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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 SLOVENIA*

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 THE REPORT HAS BEEN PREPARED

1. This report was prepared by the Ministry of the Environment and Spatial Planning (MoE). With regard to content falling within the competence of other public authorities, the Environmental Agency was consulted. In the first phase of the consultation process, the public was given possibility of sending suggestions regarding the content of the implementation report. In this phase, MoE received two suggestions (one from the Legal Information Centre of non-governmental organizations (NGOs) and the other from an individual). Both suggestions were considered when preparing this report. Later, the public was consulted on the publication of the report via the official website of the Ministry, which enabled comments to be submitted on the draft in a period of one month. During this period, only the Legal Information Centre of NGOs submitted comments.
2. As a basis for the preparation of the report, national legislation, comments on the legislation, the Internet, official sites and other literature were used.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

3. 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

4. In 2003, Slovenia adopted the Act on Public Access to Information (*Official Gazette RS*, Nos. 24/03, 61/05 and 28/06) as a general act governing the procedure which ensures everyone free access to information of a public character held by State bodies, local governmental bodies, public agencies, public funds and other public law entities, holders of public powers and public service contractors. These documents are made publicly available on an annual basis by the Government. Furthermore, article 9 of the Act requires that each body appoint one or more officials competent for the transmission of information of a public character. With respect to the environment, article 110 of the Environmental Protection Act (*Official Gazette RS*, Nos. 41/04 and 20/06; EPA) sets out the obligation for national and municipal authorities, public agencies, public trust funds and other bodies governed by public law, holders of public powers and providers of public services to facilitate access to environmental data for all interested parties when prescribed by law or regulations governing access of the public to publicly available information. Furthermore, EPA provides for the transmission of environmental data via the Internet. In accordance with the regulations governing access of public to the public information, MoE shall transmit through the Internet in particular the following:

- (a) Municipal regulations concerning the environment that have not been published in the *Official Gazette*,
- (b) National Environmental Action Programme and environmental action programmes;
- (c) Environmental premises;

- (d) Environmental reports;
- (e) Environmental monitoring data or summaries of environmental monitoring data,
- (f) Environmental protection consents and permits, except data not available to the public under the regulations, or a reference to the authority from which consents or permits may be obtained;
- (g) Environmental reports and reports on impacts on the environment or a reference to the authority from which the reports may be obtained.

Article 3, paragraph 3

5. Slovenia has adopted the National Programme on Environmental Protection, a general framework for the strategic orientation of environmental policy with the aim of improving the general state of the environment, quality of life and protection of natural resources during a four-year period (2004–2008). This programme establishes as one of the priorities the promotion of education and environmental awareness, with the aim of furthering general knowledge of environmental issues.

6. Furthermore, the Resolution of National Programme of Environmental Protection 2005–2012 was adopted. Among the main features for the successful implementation of this programme are the measures in the area of public communication and education of the environmental protection, which can consequently change social habits, systems of values and ways of life. In achieving this aim, access to environmental information, public participation in shaping environmental policy and informing the public must be assured.

7. There is also a need to improve cooperation and partnership among different social groups and NGOs in European States, which can be achieved through:

- (a) Assuring access to information, participation and the courts through the ratification of the Convention by all the European Union (EU) member States;
- (b) Support to citizens in collecting of information regarding the State and trends of the environment in relation to social, economical and medical trends;
- (c) General environmental awareness;
- (d) Further development of general rules and rules of conduct with regard to the environment.

8. Furthermore, the Government has adopted the Strategy of the Government for Cooperation with NGOs, which further promotes different means for cooperation with NGOs vis-à-vis adoption and implementation of public policy (in particular, public participation in the adoption of legal acts and other strategical documents).

Article 3, paragraph 4

9. The EPA represents the legal basis for recognition of NGOs undertaking environmental protection activities in the public interest. The EPA, which sets out detailed conditions and measures for recognition, was adopted in 2006. NGOs fulfilling the criteria set out in this Act are given the right to act in administrative and judicial procedures without having to claim a legal interest, which is conferred upon them *ex lege*. The Nature Conservation Act contains the

procedure for the recognition of associations performing nature conservation activities in the public interest. These associations are given the *ex lege* right to represent the interests of nature protection in all administrative and judicial procedures.

