



Economic and Social Council

Distr.

GENERAL

Original: SPANISH

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

IMPLEMENTATION REPORT SUBMITTED BY SPAIN

According to article 10, paragraph 2, of the Convention, at their meetings the Parties shall keep under continuous review the implementation of the Convention on the basis of the regular reporting by the Parties. Decision I/8 of the Meeting of the Parties (Lucca, Italy, October 2002) established a reporting mechanism by which each Party is requested to submit a report at each Meeting on the legislative, regulatory and other measures that it has taken to implement the Convention and their practical implementation, in accordance with the format set out in the Annex to the decision. For each Meeting, the secretariat is asked to prepare a synthesis report summarising the progress made and identifying significant trends, challenges and solutions. The reporting mechanism was also developed through Decision II/10, which tackled the matter of how to draw up the second and subsequent reports among the Parties.

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. This report was prepared by the Ministry of the Environment and Rural and Marine Affairs (MARM) in collaboration with other state agencies, autonomous community authorities and local authorities. A process was designed to encourage the participation of the general public, particularly environmental non-governmental organisations (NGOs), through their websites. The Autonomous Communities completed the report-questionnaire (REQ) taking into account the comments received through an initial public consultation for which the information on the REQ was provided on their websites and, in most cases, extended through written invitations to environmental associations and NGOs. The Spanish Federation of Municipalities and Provinces (FEMP) also displayed the information on the REQ on its website.

2. Nonetheless, the direct participation of general citizens, associations and NGOs has been limited in this initial consultation.

II. PARTICULAR CIRCUMSTANCES THAT ARE RELEVANT FOR UNDERSTANDING THE REPORT

3. The Aarhus Convention is directly applicable to Spain, following its ratification in December 2004 and entry into force on 31 March 2005, after publication in the Official State Gazette (BOE) on 16 February 2005. In addition, the Spanish Parliament passed Law 27/2006 (18 July) regulating rights of access to information, public participation and access to justice in environmental matters, which incorporates Directives 2003/4/EC and 2003/35/EC, published in the BOE on 19 July. The purpose of this Law is to guarantee effective application of the Aarhus Convention across Spain. It is a law of minimums and, given the almost federal nature of Spain, the Autonomous Communities (regional governments) are able to adopt stricter legislative decisions, though the majority have not developed complementary regulations in this regard. As a result, it is the state law that, to all intents and purposes, guarantees the direct application of the Convention across the country.

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

4. Law 27/2006 (18 July) implements all the Convention.

5. Moreover, the Autonomous Communities have incorporated this article into their legal systems and passed a series of regulations to implement it. These include: Law 7/2007 of Andalusia on Integrated Environmental Quality Management; Law 7/2006 of Aragon on Environmental Protection; Law 4/2006 of Cantabria on Nature Conservation; Law 17/2006 of Cantabria on Integrated Environmental Control; Law 5/2002 (8 October) of La Rioja on Protection of the Environment, and General Law 3/1998 of the Basque Country on Environmental Protection.

Article 3, paragraph 2

6. Article 3.1 b) of Law 27/2006 recognises the universal right to be informed of the rights set down in this Law and of being assisted in their exercise. Article 5 sets forth

the general obligations of public authorities in this matter. Likewise, Law 30/1992 (26 November) on the Legal System of Public Authorities and the Common Administrative Procedure also sets forth the general obligation of officials and public authorities in assisting the public and supplying the required information and, in addition, it allows for public participation.

Likewise, Royal Decree 208/1996 (9 February) regulating the administrative information and citizens advice services and Royal Decree 1259/1999 (16 July) regulating Charters of Services, determine the operation and quality controls of the Information Offices of the State Government. Moreover, article 2. g. of Law 45/2007 (13 December) for the sustainable development of the rural environment establishes the aim of “fostering public participation in the drafting, implementation and monitoring of sustainable development programmes through policies for raising awareness, instruction, participation and access to information”, and its article 19 sets down various environmental planning systems affecting natural, farming and stock farming resources.

