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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 DENMARK*

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 late due to resources constraints.

I. PROCESS BY WHICH THIS REPORT HAS BEEN PREPARED

1. The report for the second reporting cycle has been based on the report from the first reporting cycle and has been updated with new information.
2. Having regard to the guidance on the length of national implementation reports prepared as official United Nations documents, this edition is somewhat shorter than the full review of Danish legislation included in the draft revised report that was sent for review to a wide range of State and regional authorities, non-governmental organizations (NGOs), citizens and enterprises. The report was also made available on the Internet. The review was followed by a meeting and a second review period.
3. The full report in Danish, relevant hearing replies and the replies from the Danish Environmental Protection Agency to these are available at www.mst.dk.

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

5. A fundamental principle of the administrative process is that, to the extent possible and without having to fulfil special requirements, an individual should be able to refer to administrative authorities regarding a case. The administrative authorities ensure that the individual receives the legal status provided for in legislation.
6. The Public Administration Act contains a number of general regulations regarding the administrative process that afford citizens with various rights and authority in connection with the treatment by the administration of a matter for decision.
7. The Act on Public Access to Documents in Administrative Files (Access to Documents Act) contains the general regulations concerning the obligations of an administrative authority to allow access to documents received or prepared by it as part of its administrative case processing. The Act applies to anyone who requests access to specific documents or documents in particular cases. The authority is not precluded from allowing greater access than that stipulated in legislation, unless otherwise provided for in regulations on the duty of confidentiality, etc.
8. The Act on Access to Information Relating to the Environment (Environmental Information Act) supplements the Public Administration Act and the Access to Documents Act with regard to information on the environment.

9. The legal principle of good administrative practice is a generic concept for overall ethics-based principles regarding the behaviour of authorities towards citizens. The principle is primarily used by the Ombudsman as a basis for assessing how the authorities process cases.

10. According to the legislation, an administrative authority must provide all guidance and assistance necessary to people who refer enquiries within the auspices of the authority. If an administrative authority receives a written enquiry that is not within its area of responsibility, as far as possible the enquiry must be forwarded to the correct authority.

11. The Public Administration Act states that any decision which is notified in writing and which can be appealed to another administrative authority must be accompanied by guidance on appeals. The guidance on appeals must be provided in writing in connection with the notification of the decision and it must state the authority representing the body of appeal and provide information on how appeals are to be submitted, including any time limits. Decisions that may be brought before the courts under due observance of a statutory time limit for the proceedings of the case must be accompanied by information thereon.

Article 3, paragraph 3

12. The Ministry of the Environment (MIM) is constantly working to ensure citizens' access to information on environmental issues in a large number of areas, for example on its websites. Printed material is issued when considered appropriate in order to reach the relevant target groups for a given environmental topic. Furthermore, the Ministry has provided the opportunity to take part in the decision-making process by sending bills, proposed statutory orders, guidelines, plans and programmes for hearing to a large cross section of interested parties, as well as making proposals available on the Internet.

13. The website of the Danish Environmental Protection Agency (EPA) (www.mst.dk) contains separate information on the environmental rights arising from the Convention. Following its implementation in 2001, an information campaign, "Set environmental decisions in motion", was completed.

14. The MIM is making active contributions to the EMU portal, which provides information for the educational sector on including environmental issues in teaching. Since 2003, every autumn MIM has organized the "Ren Uge" (clean week) campaign for school pupils of around age 12. The objective of the campaign is to encourage pupils to think about the waste they throw away and the ways waste is managed in Denmark.

15. The Danish Forest and Nature Agency and the Danish Outdoor Council jointly administer the Nature Guide Scheme which produces 310 nature guides, promoting knowledge and understanding of nature and the environment. Each year, approximately 36,000 activities for a total of 950,000 participants are carried out.

16. The Forest and Nature Agency has also developed teaching materials on biodiversity for the Folkeskole (the Danish Primary and Lower Secondary School);

Article 3, paragraph 4

17. The Act of Constitution ensures freedom of association. A wide range of environmental and agricultural legislation gives environmental organizations the right of appeal and the right to be admitted as parties to hearings. Furthermore, they are frequently invited to take part in relevant committees and working groups. Environmental organizations may also apply for subsidies to carry out specific projects within the framework of the existing subsidy schemes;

Article 3, paragraph 7

18. Denmark has promoted the principles of the Convention in international forums at both global and regional levels. Denmark promoted these principles in negotiations at the World Summit on Sustainable Development in Johannesburg in 2002 and has promoted the principles in other international meetings and forums.

19. Concerning public participation in international environmental decision-making processes, there is a practice of including NGO members in delegations representing the State in international environmental negotiations. There is also a practice of involving NGO members in the national process forming the official position for such negotiations as well as in follow-up meetings.

20. As an example, the Convention on Biological Diversity can be mentioned. In most of the negotiation meetings, NGO members are part of the Danish delegation and if they are not present, it is because they have chosen not to participate. The ordinary Danish procedure in forming the country's official position involves both NGOs and other stakeholders. The national process between the international meetings also includes an international contact group for biodiversity and for forests as well as a stakeholder backup group for the negotiations under the Convention.