Article 3, paragraph 7

10. Slovenia, as a Member State of the EU, fully complies with the rules and procedures adopted at the Community level on the promotion of the application of the Convention's principles in matters relating to the environment;

Article 3, paragraph 8

11. It can be derived from the Constitution that nobody can be penalized or persecuted for exercising rights protected under the Convention.

**IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION
OF ARTICLE 3**

12. Since the adoption of the Act, Which in November 2006 created more detailed conditions and measures for the recognition of NGOs undertaking environmental protection activities in the public interest, no NGO has been conferred this status yet. In the procedure of the Act's adoption various NGOs were consulted. According to the Legal Information Centre of NGOs, the conditions and measures for the recognition of NGOs are too stringent and unfounded in content, which prevents the recognition of NGOs in practice. Remarks of different NGOs mostly pointed to the condition for the revision of audited report on financial management, which in practice prevents most of the NGOs from recognition due to their financial situation. For this reason, the draft of amended EPA added the following new sentence: If the NGO is granted the status of the NGO in public interest, Ministry pays 50 per cent of the actual cost for the revision of audited report on financial management. According to the Legal Information Centre of NGOs, the conditions in EPA are unfounded, as the actual activities of NGOs are not stressed enough with regard to formal conditions, as for example the number of employed workers in the NGO sector (in 2004, there were on average only 0.77 workers per NGO in Slovenia in non-governmental sector).

13. Furthermore, the Legal Information Centre of NGOs points out the inconsistency between NGOs in the public interest which are conferred status on the basis of Environment Protection Act and Nature Conservation Act. The interpretations of the Ministry and the EPA differ with regard to the area of NGO action. The Ministry holds that these NGOs have an active legitimation for commencement of all administrative and judicial procedures, while the EPA limits the active legitimation only to procedures of environmental consent and environmental permitting. To clarify the situation, a decision of Constitutional Court would be needed.

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

14. The promotion of environmental education and awareness is undertaken through governmental co-financing of environmental NGOs and by different projects promoting of environmental protection which indirectly contribute to public environmental awareness.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

15. www.sigov.si/mop.

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

Article 4, paragraph 1

16. Article 13 of the EPA applies the principle of accessibility according to which environmental information shall be made public and every person shall have the right to access environmental information in accordance with the law. Furthermore, article 5 of the Act on Public Access to Information, applicable as a *lex generalis*, sets forth the free access principle, which entitles applicants to have free access to information of a public character.

17. Each applicant has, upon request, the right to acquire information from the relevant body for on-site consultation or by receiving a transcript, copy or electronic record. The amendment of the Act on Public Access to Information additionally confers to every applicant, under the same conditions as all other persons, the right to re-use information for commercial or non-commercial purposes. The body shall make its public information available through electronic means where possible and appropriate, although this shall not imply an obligation, for the purpose of the re-use of information, to provide transform one form into another or provide extracts from documents, where this would involve disproportionate effort, send go beyond a simple operation, nor to continue with the provision of certain information only for the purpose of re-use by other bodies or persons.

Article 4, paragraph 2

18. Article 24 of the Act on Public Access to Information provides that the competent body must decide on the applicant's request immediately, and at the latest within 20 working days from the receipt of the full request. In cases when the body requires more time for the transmission of the requested information due to the volume of the information, the deadline may not be extended for more than 30 working days. When the applicant in his request appeals to the prevailing public interest for the disclosure, the liable body shall submit a decision proposal to the competent body within the time limit of 15 working days after the receipt of request, with the competent body deciding on the request within the time limit of a further 15 working days after receipt of the decision proposal.

Article 4, paragraphs 3 and 4

19. Exceptions to the disclosure of information are dealt with under article 6 of the Act on Public Access to Information, which fully transposes the requirements of the Convention.

20. Exceptions relate to:

- (a) Information which, pursuant to the Act governing classified data, is defined as classified;
- (b) Information which is defined as a business secret in accordance with the Act governing companies;
- (c) Personal data, the disclosure of which would constitute an infringement of the protection of personal data, in accordance with the Act governing the protection of personal data;
- (d) Information, the disclosure of which would constitute an infringement of the confidentiality of individual information on reporting units, in accordance with the Act governing government statistics activities;
- (e) Information, the disclosure of which would constitute an infringement of the tax procedure confidentiality or of tax secrets in accordance with the Act governing tax procedure;
- (f) Information, acquired or drawn up for the purposes of criminal prosecution or in relation to criminal prosecution or misdemeanors procedure, the disclosure of which would prejudice the implementation of such procedure;
- (g) Information, acquired or drawn up for the purposes of administrative procedure, the disclosure of which would prejudice the implementation of such procedure;
- (h) Information, acquired or drawn up for the purposes of civil, non-litigious civil procedure or other court proceedings, the disclosure of which would prejudice the implementation of such procedures;
- (i) Information from a document that is in the process of being drawn up and is still subject of consultation by a body, the disclosure of which would lead to a misunderstanding of its contents;
- (j) Information on natural or cultural values which, in accordance with the Act governing the conservation of nature or cultural heritage, is not accessible to public for the purpose of protection of (that) natural or cultural value;
- (k) Information from the document drawn up in connection with internal operations or activities of bodies, the disclosure of which would cause disturbances in operations or activities of the body.

