act (EPA) “public authorities” are the competent authorities, which are defined as the:

- (a) Central and local executive authorities that collect and hold information relating to the environment;
- (b) Bodies and organizations that dispose of resources of the consolidated national budget and that collect and hold information relating to the environment, with the exception of the legislative and judicial authorities.

99. According to the definition given in the Access to Public Information Act, article 3, paragraphs 1 and 2, “public authority” means:

- (a) The State and local authorities which create and hold public information;
- (b) Public authorities that differ from the authorities mentioned above;
- (c) Individuals and legal entities as far as only their activities financed with funds from the consolidated State budget are concerned;
- (d) The mass media with regard to the transparency of their activity.

100. The requirement of Article 3, paragraph 9, is set up as a main principle in the Constitution of the Republic of Bulgaria. Article 26, paragraph 1 of the Bulgarian Constitution states: “The citizens of the Republic of Bulgaria, wherever they are, have all rights and obligations that referred to in this Constitution. Paragraph 2 states: “Foreigners who are residents in Republic of Bulgaria have all rights and obligations referred to in this Constitution with the exception of those rights and obligations for which the Constitution and the Law require Bulgarian citizenship”.

101. According to the Access to Public Information Act, Article 4, paragraph 1, “any citizen of the Republic of Bulgaria is entitled to access to public information subject to the conditions and the procedure set forth in this act, unless another act provides for a special procedure to seek, receive and impart such information.” According to paragraph 2, foreign citizens and individuals with no citizenship shall enjoy the right under paragraph 1 in Bulgaria. According to paragraph 3, legal entities shall also enjoy the right under paragraph 1.

102. The EPA is a special legal act regarding the access to information under article 17: “Anyone shall have the right of access to available information relating to the environment without having to prove a specific interest.”

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

103. An established practice is the MOEW to provide for public access all drafts of plans, programs and strategies on the Ministry’s website at the earliest possible stage, allowing a term of 30 days for comments and proposals, as well as to organize public discussions.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

104. There is not yet enough practice to comment here.

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

105. A public discussion on the Draft National Environmental Strategy 2005–2014 was organized and many of the proposals were made during the discussion have been reflected in it. A draft Strategy has been also uploaded to the Ministry’s website for comments and proposals.

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

106. www.moew.government.bg.

**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**

107. Pursuant to Article 75, paragraph 3, of the EPA, representatives of the scientific circles and non-governmental ecological and branch organizations also participate in the process of development and public discussion of the National Strategy for Environment.

**XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION
OF ARTICLE 8**

108. No information was provided under this heading.

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

109. MOEW publishes on its website the drafts of the more important legal acts in order to provide the public with the opportunity to express recommendations, comments and suggestions.

110. As an example of good practice, the participation of NGO representatives in the various working groups on draft law development could be pointed out.

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

111. www.moew.government.bg.

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

Article 9, paragraph 1

112. The basic Bulgarian legislation relating to access to information is the Access to Public Information Act (APIA). According to Articles 40 to 42 of the APIA, the decisions for provision

or refusal of information can be challenged in court, the Supreme Administrative Court or the administrative courts, depending on the authority which has issued the decision. Chapter II of the EPA is applied for access to environmental information, but the procedure of the general APIA is applied. Therefore, the Bulgarian legislation meets the requirements of the Convention and provides any person who considers that his or her request for information has not been dealt with in accordance with the provisions of article 4 of the Convention with the right to a review procedure before a court of law. The Bulgarian legislation provides also that only a judicial procedure is applicable, which guarantees the independence of the decision made as well as that the respective decision shall be mandatory for the administrative body. The courts efficiently apply these provisions of the Bulgarian legislation and judicial practice is already established.

113. According to the Bulgarian legislation, there is only a judicial review procedure for the decisions relating to access to information (art. 40, para.1, of the APIA). As it relates to an administrative decision, the file is submitted through the respective administrative authority which has made the decision and therefore it can reconsider its own decision. On the other hand, the taxes are paid according to fixed tariffs, established for all courts. As those cases are administrative cases, the respective taxes are relatively small.

114. As there is only a judicial review procedure, the court decisions are binding for all public authorities, natural or legal persons. Court decisions concerning a refusal of information are also binding for all persons who have the obligation to provide access to public information, and are given in Article 3 of the APIA.