7. Both the State and Autonomous authorities have introduced citizens advice services to assist the public by telephone, in person or by post and/or e-mail, dealing with all queries submitted and advising citizens on how to access the environmental information and on the instruments of participation and access to justice if they consider that their rights have been impaired.

8. In the State and Autonomous Community levels, lists of public authorities are already available or in the process of being drawn up.

9. In order for the State, Autonomous and local authorities to provide the necessary public assistance with maximum efficacy, training courses and conferences on environmental information and the application of Law 27/2006 are regularly organised for their officials.

10. In the framework of Law 11/2007 (22 June) on the electronic access of citizens to public services, the MARM is developing implementation of this access. It is currently available for the following procedures, among others: environmental impact assessments; electronic registry; maritime public domain; appeals and claims, and complaints and suggestions. The Autonomous Communities are also in the process of implementing these services.

11. Articles 20, 21, 22 and 23 of Law 27/2006 establish a series of measures to guarantee access to justice and administrative protection in environmental matters.

12. The Nature Databank, attached to the Directorate-General for the Natural Environment and Forestry Policy, manages information on the situation of environmental aspects related to the natural environment. This information is freely available to the public without the need for prior application. The MARM also has an Agricultural Data Geographical Information System (SIGA) and a Farming Land Geographical Information System (SIGPAC), allowing the display, analysis and consultation of free geographical information on the environment.

Article 3, paragraph 3

13. Article 19.2 e) of Law 27/2006 commissions the Environmental Advisory Council (CAMA), the State Government’s highest consultative body on environmental matters, with the proposal of environmental education measures to inform, guide and raise awareness among society of ecological and environmental values.

14. The MARM, Autonomous Communities and local authorities of larger towns carry out the following activities: regular calls for aid, subsidy and grant proposals to promote the education and awareness of environmental problems; campaigns, conferences and environmental education seminars; the organisation of educational workshops and exhibitions, and the publishing of best practices guides, leaflets, posters, stickers and other informative documents. They also carry out environmental education programmes and projects, while there are bodies with specific powers in environmental education and public education to raise awareness of environmental problems and participation in decision-making. In addition, travelling exhibitions are organised at schools, town halls, associations and institutions, and ongoing learning classrooms have been set up to raise awareness of environmental problems among the general public and among the child and youth populations in particular. Agreements have also been signed with environmental education companies for this purpose. Most carry out educational programmes for technicians and professionals, and there are volunteer programmes in the corresponding protected natural spaces. The public are also advised on how to seek justice when their rights are impaired.

15. The chief aim of the MARM's National Centre for Environmental Education (CENEAM) is to increase the responsibility of citizens in environmental matters. Diverse lines of work specialising in environmental education have been developed for this purpose: e-newsletter, environmental documentation centre, education and environmental interpretation programmes, training programme, permanent seminars, exhibitions, publications, educational and informative materials and other resources to help professionals, students and individuals interested in this topic in their activity. The National Centre for Irrigation Technology (CENTER) and the Agricultural Extensión School provide training on the efficient use of natural resources, specifically irrigation water, and sustainable rural development programmes.

16. The MARM regularly publishes its "Ambienta" magazine, which can be accessed from the Department's website. The majority of Autonomous Communities also publish environmental information magazines for the public. In other one-off and regular Ministerial publications, special attention is also paid to aspects related to the sustainable use of farming, live stock, forest and fishing resources and to fostering environmental awareness among citizens.

Article 3, paragraph 4

17. Articles 2.2, 16.2 and 23 of Law 27/2006 recognise the legal capacity of environmental protection groups and organisations to enjoy the rights of public participation and access to justice in environmental matters and the right to access the benefits of free justice in the terms set down in legislation. Article 19 expressly allows for the participation of environmental NGOs in the CAMA. For their part, the Autonomous Communities carry out this function through their various advisory bodies and publish lists on their websites of associations, organisations and groups promoting environmental protection.

18. The State and local authorities and a number of non-profit institutions regularly hold calls for aid proposals specifically for non-profit organisations and NGOs set up to protect the environment.