21. The amendment of the Act on Public Access to Information (*Official Gazette RS*, No. 61/05) provided for a complete conformity with the Convention with the addition of prevailing public interest in disclosure. The access to the requested information shall be allowed if public interest for disclosure prevails over public interest or interest of other persons for restricting access to information, except in the following cases:

- (a) For information which, pursuant to the Act governing classified data, is denoted with one of the two highest levels of secrecy;
- (b) For information which contains or is prepared on the basis of the classified information of foreign country or international organization, with which the Republic of Slovenia has concluded an international agreement on the exchange or transmission of classified information;

(c) For information which contains or is prepared on the basis of tax data, transmitted to the bodies of the Republic of Slovenia by a body of a foreign country.

22. Without prejudice to these provisions, access to the requested information shall be allowed:

(a) If it concerns data on the use of public funds or information related to the execution of public functions or the employment relationship of a civil servant;

(b) If it concerns data related to environmental emissions, waste, dangerous substances in factories or information contained in safety report, as well as other data in relation to which the Environment Protection Act so stipulates.

Article 4, paragraph 5

23. Article 20 of the Act applies to the conduct of a body in cases where it does not hold the requested information. It must immediately, and at the latest within three working days, assign the request to the competent body for resolving the request in relation to its substance.

Article 4, paragraph 6

24. Article 7 of the applies to partial disclosure of a document, which can be separated out without jeopardizing its confidentiality. The body must separate out such information from the document and refer the contents of the remaining document to the applicant;

Article 4, paragraph 7

25. The Act provides that the decision must be made within 20 working days from the day of the receipt of the full request, or, in exceptional circumstances, not more than 30 days. Pursuant to the Act's article 27, the applicant has the right to appeal against the decision by which the body has refused the request. The applicant has the right of appeal also in the case that the applicant deems that the information obtained is not the public information he or she had stated in his request or when the information received is not in the form he requested.

26. The Commissioner for Access to Public Information shall decide on the appeal. Appellate proceedings shall be implemented in accordance with the provisions laid down in the Act governing general administrative procedure.

Article 4, paragraph 8

27. According to article 34 of the Act, on-site consultation of the requested information shall be free of charge. The body may charge the applicant for costs relating to the transmission of a transcript, copy or electronic record of the requested information.

28. The amendment of the Act on Public Access to Information enables that body to charge for the re-use of information for commercial purposes, except in the case of re-use for the purpose of providing information, and ensuring freedom of expression, culture and art and/or the media's re-use of information.

29. However, the price may not exceed the costs of collecting, producing, reproducing, and disseminating, together with a reasonable return on the investment. The price must be adjusted for cost-effectiveness, set within a common accounting period and consistent with applicable accounting principles of the body concerned. The cost calculation method for the price is itself public information, and the body must be in accordance with this Act, and transmit this information to every applicant who requests it.

30. The body does not charge for the re-use of information if it transmits the same information on the Internet free of charge.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

31. The provisions of the Convention are fully transposed into national legislation with the amendment of the Act on Public Access to Information (*Official Gazette RS*, Nos. 61/05 and 28/06).