21. There have been internal consultations between the officials dealing with the Convention and officials involved in other international forums in matters relating to the environment with regard to the implementation of the Guidelines. The Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (Almaty Guidelines) have thus been distributed and promoted in internal networks on environmental Conventions.

Article 3, paragraph 8

22. The Act of Constitution establishes citizens' rights of freedom of speech, freedom of association and the right to challenge in court decisions by the administrative authorities. The European Convention on Human Rights also offers protection of citizens' fundamental rights and freedoms. National legislation provides positive statements of the situations in which a citizen may be subject to legal proceedings or prosecution. The law does not allow for the institution of legal proceedings, etc., as mentioned in article 3, paragraph 8, of the Convention.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

23. No information was provided under this heading.

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

24. No information was provided under this heading.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

25. No information was provided under this heading.

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

26. In 2003, the European Union (EU) implemented article 4 of the Convention in Directive 2003/4/EC (Directive of the European Parliament and of the Council on public access to environmental information). The necessary adaptations to Danish legislation consequential upon the Directive were implemented in Danish Act no. 310 of 2 May 2005 (amendment to the Environmental Information Act).

Relevant definitions

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

27. In accordance with section 1 of the Access to Documents Act, public authorities and bodies, including natural and legal persons with public responsibilities, or which carry out public functions or services in relation to the environment, and which are subject to public supervision, are covered by the duties to notify access to environmental information.

28. In a decision on 24 June 2004, the Environmental Board of Appeal took a position identifying the “bodies” subject to the Environmental Information Act. This is available in Danish at www.mkn.dk.

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

29. Environmental information has been defined in the Environmental Information Act as follows. Environmental information is all information which is in the possession of the authority or which is stored on behalf of the authority and which is in written, visual, or aural form,

electronic or in any other form, irrespective of when the information was obtained and which relates to:

(a) The state of the environment in the individual environmental elements, i.e. air and the atmosphere, water, soil, landscapes and natural sites, including wetlands, coastlines and marine areas, biological diversity and its components, including genetically modified organisms (GMOs) and the interactions between these elements;

(b) Factors such as substances, energy, noise, and radiation or waste, including radioactive waste, emissions and other discharges to the environment which affect or could affect the individual environmental elements mentioned in (a);

(c) Measures, including administrative measures such as policies, legislation, plans, programmes, environmental agreements and activities, which affect or could affect the individual environmental elements mentioned in (a) and (b), and factors as well as measures and activities which aim at protecting these environmental elements,

(d) Reports on implementation of environmental legislation;

(e) Profitability calculations and other financial analyses and assumptions applied in connection with the measures and activities mentioned in (c);

(f) The state of human health and safety, including where relevant pollution of the food chain, people's living conditions, cultural heritage and building structures, if they are or could be affected by the state of the individual environmental elements mentioned in no. 1 or through these elements of the conditions mentioned in (b) and (c).

30. In two decisions on 19 October 2005 and 27 November 2006, the Environmental Board of Appeal took a position on a more detailed description of environmental information. The decisions are in Danish at www.mkn.dk.

Article 3, paragraph 9

31. The Environmental Information Act stipulates that *everyone* is entitled to the right consequential upon the Act. The Act therefore ensures that there is no discrimination on the grounds of residency, nationality, etc.

Article 4, paragraph 1

Article 4, paragraph 1 (a)

32. There are no requirements in the legislation regarding requests for environmental information.

Article 4, paragraph 1 (b)

33. Administrative practice is deemed de facto to comply with the Convention. According to the Environmental Information Act, the authorities should supply environmental information in

the form or format requested by the applicant, including in electronic form, unless the information is already available in another form which is readily accessible to the relevant person, or it is reasonable to make the information available in another form or format.

Article 4, paragraph 2

34. The Environmental Information Act states that, taking into consideration any time limit stated by the person who has submitted the request, matters regarding access to documents on environmental information must be determined as quickly as possible and no later than one month after receipt of a request or, if the complex nature and scope of the matter mean that the one month limit cannot be satisfied, no later than two months after receipt, and that matters for which information is refused in the required form or format must be determined no later than one month after receipt of the request.

35. If a request for access to documents is neither met nor rejected within 10 days of receipt, the authority must notify the person making the request for access to documents of the reason and of when a decision can be expected.

Article 4, paragraph 3 and 4

36. Danish practice is in accordance with article 4, paragraph 3 (a), of the Convention.

37. With regard to paragraphs 34 and 35 above, note that under Danish law there is a requirement that the person making the request for access to documents identify the documents or the case he wishes to examine. Requests for access to documents must conform to certain criteria under the law. The duty to provide guidance pursuant to the Public Administration Act entails that the authorities must assist applicants in meeting these criteria.

38. The balance between, on the one hand, the interests of the public to have specific environmental information, and on the other, the need to keep certain information confidential is expressed in a number of regulations containing provisions on exemptions from the Access to Documents Act and the Public Administration Act.

39. A specific assessment is made of the individual case, as the authorities have an obligation to assess whether, in accordance with the principle of public transparency, access to documents should be applied to information which, according to the Access to Documents Act, is exempt from disclosure.