19. The national legal system is fully consistent with these obligations.

Article 3, paragraphs 5 and 6

20. Article 3.4) of Law 27/2006 sets forth its application and, by extension, application of the Convention, without prejudice to the exercise of any other right recognised by other regulations in force. This means the non-derogation from existing rights in this area. Article 16 of Law 26/2007 adds that the contents of this article referring to public participation do not, in any case, substitute any other article extending the rights recognised in this Law.

Article 3, paragraph 7

21. Article 19.2 f) of Law 27/2006 charges the CAMA with proposing the measures it deems appropriate to improve compliance of international agreements on the environment and sustainable development, evaluating the effectiveness of the regulations and programmes in force and proposing, where applicable, the necessary amendments.

Article 3, paragraph 8

22. The Spanish Constitution of 1978 and the system of constitutional, legal and administrative protection implemented through it are directly applicable to the guarantee of the effective exercise of the rights recognised in the Constitution and by Spanish legislation.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ANY OF THE PARAGRAPHS OF ARTICLE 3

23. Spain has made great efforts to make environmental information available to the public. This forms part of a continuous and exhaustive task requiring technical means and human resources with sufficient environmental training. As a result, in some isolated cases, the information cannot be supplied as quickly as desired due to the complexity of the environmental information. On occasion, the difficulty does not lie so much in formal compliance with the regulation but in the incorporation of public opinion in decision-making. In large projects with large volumes of documentation, problems concerning the ease with which environmental documentation can be consulted and copies of the required documentation can be provided have been detected. An attempt is being made to remedy this situation. Sometimes, a consultation relates to thematic areas that are the competence of diverse administrative departments, which means that it is impossible to answer in a short space of time. When the duty to inform falls on town halls with scant financial resources, exercise of this right coupled with advice can be impracticable.

Democratic channels of political participation have been set up through regular procedures, and citizens can intervene directly (organically, functionally and cooperatively) in government activities to protect the environment. However, certain shortcomings have been detected in the organisation and training of public authorities that have a negative impact on the structuring of information flows for the effective exercise of public participation in this area.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF THE CONVENTION

24. As part of the environmental assessment procedure for state projects, plans and programmes, plans have been made to make environmental documentation and telematic processing available to the public through the MARM website.

25. This Ministry, through the Directorate General for Rural Development, and in collaboration with other State and Autonomous authorities, has drawn up a National Strategic Plan for Rural Development 2007-2013, presented to the European Commission on 2 April 2007. This was done with the participation of professional agricultural organisations, cooperatives, rural development networks and ecology groups. The organisations consulted included the Network of Environmental Authorities and three organisations representing environmental awareness in Spain: WWF/Adena, SEO/BirdLife and Fundación Félix Rodríguez de la Fuente. Consultations were made through bilateral meetings, meetings with all social and economic partners and by e-mail. Through this participation, the National Framework for Rural Development was also set up, which establishes the common measures and actions for all rural development programmes in the Autonomous Communities. A National Monitoring Committee was subsequently created.

26. The Directorate General for Marine and Coastal Sustainability has created travelling exhibitions to raise awareness of essential concepts of coastal legislation and the main programmes to protect the sea and coast. It has also established contact and arranged meetings with NGOs in the CAMA Coastal Group and launched a campaign informing the population about jellyfish, besides creating a citizens information centre for coastal matters. Likewise, other directorates of the Ministry have developed a number of actions in a bid to raise the profile of the Marine Fishing Reserves and Marine Protected Areas, and to promote the responsible consumption of food that encourages the sustainability of farming, livestock and fishing resources.