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

32. The substance of decisions are published on the official page of the person authorized to disclose information of a public character (www.dostopdoinformacij.si) and on the official page of the Environmental Agency, where the statistics for the year 2006 on the state of affairs in the procedures of request for the access to public information has been published:

(a) In 2006, there were 55 requests for acquiring public information, which were all approved;

(b) In 2006, there were no complaints regarding the public information given by the MoE or the Environmental Agency;

(c) In 2006 there were no administrative disputes against final provisions of the MoE or the Environmental Agency. The Commissioner for Access to Public Information intervened seven times due to the silence of the body. All the requests were finally approved and the public was given the required information. See relevant website addresses below.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

33. www.dostopdoinformacij.si;
www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/kijz/kijz_porocilo_2006.pdf;
www.arso.si/o%20agenciji/katalog%20informacij%20javnega%20zna%c4%8daja/Člen;

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

Article 5, paragraph 1

34. Article 96 of the EPA obligates the State to carry out the monitoring of natural phenomena, the state of the environment and environmental pollution. Article 27 contains measures applicable to environmental accidents. An entity having caused an environmental accident has to immediately inform the authority responsible for disseminating information as designated under regulations on the protection against natural and other disasters.

Article 5, paragraph 2

35. Article 106 of the Act applies to the disclosure of environmental data to the public through an environmental report. In cooperation with other ministries, the MoE draws up a report on the environment at least every four years. Every other year, the MoE prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and are available to the public.

Article 5, paragraph 3

36. Article 108 of the Act provides for the uploading of environmental data on the Internet in accordance with the Act on Public Access to Information. The MoE makes available on the Internet environmental studies, reports, monitoring data or summaries of monitoring data and reports on environmental impacts, or a reference to the authority from which the reports may be obtained (article 108 of the EPA).

Article 5, paragraph 4

37. Article 106 of the EPA provides for the disclosure of environmental data to the public through environmental reports. In cooperation with other ministries, the MoE prepares a report on the environment at least every four years. Every other year, the MoE prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and made available to the public.

Article 5, paragraph 5

38. The amended article 10 of the Act on Public Access to Information, (*Official Gazette RS*, Nos. 61/05 and 28/06) provides transmission of information to the Web. Each body is obliged to transmit to the Internet the following public information:

- (a) Consolidated texts of regulations relating to the field of work of the body, linked to the State register of regulations on the Internet;
- (b) Programmes, strategies, views, opinions and instructions of general nature or important for the interaction of the body with natural and legal persons or for deciding on their

rights or obligations respectively, studies, and other similar documents relating to the field of work of the body;

(c) Proposals for regulations, programmes, strategies, and other similar documents relating to the field of work of the body;

(d) All publications and tendering documentation in accordance with regulations governing public procurements;

(e) Information on their activities and administrative, judicial and other services;

(f) All public information requested by the applicants at least three times;

(g) Other public information.

39. Each body should facilitate access to information referred to in the preceding paragraph free of charge.

40. The MoE also enables access to information from the first paragraph via the joint government web portal (e-uprava).

41. The EPA provides for the availability of acts as mentioned under article 5, paragraph 4 above.

Article 5, paragraph 6

42. Article 104 of the EPA compels the MoE to maintain an environmental protection register containing the records of persons having environmental protection permits, records of providers of environmental public utility services and records of persons having authorizations or certificates for performing environmental protection activities.

Article 5, paragraph 7

43. Article 105 of the EPA requires the MoE to ensure the establishment and management of an environmental information system on the performance of State tasks in the field of environmental protection, including the disclosure of environmental data to the public.

Article 5, paragraph 8

44. Article 32 of the EPA provides for a system of environmental management to promote more appropriate management and public information on the impacts of activities on the environment. These organizations are also included in the environmental protection register.

Article 5, paragraph 9

45. Article 109 of the EPA requires the MoE to forward and exchange environmental data with competent EU authorities and organizations.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

46. The provisions of the Convention are fully transposed into national legislation. Legal Information Centre of NGOs has suggested a more active role for the MoE in informing the public. In the past, the NGOs were better informed about all the relevant issues (e.g. consultation on legal drafts, open calls, etc.). From the time the MoE changed its website, information to the public has been given under different columns, which can be time-consuming and hard to follow.

47. Furthermore, the Legal Information Centre of NGOs has also pointed out that information on the MoE website regarding integral environment assessment is not up-to-date, as the last published data is from 2006.

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

48. A public relations office has been established at the MoE as a point of contact, and the MoE maintains a website where all required information is available. In addition, every month it releases an information bulletin in English and Slovenian, which is targeted at raising awareness and the level of knowledge among various groups of the public. The Environmental Agency has set up the information system systematically comprising linked data regarding the environment. A catalogue of information sources on the environment represents an overview of the data collected from State and other institutions. A report on environmental indicators has been prepared in accordance with article 106 of the EPA. It comprises 51 environmental indicators, which are further divided into nine different topics such as environmental substances (e.g. water, air), environmental problems (e.g. the ozone layer, climate change, waste treatment) and integrated indicators on sectoral policies (e.g. agriculture, tourism, energy).