40. The vast majority of actual exemptions under the regulations are in complete accordance with the Convention, and the Access to Documents Act goes further than the Convention in some cases. The Environmental Information Act provides that certain provisions in the Access to Documents Act do not apply to environmental information.

41. Information included in public statistics or scientific studies can be exempted from disclosure if such exemption follows from other exemptions in the Access to Documents Act which are in accordance with the Convention. The exemption in the Access to Documents Act

providing that information collected as part of public statistics and scientific studies is not subject to disclosure cannot therefore be applied to environmental information.

42. According to the Convention, information for use in public statistics and scientific studies can be exempted from disclosure, provided the information originates from a third party who was not, or could not be made, subject to an obligation to disclose the information. This possibility is not fully exploited in Danish regulation, although the Environmental Information Act states that the authority in these situations must inform the person in question that he must not or cannot be required to supply the information and about their right to declare that the information should not be made public.

43. The right of access to documents does not include technical designs or approaches, or operational or business conditions to the extent that they are of financial significance for the person or enterprise referred to in the information. The counterpart to this regulation is article 4, paragraph 4 (d), which contains a special regulation for information on emissions whereby the exemption regarding corporate secrets cannot be applied to information on emissions that is relevant for environmental protection.

44. Information on emissions to the surrounding area can only be exempted under the Access to Documents Act when there is specific documentation that disclosure would lead to significant financial damage to the enterprise

45. Information on emissions that is relevant for the protection of the environment can only be exempted when disclosure will lead to significant financial damage to the enterprise, and the regulations of the Convention provide for the possibility to exempt the information.

46. Only if the disclosure of information on intellectual property rights will lead to significant financial damage to the enterprise and is covered by article 4, paragraph 4 (e), of the Convention, can the information be exempted from disclosure.

47. The Access to Documents Act includes the possibility to limit the right of access to documents following a specific assessment due to concerns of public sector control, regulation and planning activities; the economic interests of the public sector; and private and public sector interests where the particular nature of the case requires that they be kept confidential. The Access to Documents Act states that, if these concerns apply for a part of a document, the rest of the document must be made available to the applicant. Environmental information can only be exempted according to the Access to Documents Act to the extent that this will not conflict with the provisions of article 4.

Article 4, paragraph 5

48. The Environmental Information Act states that if a request is not made to the correct authority or body, the applicant shall be notified as quickly as possible of the correct authority, or the request must be forwarded to the correct authority and the applicant notified thereof.

Article 4, paragraph 6

49. The Access to Documents Act lays down a duty to grant access to the following documents that are exempted from disclosure with respect to information on actual circumstances with material significance for the circumstances of a case:

- (a) Documents prepared by an authority for its own use;
- (b) Correspondence between different units within the same authority;
- (c) Correspondence between a municipal council and its committees, departments and other bodies or mutually between these bodies;
- (d) Council of State minutes, minutes of meetings between ministers and documents prepared by an authority for use at such meetings;
- (e) Correspondence between Ministries on legislation, including appropriation acts;
- (f) Documents exchanged in connection with an authority performing secretarial tasks for another authority;
- (g) Correspondence between authorities and experts for use in court cases or in considerations on whether legal proceedings should be instigated.

50. The Access to Documents Act states that the person requesting access to documents should be informed about the other contents of a document if only part of a document covers:

- (a) Private, including financial, information about an individual;
- (b) Technical designs or approaches, or operational or business conditions or similar to the extent that it is of financial significance for the person or enterprise referred to in the information that the request is not granted.

51. The Access to Documents Act states that the person requesting access to documents should be informed of the other contents of a document if the following concerns are only relevant for part of the document:

- (a) National security or the defence of the State;
- (b) National foreign policy or foreign economic interests, including the relationship with foreign powers or international institutions;
- (c) Prevention, clarification and prosecution of breaches of the law, execution of penalties and similar, or protection of the accused, witnesses or others in criminal or disciplinary prosecutions;
- (d) Performance of public control, regulation or planning activities, or intended measures pursuant to tax legislation;
- (e) Public economic interests, including performance of public-sector business; or
- (f) Private and public interests, where the special nature of the conditions requires that they be kept confidential.

Article 4, paragraph 7

52. The Environmental Information Act states that, taking into consideration any time limit started by the person who has submitted the request, matters regarding access to documents on environmental information must be determined as quickly as possible and not later than one

month after receipt of a request or, if the complex nature and scope of the matter mean that the one-month limit cannot be satisfied, not later than two month after receipt and that refusals in cases regarding access to documents must state reasons and must be accompanied by a guidance on appeals. Refusal must be notified in writing if the request was submitted in writing, or if the applicant so requests.

Article 4, paragraph 8

53. The Environmental Information Act states that payment for transcripts and copies of environmental information in written documents is due in accordance with the regulations pursuant to the Access to Public Administration Files Act and with respect to the parties to a case, in accordance with the Public Administration Act.

54. The Environmental Information Act only gives the authority to levy charges for the supply of transcripts and copies of documents and not for access to registers of authorities or environmental information, irrespective of whether they are inspected on-site or electronically.