VI. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

27. The following websites are available:

Ministry of the Environment and Rural and Marine Affairs:

<http://www.marm.es>

<http://www.mma.es>

<https://servicios.marm.es>

<http://www.mapa.es/rmarinas>

http://www.mma.es/secciones/calidad_contaminación

<http://cdr.eionet.europa.eu/es/eu> (CDR)

<http://dataservice.eea.europa.eu/databaservice/metadetails.asp?id=1029> (AIRBASE)

<http://www.nilu.no/projects/ccc/emepdata.html>

http://www.oecd.org/searchResult/0,3400,en_2649_201185_1_1_1_1_1,00.html

<http://www.prtr-es.es> (with links to the EPER and PRTR in Autonomous Communities)

Other State Departments:

Ministry of Economy and Finance: <http://www.ine.es> (statistics on waste generation, water usage and environmental protection expenditure)

Ministry of Industry, Trade and Tourism: www.mityc.es

Institute for Energy Diversification and Saving: <http://www.idae.es>

Autonomous Communities:

Andalusia: <http://www.juntadeandalucia.es>

Aragon: <http://portal.aragon.es>

<http://sitar.aragon.es>

<http://calidadambiental.aragon.es>

Balearic Islands: <http://www.caib.es>

<http://pia.caib.es>

<http://oficinadelcanviclimatic.caib.es>

<http://dgcapea.caib.es>

Canary Islands: <http://www.gobiernodecanarias.org/>

Cantabria: <http://www.gobcantabria.es>

www.medioambientecantabria.com

www.medioambientecantabria.com/CEDREAC

www.plandeahorrodelaagua.com

programaceroco2.com

www.observatorioastronomicocantabria.com

www.proyectorioscantabria.com

www.ophic.es

Castile-La Mancha: <http://www.jccm.es/medioambiente>

<http://www.rrrclm.info/principal.html>

Catalonia: »Extremadura:« <http://www.juntaex.es>

<http://aym.juntaex.es>

Galicia: <http://medioambiente.xunta.es>

<http://www.siam-cma.org>

<http://aae.medioambiente.xunta.es>

<http://www.a21.medioambiente.xunta.es>

Madrid: www.madrid.org

<http://gestiona.madrid.org>

<http://www.asambleamadrid.es>

Murcia: www.carm.es

www.orcc.es

Navarre: www.navarra.es

www.crana.org

www.nasursa.es

Basque Country: www.igurumena.net

<http://udalsarea21.gaphogar.es>

<http://www.lehendakariordetza.ejgv.euskadi.net>

<http://www.eper-euskadi.net>

<http://www4.gipuzkoa.net>

La Rioja: Valencia:« www.cma.gva.es

Spanish Federation of Municipalities and Provinces:

www.femp.es

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

Article 4, paragraph 1

28. In the majority of cases, the State and Autonomous authorities are equipped with systems to speed up the supply of environmental information to all users, who can access a form to request information on the corresponding websites.

Article 4, paragraph 2

29. Both the State and the Autonomous authorities have implemented or are in the process of implementing systems to ensure that the information is supplied within fixed terms, with the aim of correcting failures to comply with these. Local authorities also have means for accessing information.

Article 4, paragraphs 3 and 4

30. Article 13 of Law 27/2006 includes a complete list of the only circumstances that may lead to refusal of the request for environmental information, indicating that these reasons for refusal must be interpreted restrictively and that each specific case should weigh up the conflict of interests between the disclosure and refusal of information.

Article 4, paragraph 5

31. This right is recognised in article 10, paragraph 2. b) of Law 27/2006. It is common practice in both the State and Autonomous authorities to inform the public of the authority they must address or to transfer their request to that authority.

Article 4, paragraph 6

32. This right is recognised in article 14 of Law 27/2006. If it is not possible to supply all of the information, the applicant is supplied the part of the information that can be accessed and given the reasons for the partial refusal.

Article 4, paragraph 7

33. This right is recognised in article 10, paragraph 2 of Law 27/2006.

Article 4, paragraph 8

34. Article 15 of Law 27/2006 establishes the obligation of public authorities to draw up, publish and make available to applicants of environment information the list of public and private fees and charges applicable to such requests and the events in which payment is not required. For this purpose, the Autonomous Communities have their own legislation to inform, within their territorial scope, of the public charges and fees applicable in the latter. Some have charge for environmental information, but only when the requested information must be drawn up expressly and requires officials to spend a significant length of time on it. However, in many cases no financial charge is made for the supply of information.

VIII. OBSTACLES ENCOUNTERED IN THE APPLICATION OF ANY OF THE PARAGRAPHS OF ARTICLE 4

35. Besides that indicated in Section 23, the difficult should be emphasized to made compatible the intelectual property rights and the right of access to environmental information.