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

49. www.sigov.si/mop;
http://eionet-si.arso.gov.si/kazalci/index_html?Sku_naziv=UVOD&tip_skup=1&Sku_id=12;
<http://kpv.arso.gov.si/welcome>;
www.arso.gov.si/o%20agenciji/knji%C5%BEnica/publikacije/ARSO_publicacija_slo.pdf.

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

50. Procedures for public participation in decisions on specific activities are found in the EPA. Its article 58 provides that during the environmental impact assessment (EIA) procedure, the MoE must make available to the public the application for the environmental permit, the environmental impact report, the written opinion on the revision carried out and the draft decision on the environmental permit, and must allow the public to give its opinions and comments. Article 65 provides that the MoE informs the public that the environmental permit

has been granted within 30 days from the adoption of the decision through a locally established method, on the Internet and in one of the daily newspapers covering the whole territory. The announcement must include in particular:

- (a) The content of the decision and the main conditions for the implementation of the planned activity, where specified;
- (b) The main reasoning for the decision;
- (c) The description of the most important measures for prevention, reduction or elimination of the adverse effects of the planned activity on the environment when the environmental permit is granted;
- (d) An indication that opinions and comments by the public and the member State have been considered..

51. Article 10 of Act on Public Access to Information regulates the availability of information on the Internet. Each body must make available the following information of a public character:

- (a) Consolidated texts of regulations relating to its field of work, under the State register of Internet regulations;
- (b) Programmes, strategies, opinions, studies, and other similar documents relating to its field of work;
- (c) Proposals for regulations, programmes, strategies, and other similar documents relating to its field of work;
- (d) All publications and tendering documentation in accordance with regulations governing public procurements;
- (e) Information on administrative services;
- (f) Other information of a public character.

52. Each body should facilitate, free of charge, access to the information referred to in the preceding paragraph.

53. Article 104 of the EPA concerns the establishment of environmental registers. Accordingly, the MoE must keep and manage a register containing:

- (a) Records of persons having an environmental protection permit under the Act;
- (b) Records of providers of environmental public utility services;
- (c) Records of persons having authorizations or certificates for performing environmental protection activities in accordance with the Act and regulations issued under it.

54. Article 105 of the EPA applies to an environmental information system. To perform State tasks in the field of environmental protection, including the disclosure of environmental data to the public, the MoE must ensure the establishment and management of an environmental information system.

55. Article 31 of the Act regulates the granting of eco-labels. To promote the production of products or provision of services that have a less detrimental impact on the environment throughout their life-cycle than other similar products, and thus contribute to the efficient use of

environmental components and a high level of environmental protection, the MoE can award eco-labels. Article 32 applies to a system of environmental management of organizations which aims to promote more appropriate environmental management and public information on the impacts of their activities on the environment. For this purpose, the Ministry can enable companies, traders, institutes and other organizations or parts or associations thereof to participate in the EU Eco-Management and Audit Scheme (EMAS).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

56. The provisions of the Convention are fully transposed into national legislation.

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

57. The public participates in these procedures, but no statistics are available on this topic.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

58. www.sigov.si/mop; www.arso.gov.si.

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

59. The following provisions of the EPA are applicable to the participation of the public during the preparation of plans and programmes related to the environment.

60. Article 37 stipulates that during the procedure for the preparation of the national environmental action programme and operational environmental protection programmes, the MoE must make the draft programmes available to the public for comment. Through a public announcement on the Internet and in one of the daily national newspapers, the MoE must inform the public of the location of the programme and of the procedure for submitting comments. Access to the drafts and the possibility to provide comments must cover a period of at least 30 days. The MoE shall consider the opinions and comments of the public and take them into account, as appropriate, in the drawing-up of the programmes. It must notify the public of the adoption of the programme on the Internet and in one of the daily national newspapers. Such notification must include the reasoning for the decisions adopted and information on public participation in the drawing-up of the programme.