55. There are various Statutory Orders on payment for transcripts or copies in connection with access to information. Charges amount either to DKr 10 (€1.34) for the first copy and DKr 1 (€0.13) per copy thereafter, or to the actual cost of making the copies. The court fee for transcripts, including transcripts of judgements, is DKr 175 (€23,46), pursuant to the Environmental Information Act.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

56. No information was provided under this heading.

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

57. There are no statistics on application of the provisions in Denmark.

58. With respect to reports from the Monitoring Committee in connection with adoption of bills to implement the Aarhus Directive on access to environmental information, a monitoring committee has been established (including the key environmental and commercial organizations, ministries and other important stakeholders) to monitor regularly the application of the Act in practice and to gather experience. The Ministry of the Environment chairs the Committee. In 2008 the Committee is to issue a report to the Minister of the Environment on experience of the Act in practice. With this background, the Committee can make proposals to improve the Environmental Information Act. The Committee is to organize its work so that the results of the work in process by the Open Administration Commission (Offentlighedskommissionen) can be included in the Committee's work. The Minister has agreed to brief the Environment and Planning Committee of the Danish Parliament on the results of the work when these are available in 2008.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

59. 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

Article 5, paragraph 1 (a)

60. The authorities have a duty to establish a complete, factual and legal foundation for cases before a decision is made (inquisitorial procedure), and to file all case documents.

Article 5, paragraph 1 (b)

61. A number of administrative regulations ensure that extensive environmental information is provided as the basis for an application. This applies for example to regulations on the environmental approval of listed activities and installations, and to regulations on environmental impact assessment (EIA).

62. Furthermore, the authorities may lay down notification schemes for special sectors in order to keep track of the production and pollution levels of enterprises.

63. The Nature Protection Act sets forth general provisions on the protection of natural habitats in the form of bans on changes in status. In order to ensure that the authorities also become aware of other activities which do not require prior permission, but which are deemed to be projects in the context of the Habitats Directive and which could significantly impact on an internationally-recognized nature protection area, a notification scheme has been included in the Act. Similarly, the Forest Act stipulates a duty to give notification of a number of activities which may impact international nature protection areas, even if these activities do not require prior authorization.

64. The Environmental Protection Act provides that provisions must be adopted for the location and operation of listed activities and installations, including provisions on self-monitoring. The regulations apply to those activities under the Convention that are covered by the supervisory regulations of the Environmental Protection Act. It is ensured that the authority can collect the necessary information of significance to a pollution assessment and any remedial or preventive measures.

65. The Environmental Protection Act lays down that the listed activities and installations must periodically prepare green accounts with information on their environmental impacts. The Statutory Order on Waste contains regulations on an information system for waste and recycling.

The Water Supply Act and the Marine Environment Act contain similar regulations. The Approval of Livestock Holding Act also contains regulations on setting conditions and supervision corresponding to the Environmental Protection Act.

66. According to the Mineral Resources Act, a party carrying out extraction of mineral resources must provide detailed information on these activities to the authorities. The Electricity Supply Act, Heat Supply Act, Natural Gas Act, Danish Subsurface Act and Continental Shelf Act all contain supervisory schemes for compliance with legislation under which the authorities can request information, and which provide for a notification duty. For agriculture, the same applies with respect to the Fertilizer Act and the GMO Act.

Article 5, paragraph 1 (c)

67. A number of enterprises with particularly hazardous activities must develop emergency preparedness plans in order to prevent serious accidents, which must be reported to the relevant authorities. The Emergency Management Act states that emergency preparedness should prevent, limit and remedy injury to people and damage to property and the environment in the event of accidents and disasters, including acts of war or the immediate threat thereof. The authorities must prepare an overall emergency preparedness plan, and they can impose an obligation on the public, enterprises and authorities to provide the information necessary for its preparation.

68. The environmental authorities provide advice to enterprises within the scope of the Environmental Protection Act, and process matters relating to the risk of pollution of the external environment in the event of an accident.

69. The Working Environment Authority provides advice within its area and processes matters regarding the design of the workplace, performance of work, technical equipment, substances and materials. The fire authorities advise on their area and process matters regarding fire hazards.

70. The police prepare external emergency preparedness plans and coordinate plans by the various authorities for their own initiatives. They ensure that people who may be affected by an accident are notified of the safety measures and of actions they should adopt.

72. The authorities must mutually notify each other of matters of significance.

73. The Environmental Protection Act contains a duty for owners and users of real estate to inform the inspection authority immediately if they cause or ascertain pollution of the property's soil or subsurface. A person responsible for plant and equipment that can cause pollution must inform the inspection authorities immediately of breakdowns or accidents that may lead to significant pollution or risk thereof. The same applies for the Approval of Livestock Holdings Act.

74. According to the Statutory Order on Reporting pursuant to the Protection of the Marine Environment Act, the master of a ship or the head of a marine installation must notify the

relevant authorities immediately in the event of discharges or risk of discharges from the ship to the sea.

75. With respect to the “active duty to inform”, it is assumed that the authorities have the non-statutory duty to notify without delay the relevant members of the public of dangers in the event of accidents or disasters, so that the public is able to take the necessary action.