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS ON ACCESS TO INFORMATION

36. The annual publication “Medio Ambiente en España” (“The Environment in Spain”), which can be accessed through the Department’s website, contains statistics on the number of requests received, the number of refusals and their reasons, and generally all that concerns the processing of environmental information requests by the State and Autonomous authorities.

37. The Autonomous Communities also publish their own statistics to disclose them to the public and the majority publish an annual report on their activities containing the statistical data on environmental information.

X. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

38. Those indicated in Section 27.

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

Article 5, paragraph 1

39. Article 5.2 of Law 27/2006 requires the public authorities to ensure, as far as their powers allow, that the information they collect or which is collected in their name is up to date, accurate and able to be compared to other data. Article 7 of this Law requires that the information disclosed be up to date, where applicable, and that it includes certain minimum contents.

40. In situations where there is an imminent threat to human health or the environment, pursuant to article 9 of the Law, the public authorities are required to immediately and without delay disclose all information held by the public authorities or other subjects in its name, to enable the public that may be affected to take the necessary measures to prevent or mitigate the harm arising from such threats.

41. The Directorate-General for Civil Protection and Emergencies, reporting to the Ministry of the Interior, through the National Commission on Civil Protection, coordinates the departments of the State and Autonomous authorities in matters of civil protection in order to guarantee the efficient action of the public authorities for the study and prevention of situations of grave collective risk, catastrophe or public disaster and the protection and rescue of persons and effects in the event that these situations were to occur.

42. Both the State and the Autonomous Communities have specific warning legislation in place and protocols of action and possible intercommunity conventions for emergency situations to enable disclosure of the appropriate information.

Article 5, paragraph 2

43. Article 1.2 of Law 27/2006 guarantees the dissemination and public disclosure of environment information gradually and with the greatest possible extent and use of technology. Article 5 of this Law guarantees the practical measures set down in the Convention, such as: designation of departments responsible for environmental

information, creation and maintenance of resources for consulting the latter, creation of registers or lists of the environmental information held by public authorities or points of information, fostering of the use of telecommunications, etc. The obligations to disclose environmental information are incorporated into article 6.2 of Law.

44. The state legislation on air quality (Royal Decrees 1073/2002, 1793/2003 and 812/2007) includes regulations on the obligation of the Autonomous Communities and, where set down in Autonomous legislation, of local authorities, to transfer information to the MARM Air Quality Database and on the obligation of the authorities to guarantee information to the public.

45. The third additional provision of Law 9/2003 (25 April) establishing the legal system for the confined use, voluntary release and marketing of genetically modified organisms (GMOs), allows for the creation of Public Registers by the competent public agencies and a Central Registry in the MARM.

46. Some Autonomous Communities have organised environmental information networks or systems and/or catalogues of environment data sources. They have also begun to draw up lists of environmental information and carried out activities to raise the profile of the new regulation among relevant sectors.

Article 5, paragraphs 3 and 5

47. Article 6, paragraph 3 and 4 of Law 27/2007 requires public authorities to adopt the necessary measures to guarantee that environmental information is gradually made available in electronic databases easily accessible by the public through public telecommunications networks, either directly or through the corresponding links.

48. For this purpose, both the MARM and the Autonomous Communities have set up environmental information websites, which also allow access to the information in the various networks and to geo-referenced information. On the issue of climate change, a substantial amount of information can be accessed through this Ministry's website. There is also a great deal of information available on the Marine Reserves website and on that of the Spanish Institute of Oceanography). Likewise, the website of the Ministry of Trade, Industry and Tourism contains information on energy efficiency and saving. This Ministry, together with trade union organisations and business associations, participates in social dialogue forums for drawing up and monitoring the National Plan for Granting Trade Emission Rights. The Air Quality Database collects data from Spain's metering networks, which is transmitted to the Central Data Repository to be integrated into the AIRBASE and Norwegian Institute for Air database, which then make the information available to the public. These data are also sent to those who request it free of charge and without the need to invoke a specific interest.