61. Article 40 stipulates that an integrated EIA must be carried out for a plan or an amendment to a plan adopted pursuant to the law by the competent authority of the State or municipality for the area of spatial planning, water management, forest management, hunting, fisheries, mining, agriculture, energy, industry, transport, waste and wastewater management, drinking water

supply, telecommunications and tourism, where such a plan or amendment lays down or foresees an activity affecting the environment for which an EIA must be carried out or when it covers a special protection area under the regulations on nature conservation or such an area is likely to be affected by the implementation of the plan. Pursuant to article 43, the public is involved when the environmental report for the EIA is determined to be appropriate and the developer of the plan must, within the adoption procedure, make the plan, environmental report and its revision available to the public during a period of at least 30 days and must ensure public discussion. The developer of the plan publishes in one of the daily national newspapers, through a locally established method and on the Internet, a public announcement indicating the place and time of the public presentation and discussion of the plan, as well as the procedure for submitting comments. Where the developer is the competent authority of the municipality, the public announcement must be published in a newspaper covering the territory of the municipality instead of the territory of the State.

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

62. The public participates in the process of preparation of legislation intended for the adoption of environmental policy (e.g. the National Programme on Environmental Protection), as well as in the preparation of legislation on spatial and sectoral plans for the management of natural resources.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

63. The provisions of the Convention are fully transposed into national legislation.

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

64. Legal Information Centre of NGOs noted difficulties in practice regarding the adoption of the Resolution on National Developmental Projects 2007-2023 adopted by the Government. In some parts, the resolution contains very specific plan of projects regarding the environment. In the process of adoption, the Government did not carry out an despite the protests of the NGO Umanotera. The resolution was adopted with a decision (despite the resolution being a general implementation act). According to Umanotera, the resolution was adopted by the incompetent body (the Government instead of the Parliament), which consequently enabled public participation in the legal procedure.

65. Legal Information Centre of NGOs has also noted a lack of efficient legal remedy for NGOs to take part in EIA procedures, as none of the NGOs have been conferred the legal status of the NGO acting in public interest according to the EIA.

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

66. www.sigov.si/mop.

**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**

67. The public has the possibility to effectively participate in the preparation by the public authorities of executive regulations and other legally binding rules. On a regulatory basis, the MoE has an internal guidance document as an operational tool by which the public is given the opportunity to submit comments and remarks on generally applicable legally binding rules and other documents concerning environmental matters. It can also participate in public discussions that are announced in advance through the Ministry's electronic network and bulletin. During the adoption process of secondary legislation, cooperation with different segments of interested members of the public (e.g. the Chamber of Commerce and Chamber of Craftsmen) is also foreseen.

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

68. One obstacle to the implementation of article 8 is the lack of a legal right of the public to enforce these rights under the guidance document when it is not adequately complied.

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

69. One remark received from the public during the consultation process concerns public participation during the preparation of environment legislation and executive regulations (the Convention is article 8). Public participation is currently limited to an e-mail based public discussions. Public actors interested in participating online, can send their comments, suggestions and amendments to e-mail addresses either at the MoE main office or of responsible officials. This kind of public e-participation is not transparent (comments provided by the public are usually not published in the website nor is feedback from the public authorities available); it lacks in-depth deliberative debate (usually, only two weeks are available for sending comments) and is technologically outdated. Moreover, the MoE e-mail based consultations are available through the press centre section of the website, indicating a public relations understanding of political democracy. See the relevant websites below.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

70. www.sigov.si/mop;
www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/ministrstvo/pdf/navodilo_akti.pdf;
www.mop.gov.si/si/novinarsko_sredisce/vabila_k_sodelovanju/.

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

71. Some provisions still need further implementation. Accordingly, the legislator has amended the relevant legislation (the EIA and the Act on Public Access to Information) to be more in compliance with the Convention. It is hoped that ratification of the Convention will lead to efficient solutions.

72. Access to justice is fully regulated in matters concerning the refusal or dismissal of requests for the disclosure of environmental information. Article 27 of the Act on Public Access to Information regulates appellate proceedings. The applicant has the right to appeal against the decision by which the body refused the request, as well as the right to appeal against the order by which the body dismissed the request. The applicant has the right of appeal also in the case that the applicant deems that the information obtained is not the public information he had stated in his request or when the information received is not in the form he requested. A person authorized to access information of a public character decides on the appeal. This procedure is implemented in accordance with the provisions laid down in the Act governing general administrative procedure.