76. This duty also appears in the Statutory Order on Active Reporting of Environmental Information. This states that, except for special obligations otherwise pursuant to legislation, authorities and bodies subject to the Environmental Information Act must immediately and without delay issue all relevant environmental information if there is an imminent threat to human health or the environment. The same Statutory Order also states that this duty to provide information may also be included in emergency planning within the civil sector.

77. In 2001, the Danish Emergency Management Agency issued a nationwide nuclear disaster recovery plan, which lays down the organization and measures of the emergency services to be initiated to protect the public in the event of an accident at a nuclear plant. One of the primary goals of the plan is to inform the public and the relevant authorities of how they should act in relation to radiation hazards.

78. According to the Emergency Management Act, the individual ministries must in their respective areas of competence plan for the maintenance and continuation of social functions in the event of accidents and disasters, including acts of war, and for providing support to the defence forces.

Article 5, paragraph 2

79. The authorities have a duty to assist citizens by providing information on the type of environmental documents each authority is in possession of.

80. Frontlinien, main information centre of the MIM, replies to queries within the areas of responsibility of the Ministry. Its website (www.frontlinien.dk) contains a virtual bookshop, where the Ministry’s printed publications can be ordered and all electronic publications downloaded free of charge. MIM has published over 3,000 electronically available reports and booklets. Several publications also provide comprehensive and user-friendly advice regarding access to documents and environmental information.

81. General regulations on filing, registration, listing, etc., of information are stipulated pursuant to the Filing Act and elsewhere.

82. One statutory order states that every State authority must use a manual or electronic filing system. The filing system helps ensure an overview of incoming cases and existing documents and that anyone requesting access to documents, etc., in a case is ensured such access in accordance with current regulations.

83. Journal systems are used which involve setting up a journal card for the documents in the individual case, i.e. overviews or lists showing which documents have been filed under the

individual case. Most authorities now use electronic registration and filing. Regulations also state that an electronic filing system must be organised so as to ensure accurate and complete retrieval of documents related to the same topic.

84. In accordance with the Access to Documents Act, the right of access to documents includes entries in journals, registers and other lists of relevant documents. This right also applies to lists using electronic data processing.

85. The State's official online legal information system, Retsinformation (www.retsinfo.dk), contains all legislation, including environmental legislation. Frontlinien advises the public, enterprises and others on how to use the database.

86. The Environmental Information Act provides that anyone has a right to environmental information, subject to the conditions and exceptions found in the Access to Documents Act and Public Administration Act.

Article 5, paragraph 3

87. A statutory order stipulates that environmental information covered by the Environmental Information Act must increasingly be held on electronic databases which are easily accessible by the public through public communication networks. The same statutory order also states that authorities and bodies must take all reasonable measures to maintain environmental information which they possess, or which is being stored for them, in a form or format which is easily reproduced and easily available via electronic information technology communication or other electronic media. The Environmental Information Act authorizes the Minister for the Environment to lay down regulations on which environmental information is to be reported to the public. This authority has been applied in a statutory order which stipulates the information to be reported to the public.

88. The MIM has a well-developed website (www.mim.dk), where it is possible to retrieve diverse environmental information.

89. As a result of a governmental decision, new publications issued by the ministries and agencies have since 1997 been made public electronically in parallel with a printed version. The website also contains environmental data, including databases and specific data that are processed and presented in electronic publications. Information regarding environmental data is available on the MIM database list (in English at [http://www.mst.dk/miljdata/Info/eng-
mereinfo.html](http://www.mst.dk/miljdata/Info/eng-
mereinfo.html)).

90. All bills are presented on the MIM website at the same time as they are sent to hearing. Information regarding acts which are being processed by Parliament is also available, including their stage in the Parliamentary procedure, minutes, etc.

91. The MIM website also includes adopted strategies, programmes and political objectives, issued publications, guidelines, technical reports, annual reports and newsletters.

92. In addition to the MIM website, there is also information on municipality websites, Danmarks Miljøportal and Plansystem.dk.

93. The Ministry of Food, Agriculture and Fisheries has similar rules on publication for its area. The Statutory Order on GMOs states that the Plant Directorate website shall make public information on location etc. of fields with genetically modified crops as well as control and analysis results. Another statutory order stipulates that the municipal council must first publish its proposal and later the final action plan to combat giant hogweed. According to the Fertiliser Act, farmers' fertiliser accounts must be made public on the internet from January 2008.

Article 5, paragraph 4

94. The Planning Act lays down that the Minister of the Environment must issue one or more reports no less than every four years on the state of the environment and on nature and environmental policy, with the involvement of the relevant national environmental, industrial, labour market and consumer organizations. The report on the state of the environment and the National Strategy for Sustainable Development are published, and cover all environmental fields.

95. The Ministry also publishes a popular report of environmental indicators, providing the public with easy-to-access information on developments in the state of the environment. The report, as well as public replies to hearings in connection with its preparation, are available on the National Environmental Research Institute's website (www.dmu.dk);

Article 5, paragraph 5

96. Retsinformation contains all regulations, and MIM issues many environmental publications, as mentioned above, which are available on the Internet. Frontlinien provides information on the environment in Denmark. Furthermore, MIM carries out general information activities which take place through the dissemination on its website of international contracts, conventions and environmental agreements, as well as other important international environmental documents.