49. The minimum contents that must be covered by the information to be disclosed is developed in article 7.2 of Law 27/2006.

50. The MARM has made available the document "Government actions in matters of the environment" on the Internet, which provides general information, by topic, on administrative powers, sources of information and means of access to the latter and on environmental policies, plans and programmes and how they interrelate with sectorial policies.

51. The MARM website discloses information on activities carried out in Spain with GMOs and publishes reports on the results of voluntary release notices and the authorisations granted by the Interdepartmental GMO Council. The Nature Databank

and Farming Land Geographical Information System (SIGPAC) offer geo-referenced information with the possibility of access to the information in the information systems of the Autonomous Communities.

52. The “Analysis and documentation of the key factors of gas emissions in livestock farming” document and the drafting of a Purin Biodigestion Plan, are important sources of information on stock farming and climate change.

53. The Autonomous Communities have also placed significant emphasis on the implementation of paragraph 3, incorporating monitoring into the control and surveillance networks of air quality, water quality, waste management, etc.

Article 5, paragraph 4

54. Each year, the MARM publishes and disseminates its “Environment in Spain” and “Agriculture, Food and Fisheries in Spain” reports, along with other one-off and regular publications, such as “Facts and figures in agriculture, food and fisheries in Spain”, “Trend report”, “Environmental profile of Spain” (based on selected indicators in the framework of the Spanish EIONET network), which use environmental information. They are all available on the Ministry’s website, in some cases with detailed versions in different languages and free of charge.

55. The Observatory on Sustainability in Spain (OSE) created by this Department also publishes an annual report based on indicators of sustainable development in Spain, coherent with those produced by the EEA, and a pocketbook edition “Sustainability in Spain”.

56. Besides these general reports, there are numerous specific statistical sources provided by the MARM, EUROSTAT and many specialist agencies, such as the Spanish Meteorology Agency (AEMET), the Spanish Oceanography Institute (IEO), the National Institute of Agricultural and Food Technology (INIA) and other public research institutions (PRI).

57. The statistical data on the diverse environmental parameters collected by the MARM each year from the various authorities are sent to the European Environment Agency (EEA).

58. The Autonomous Communities have published reports on the situation of the environment and, where applicable, on their own regional systems of environment indicators.

Article 5, paragraph 6

59. The twelfth additional provision of Law 27/2006 requires public authorities to encourage economic operators, when required to do so, to inform the public regularly of those activities or products that have or could have a significant impact on the environment. In this regard, the national and Autonomous PRTR inventories include data on emissions from companies with greater pollution potential. Moreover, Regulation (EC) No. 761/2001 of the Council of the European Union allows public and private organisations, both non-profit and otherwise, to voluntarily join the Community Eco-Management and Audit Scheme (EMAS). Eco-labelling and organic farming production allow for similar mechanisms for the dissemination of information on private activities and products that could have a significant impact on the environment.

60. In the Autonomous Communities, initiatives have been adopted for consumers and producers of waste to encourage a reduction of the latter at source and for urban users

on best practices in energy consumption, water use, waste separation and, in some cases, financial aid for actions to implement environmental quality systems.

Article 5, paragraph 7

61. In addition to their publications and Internet dissemination and participation, all public authorities have information departments and other units for the reception and processing of complaints and suggestions on matters relating to the environment, along with the electronic means to access them.

Article 5, paragraph 8

62. The labelling of agricultural products in general and organic farming products in particular, fish products, dangerous substances, noise from domestic appliances, energy consumption, etc., have their own state regulation covering information.

63. Some Autonomous Communities control the labelling of electrical appliances and the symbols of integrated waste management systems. Both these authorities and some local governments have produced green shopping guides and incorporated sustainability criteria in public competitions for goods and services. On 11 January 2008, the State's Council of Ministers approved the Green Public Bidding Plan of the State Government, its Public Bodies and Social Security Management Agencies, with the object of implementing practices respecting the environment in public bidding in order to reach the goal set by the European Union in the revised strategy for Sustainable Development in 2010.