73. Judicial protection is also guaranteed under article 31, which provides the opportunity to initiate an administrative dispute against the decision by the person authorized in accordance with the statute. Article 157 of the Constitution provides that every person who considers that a concrete administrative act has violated his rights or legal benefits can start a procedure before administrative court. This is concretized by Administrative Dispute Act, which provides that administrative dispute assures judicial protection of rights and legal benefits of individuals and organizations against decisions and acts of State bodies, local community bodies and holders of public authorization. The administrative court decides upon the legality of final administrative acts which interfere with the legal status of the complainant. Administrative dispute can only be initiated after all legal remedies in administrative procedure were used. The EPA also applies to parties in a proceeding relating to the granting of an environmental permit. Permanent residents of the area affected by the environmental impacts of the project have a legitimate interest in line with the regulations on administrative procedure if the impacts cause a disproportionate environmental burden or danger to human health or if the person owns or possesses real estate, and thus are granted the status of accessory participants to the procedure. The public announcement relating to the environmental permit must include an invitation to all persons whose legitimate interests are affected by the planned activity and who have the status of accessory participant.

74. The status of accessory participant is held *ex lege* also by NGOs operating in the public interest in the environmental area which meet certain criteria set out in article 152 of the Environmental Protection Act, and which have provided comments in the proceedings on the granting of the environmental permit.

75. Article 14 of the EIA applies to so-called *actio popularis*. In order to exercise the right to a healthy living environment, citizens may, as individuals or through societies, associations and organizations, file a request before a court to the effect that the entity responsible for an activity affecting the environment must cease the activity when it causes or could cause an excessive environmental burden or presents or could present a direct threat to human life or health, or can request that the entity responsible for such an activity be prohibited from initiating the activity when there is a strong probability that the activity would present such a threat. The Human Rights Ombudsman is also responsible for the protection of the right to a healthy living environment, in accordance with the law.

76. There is, moreover, a constitutional right to challenge the validity of legal acts before the Constitutional Court. The legal interest needed to file the complaint is granted to a person who can prove that the act could interfere with his or her rights and duties or property rights. Under this provision, the affected public may challenge environmental plans, programmes and other environmental and implementing acts. The Constitutional Court has already in previous case-law recognized the legal interest of an NGO in dealing with the spatial implementing acts.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

77. The act which regulates in detail the granting of the status of an NGO operating in the public interest in the environmental area was adopted in 2006; however no environmental NGOs has been granted the status so far, which consequently prevents NGOs from making use of the relevant provisions of the EPA (see above).

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

78. Despite the general compatibility of slovenian legislation with the third pillar of the Convention, further development and possibilities for strengthening the effective implementation of the Convention provisions are envisaged in parallel with regional and international developments.

79. The Legal Information Centre of NGOs is concerned about long lasting procedures in granting the status of side-participant in the procedure of environmental consent to NGOs. It points out the example of the Association of Birds Observers of Slovenia which, since 2004 has been trying to get the status of side-participant in a particular procedure of environmental consent for building a power plant. The Environmental Agency has rejected its participation three times on the grounds that the EPA explicitly articulates entities with status of side-participant in the procedure of environmental consent, inter alia, also NGOs operating in the public interest in the environmental area. At the time the Association applied for the status of a

side-participant, the Act which regulates in detail the granting of the status of an NGO operating in the public interest in the environmental area was still not adopted, therefore the Association has not even had the objective possibility to apply for the status. According to the opinion of the complainant, the Agency was too restrictive in its interpretation of the provisions of the EPA with regard to recognition of the status to the Association when this Association could get the status of side-participant also on the grounds of the Nature Conservation Act. The relation between the status of NGOs acting in the public interest on the grounds of EPA and Nature Conservation Act is therefore not clear.

80. The Legal Information Centre of NGOs holds that despite the fact that transpositions of the third pillar of the Convention is in place, actual implementation of the pillar is vague due to the fact that no NGO has been conferred the status so far. The main reasons are; lack of financial resources of NGOs, lack of experts working in this field, and too stringent criteria in the EPA.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

81. www.sigov.si/mop, www.dostopdoinformacij.si.

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

82. By ratifying the Convention, Slovenia has proved its commitment to the promotion of civil society and sustainable development, and to the better enforcement of environmental legislation in the country and in Europe. The review of the state of implementation of the Convention indicates that most of the areas of environmental protection are already regulated consistently with the Convention. The adoption of implementing legislation, with further adaptation, can be consistent with the *acquis communautaire* of the EU and broader systematization and effectiveness of existing solutions, means and programmes. The consequences of ratification and the Convention's consistent implementation should further enhance and improve the activities of NGOs and civil society, and develop democratic processes at the regional and international levels.