97. The Environmental Information Act states that authorities and bodies subject to the Act must arrange the environmental information which is relevant for their function and which they possess or which is stored on their behalf, so that it can actively and systematically be communicated, also electronically, to the public. In addition, the Minister is granted authority to lay down more detailed rules on communicating environmental information, including on which information is to be communicated and on updating and on electronic communication of environmental information. This authority has been applied in a statutory order which stipulates the information to be communicated to the public.

98. Information is available on the Ministry of the Environment website, municipality websites, Danmarks Miljøportal and Plansystem.dk.

Article 5, paragraph 6

99. Under the Environmental Protection Act, there is a duty to provide information on certain heavily polluting enterprises through green accounts. Other enterprises are able to publish voluntary green accounts. On the basis of the various plans for the aquatic environment, farmers have been submitting fertiliser accounts for a number of years. From January 2008, these will be made public on the internet.

100. Enterprises can attest through product labelling that a product meets specific environmental quality requirements (e.g. the Nordic, Swan, EU and Flower ecolabels).

101. Enterprises can also register according to the voluntary European Community environmental scheme (EMAS). An EMAS-registered enterprise in Denmark must annually publish a statement regarding its environmental performance, which is verified by an independent third party. Danish enterprises are encouraged to adopt the EMAS scheme by the Danish Environmental Protection Agency (EPA).

Article 5, paragraph 7

102. Analyses of initiatives for bills and action plans or strategies for environmental policy must be carried out. For example, this applies to the presentation of bills and other governmental proposals for which a strategic environmental assessment (SEA) is carried out. The assessment is published at the same time as the proposal is presented.

103. The MIM and the Ministry of Food, Agriculture and Fisheries websites, as well as those of their respective institutions, contain organizational charts of individual authorities and their responsibilities. At a decentralized level, similar websites for counties and municipalities exist.

Article 5, paragraph 8

104. The EPA website includes a full catalogue of approved and banned pesticides. The list of banned substances covers active substances which cannot be used in pesticides or groups of pesticides in Denmark.

105. The administration of the Flower and Swan ecolabels is headed by Ecolabelling Denmark assisted by an ecolabelling board set up by the Minister of the Environment following recommendations from a number of organizations representing the interests of retailers, industry, the environment and consumers.

Article 5, paragraph 9

106. The provision is implemented specifically in the Protocol on Pollutant Release and Transfer Registers (PRTRs). The Protocol was signed at the meeting of ministers in Kiev on 21 May 2003. A total of 36 countries in addition to the EU have signed the Protocol, including Denmark. Denmark expects to ratify the Protocol during 2008.

107. MIM has launched a register with information on enterprises' environmental situation. The register is available on the Danish EPA website (www.mst.dk) and it is part of EPA work to provide the public with easy access to environmental information. The system is under constant development to make enterprise reporting more efficient and to increase public access to the information.

108. Denmark has issued a PRTR statutory order to implement the Protocol in Danish law.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5.

109. No information was provided under this heading.

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

110. No information was provided under this heading.

XIV. WEB SITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

111. 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.

Article 6, paragraph 1

112. Many of the activities listed in annex I to the Convention are regulated under the Planning Act on EIA or special EIA regulations on off-shore activities. The EIA regulations contain procedures that are in accordance with the Convention. Other activities are regulated under part 5 of the Environmental Protection Act on listed enterprises, including in particular the special system with advance public participation that was introduced by Act no. 369 of 2 June 1999 in connection with the implementation of the IPPC Directive (the EU Integrated Pollution Prevention and Control Directive). In 2000, minor adjustments were made to the existing law, related in particular to public participation in the reassessment of certain types of heavily polluting enterprises.

113. Article 6, paragraph 1, of the Convention has been implemented through the EIA regulations found in the Planning Act. These regulations imply in part a compulsory EIA procedure with advance public participation for a large number of other activities than those listed in annex I to the Convention. They also mean that a large number of other activities are covered by the so-called screening system in the Planning Act, and thus also covered by the EIA regulations, if, following a specific assessment, they are deemed to have significant environmental impacts.

Article 6, paragraphs 2 to 9

114. Article 6, paragraphs 2 to 9, have been implemented through several provisions (see www.mst.dk).

Article 6, paragraph 10

115. Article 6, paragraph 10, regarding reconsideration has been implemented through the Environmental Protection Act and the Statutory Order on the Approval of Listed Activities.

116. The MIM has access to lay down regulations on public participation in connection with decisions on whether there should be an extraordinary revision of the conditions of an environmental approval.

Article 6, paragraph 11

117. The Act on the Environment and Genetic Engineering regulates releases of GMOs into the environment. It contains provisions according to which affected authorities and organizations must be heard in matters of approval of GMOs for release.