115. Moreover, factual and legal reasons for refusing access to public information shall be stated in writing, according to article 28, paragraph 2 and article 34, paragraph 1 of the APIA, as well as according to the rules on access to public information established by the MOEW.

Article 9, paragraph 2

116. This issue is not explicitly regulated by the Bulgarian legislation, but the members of the public concerned undoubtedly have the right to challenge any decision made by the administrative bodies. The Administrative Procedure Code (promulgated in the State Gazette issue 30 of 11 April 2006), in force since 12 July 2006, shall be applied with regard to the administrative proceedings and the representatives of the public may appeal resolutions of the administrative authorities.

117. On the one hand, the Constitution of the Republic of Bulgaria states the right of a clean environment, which provides the material grounds to anyone to participate in the judicial process (according to art. 6) and to challenge before court the legality of any decision, act or omission. On the other hand, the current judicial practice shows that legal persons, including NGOs which meet the criteria of the national legislation and are registered, are given the possibility to participate in the judicial process.

Article 9, paragraph 3

118. Members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of the

national law relating to the environment; this is provided by the Constitution of the Republic of Bulgaria, according to which everyone has a right to a healthy environment. This ensures the constitutional grounds for challenging all acts and omissions of public authorities and private persons relating to the environment.

119. On the other hand, chapter XI of the EPA provides for the civil liability of anyone who has inflicted environmental pollution or damage. Article 171 of the EPA explicitly provides for the possibility for the affected parties to bring action against the offender for cessation of the violation and for elimination of the consequences of the pollution that have occurred.

Article 9, paragraph 4

120. Bulgarian legislation provides a variety of options for the public to participate in the judicial process. There are provisions for the right to file an administrative, civil or criminal case, relating to environmental matters. Court decisions relating to the environment are mandatory for all administrative bodies, as well as to every natural or legal person. On the other hand, the judicial procedures are slow, so other options for speeding up the process shall be regarded to settle the environmental disputes. Unfortunately, the public itself does not seem to show a great interest in using the access to justice possibilities in the settling of environmental disputes. Seminars and projects have been organized which will assist in public awareness-raising in the future, as far as the environmental cases are concerned. At present, the administrative and legal prerequisites for effective access to justice have been created.

Article 9, paragraph 5

121. With regards to providing information for the review procedures, a lot of activities have been carried out to raise the public awareness regarding the Convention (publishing information on the MOEW website, holding seminars for different target groups, publishing of information materials). That by all means will lead to public awareness of the possibilities for access to justice and the opportunities of the public to file law suits for the cases relating to the environment. On the other hand, article 15 of the Administrative Proceedings Act requires that the relevant terms and competent body for a review procedure shall be included in the decisions of the administrative bodies (which constitute an administrative act).

122. With regard to transparency of the court decisions, as a general principle the judicial procedures are public and everyone can be present in the courtroom. Court decisions and the motives are available to the public. The Supreme Administrative Court has introduced a good practice of publishing its decisions and the protocols of the sessions on its website. Some other courts, such as the courts of appeal and some of the regional and local courts that have websites, have followed this practice.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

123. The following obstacles were encountered:

- (a) Problems in the judicial system;
- (b) The judicial process requires more time and the procedures are slow. Sometimes the required timing for issuing a court decision is not complied with, which slows the process;
- (c) Lack of awareness and interest among the magistrates regarding environmental matters and lack of sufficient capacity. Capacity-building activities are required, example.g. environmental law needs to be included in the curriculum of the Academy for Training of Magistrates.
- (d) There is a need for environmental capacity-building for legal professionals, and more classes need to be added to the environmental law curriculum r;
- (e) Insufficient public awareness;
- (f) A need for serious academic works and publications on this matter.

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

124. There are no statistics available.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

125. www.moew.government.bg - Ministry of Environment and Water
www.mjeli.government.bg/ - Ministry of Justice
www.sac.government.bg/ - Supreme Administrative Court
www.vss.justice.bg/ - Supreme Judicial Council

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

126. There is no doubt that the ratification and implementation of the Convention contributes to the development of civil society in Bulgaria. The ratification process itself and preparation for practical implementation of the Convention have already stimulated a series of legislative and institutional measures undertaken by the public authorities to ensure effective access to environmental information and public participation in the decision-making process.