118. Provisions on the procedure for hearings and the provision of information to the public in connection with approvals for trial releases and marketing of GMOs set forth that:

- (a) Hearings must be notified in national newspapers and on the Danish EPA website. Trial releases must also be announced in local newspapers;
- (b) The Danish EPA will set up a register of approvals for trial releases and marketing of GMOs, which must include the name and address of the applicant, a description of the GMO, the objective and location of the release, a summary of the risk assessment, the MIM assessment of the case, as well as the approval terms;
- (c) A wide range of information, such as changes to an approval and results of monitoring of GMOs approved for marketing, is made public on the Danish EPA website.

119. In practice, hearings take place with the distribution for comment of parts of the application (the Summary Notification Information Format and an overview of the full application) to about 50 parties, including environmental and consumer organizations. Announcements that the public may comment on new applications for trial releases or marketing of GMOs are published in national newspapers and on the Danish EPA website. The full application, with the exception of confidential information, can be supplied on request. Replies received by the Danish EPA are incorporated in a memo for the Minister, which forms the basis for the Minister's decision. The memo is subsequently made public on the Danish EPA website.

120. Under the Ministry of Food, Agriculture and Fisheries, the Statutory Order on GMOs stipulates rules on the duty to provide information on cultivation of genetically modified crops.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

121. No information was provided under this heading.

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

122. No information was provided under this heading.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

123. No information was provided under this heading.

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

124. The precise scope of the regulations under article 7 of the Convention on public participation in, for instance, authorities' planning decisions, is difficult to establish, in that the Convention does not define the concept of "the environmental area". It would seem relevant to seek guidance in this matter from the Convention's definition of environmental information. With regard to the Convention's implementation, it has been deemed that the 2000 Act Amending Certain Environmental Acts (implementation of the Convention, etc.) in general meets the requirements of article 7.

125. In 2004, an Act was adopted on environmental assessment of plans and programmes. This Act is part of the implementation of article 7 of the Convention.

126. Planning and environmental legislation contains a number of regulations on planning and prior public participation in accordance with article 7. In addition, the public is also very much involved in practice in the large amount of planning that does not arise directly from the law.

127. MIM ensures that its own planning always involves prior public participation.

128. Rules have been laid down on public involvement in water planning and NATURA 2000 planning.

129. Environmental legislation contains a number of provisions on public participation in statutory plans and programmes.

130. There is a provision in the Danish Environmental Protection Act according to which regulations can include the preparation of plans and programmes within the scope of the Act. The Minister of the Environment will have the authority to lay down regulations on public participation in the preparation and amendment of plans and programmes within the scope of the Act. It will also be possible to apply the authority to lay down requirements for public participation in the preparation of any future national plans and programmes as well as to ensure that any later Community law requirements on public participation in plans and programmes can be implemented in Danish legislation.

131. This authority has been exploited in the Statutory Order on public involvement in preparation of certain plans and programmes in the environmental field, which includes rules on public involvement in connection with preparation by the Environmental Protection Agency of a national waste plan. With regard to the Ministry of Food, Agriculture and Fisheries, legislation

on the giant hogweed has been issued. According to this legislation, municipal councils must hold public hearings on draft action plans.

132. MIM places priority on public participation in connection with the development of policies, plans and programmes related to the environment. In developing policies and strategies, preliminary meetings and workshops allowing the public to have a say in the decision-making process are extensively used.

133. With regard to the legislation on environmental assessment of plans and programmes, the Nature Protection Board of Appeal recently issued a thematic supplement in the journal *NK-Orienterer* about initial experience with the legislation. On the basis of about 85 cases, various themes are reviewed, including the threshold for execution of environmental assessment.

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

134. No information was provided under this heading.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

135. No information was provided under this heading.

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

136. No information was provided under this heading.

XIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

137. 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

138. The most important rule is that the public is involved prior to the introduction of a bill or the issuance of a new statutory order, etc. The procedure provides that drafts of general regulations are sent for hearing to a wide range of organizations and authorities. Memoranda of the incoming comments are prepared, and the need for amendment as a result of the comments is considered in each case. In normal circumstances, this practice is always applied.

139. Acts and statutory orders for the environmental and agricultural area are usually in hearing for four weeks.

140. All hearing material is collected on a common public hearing portal: www.borger.dk/forside/lovgivning/hoeringsportalen. MIM draft acts and statutory orders are also always published on relevant agency webpages.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

141. No information was provided under this heading.

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

142. No information was provided under this heading.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

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

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

Article 9, paragraph 1

144. Ordinary rules on legal procedure state that anyone with an individual legal interest can institute legal proceedings.

145. According to the Environmental Information Act, a decision regarding access to information can be appealed to the appeals body for the case relating to the request. Refusal of an information request that is notified by a body or supply company covered by the Act can be appealed to the Environmental Appeals Board. The right of appeal is supplemented by the non-statutory administrative law principle of remonstrance. It is also possible to bring a case before the Ombudsman of Parliament and the authorities responsible for the supervision of municipalities. Regulations in the Administration of Justice Act apply to parts of the Environmental Information Act. That means that the decision mentioned above can be appealed in accordance with the regulations of the Administration of Justice Act.

146. Concerning the right to demand reasons in writing and the requirement of a binding decision, see the paragraphs below on the implementation of article 9, paragraph 4, of the Convention.

Article 9, paragraph 2

147. The regulations on access to judicial review do not meet on their own the requirements of the Convention because environmental organizations cannot always expect to be granted standing. Therefore, extensive access to administrative recourse before special environmental boards has been implemented. To a certain extent, there is greater access to appeals than the minimum requirements of the Convention in that the regulations also cover other types of decisions and other Acts than those listed in the Convention's annex.

148. Right of appeal has been introduced for nationwide associations and organizations that have the protection of nature and the environment as their primary objective. Such associations are required to have articles of association or similar provisions that document their objectives, and to demonstrate a nationwide sphere of activity and professional and permanent structure.

149. Special regulations have also been introduced on the right of appeal of organizations representing important recreational interests. Organizations that protect the environment and nature have been afforded an extended right of appeal.

Article 9, paragraph 3

150. Administrative possibilities exist for deferring to the Ombudsman, the Regional State Administration or police in order to contest actions and omissions by private individuals or public authorities that do not comply with the provisions of national environmental law. It is also possible to appeal to the Ombudsman.

151. The competence of the Ombudsman covers the entire public administration. It must decide whether authorities or people under its jurisdiction are acting in breach of the applicable law or whether they are in any other way guilty of errors or neglect in the performance of their duties. Control applies to decisions and other administrative activities. Appeals can be submitted by anyone within one year of the commission of the act. The Ombudsman can issue criticisms, recommendations or otherwise give an opinion regarding a case. In accordance with the declaration on the institution of the Ombudsman, issued during the Convention negotiations, Denmark recognizes that the opportunity to bring cases before it amounts to an opportunity for review by an independent administrative body.

152. The Regional State Administration ensures that municipalities and municipal associations comply with the legislation applicable in particular to public authorities. The Regional State Administration does not supervise the extent to which special appeals or supervisory authorities can take a position on the case in question. It can make statements on the legality of municipal measures or omissions and can annul municipal decisions that have been made contrary to legislation. In legally-defined cases, the Regional State Administration can also impose default fines, institute damages and declaratory actions, as well as enter into agreements on penalties under the law on tort.

153. Reports to the environmental authorities or the police regarding non-compliance with environmental regulations can be made.

154. The constitutional right to bring cases to court requires that the person bringing the case comply with the relevant regulations.

155. On behalf of the European Commission, in 2007 a firm of consultants prepared a report on how EU countries have complied with article 9(3). The report for Denmark (Measures on access to justice in environmental matters (article 9(3))) concludes that the Danish system is in general sufficient.

Article 9, paragraph 4

156. Court decisions regarding access to environmental information, public participation in decisions on specific activities with impacts on the environment and the consistency of actions and omissions by private or public authorities with environmental legislation are publicly available (see the Environmental Information Act). Furthermore, the Administration of Justice Act provides for general access to documents regarding judgements, Court orders, etc.

157. It is general practice that administrative decisions are notified in writing. This practice is supplemented by the principle of good administrative practice, according to which written queries from the public must be answered in writing, just as particularly significant decisions must be notified in writing. Moreover, according to the Public Administration Act, the public can demand a written reason for a decision that was reported verbally, unless the decision sustains the appeal of the person concerned. Administrative decisions are binding.

158. The Environmental Information Act states that refusals of requests for access to environmental information must be reasoned and accompanied by advice on appeals. Refusals must be in writing, if the request was in writing or if the applicant so requested. The requirement on written documents applies to both authorities and bodies covered by the Act, as well as to each refusal, including refusals to provide information in a specific form.

159. The decisions of the Ombudsman are written but not binding; in practice, the administration generally follows its recommendations. The Ombudsman's position in a case does not limit subsequent access to court for review of the case.

160. Decisions by the courts are in writing, binding and can be enforced.

161. Administrative review is essentially free. However, in matters brought to the Nature Protection Board, a charge of Dkr 500 (€67) has been set for bringing cases.

162. A court fee is due for instituting legal proceedings for judicial reviews. In addition, costs for legal assistance and expert assistance are usually required.

163. The Administration of Justice Act provides for the possibility of free process and legal aid. Free process means among other things that the relevant party is assigned a lawyer to conduct the case, paid for by the public purse. Furthermore there is a certain amount of public legal aid available. Legal aid covers advice and completion of individual written notifications and ordinary reports, including applications for free process, process documents from legal cases and

participation in meetings. Legal aid can also be granted for appeals against decisions by public authorities. Moreover, courts may to a certain extent appoint a lawyer for pending legal cases.

164. In accordance with legal practice, private individuals can, under certain conditions, have an injunction imposed against the acts of others that conflict with regulations of a public law nature.

Article 9, paragraph 5,

165. See the response to article 3, paragraph 2.

**XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION
OF ARTICLE 9**

166. No information was provided under this heading.

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

167. No information was provided under this heading.

**XXXI. WEB SITE ADDRESSES RELEVANT TO THE IMPLEMENTATION
OF ARTICLE 9**

168. No information was provided under this heading.

**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**

169. No information was provided under this heading.