Article 5, paragraph 9

64. In 2002, the State Pollutant Emission Register, EPER-Spain, was introduced. The information on emissions from this register is incorporated into the EPER European register and covers the years 2001 to 2006. In accordance with the PRTR protocol (of which Spain is a signatory and whose definitive ratification is underway) and Regulation (EC) No. 166/2006 on the establishment of a European register of pollutant emissions and transfers, the old EPER-Spain register has been changed to the new PRTR-Spain, now implemented across the country. Industrial installations have made their first report using the new PRTR criteria, which correspond to emissions data for 2007. To facilitate the implementation of this new register with the idea of being a continuation of the previous one, Spain adopted Royal Decree 508/2007 (20 April) regulating the supply of information on emissions of the E-PRTR Regulation. This latter attempts to clarify the information obligations of its addressees and encourage coordination and coherence with other inventories and national registers.

65. All information on the PRTR-Spain register is available on the Internet and is easily accessible to all stakeholders and the general public from the www.prtr-es.es address. The information, which is available in Spanish, the other official languages of Spain and English, includes links to the inventories of international and Autonomous Community systems.

XII. OBSTACLES ENCOUNTERED IN THE APPLICATION OF ANY OF THE PARAGRAPHS OF ARTICLE 5

66. The cross-cutting nature of the subject matter creates problems with administrative organisation and coordination that, to a greater or lesser extent, affect the various public authorities in the application of article 5.

67. The difficulties in preparing specific aggregate information for the whole of Spain using data supplied by the local and Autonomous authorities include problems with uniformity, which suggests the need to reinforce mechanisms of coordination.

68. In some Autonomous Communities, the available human and material resources have been insufficient to adequately meet the obligations of access and dissemination of environmental information within the set terms. Greater difficulties have been encountered with the statistical monitoring of requests and their processing at local level.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 5

69. The number of visits to the EPER/PRTR-Spain site in the first 8 months of 2008 amounted to 1,000,000 queries from all over the world, particularly the USA and countries in Europe. The most common requests were for information on public emissions data by sectors of industrial activity, the inventory of facilities and downloads of PDF documents, as well as tables and charts.

70. In 2007, the Nature Databank published a large volume of cartographic information and obtained almost 30,000 visits per month in 2008.

71. In the sustainable development of the rural environment, besides supplying data for the EIONET Network or the European Union IRENA indicators, Spain collaborated on the OECD publication “Environmental Performance of Agriculture in OECD Countries since 1990”, available on the Internet.

XIV. RELEVANT WEBSITES FOR THE IMPLEMENTATION OF ARTICLE 5

72. Those indicated in Section 27.

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

73. Public participation in decisions on specific activities in article 6 of the Convention was already regulated in Spain’s legal system, albeit generally. Therefore, in order to effect the provisions of the Convention and Directive 2003/35/EC providing for public participation in the respect of the drawing up of certain plans and programmes relating to the environment, Directive 2003/35/EC was transposed through Law 27/2006 mentioned above, for the extension and adaptation of said system.

Along these lines, it should be remembered that Spain is a Party to the Convention on Environmental Impact Assessment in a cross-border context (Espoo Convention) since it ratified the agreement in 1991.

Article 6, paragraph 1

74. Law 27/2006 refers to sectorial legislation for the regulation of administrative procedures for granting integrated environmental permits (Law 16/2002 on integrated pollution prevention and control, IPPC, BOE of 2/7/2002) and for evaluating the environmental impact of projects or activities (Royal Legislative Decree 1/2008 of 11 January, approving the consolidated text of the Law on Project Environmental Impact

Assessment, BOE of 26/1/2008). Both regulations conform to the rules on participation set down in the Aarhus Convention and assumed by the Community legislator through Directive 2003/35/EC.

75. IPPC Law 16/2002 is applicable to public or private installations that carry out any of the industrial activities included in the categories listed in its Annex 1. At the very least, the emission values of these installations must be within the limits set down in the regulations in Annex 2 and, where applicable, those fixed in additional protection regulations introduced by the Autonomous Communities. The State authorities, without prejudice to the additional protection regulations introduced by Autonomous Communities, may establish emission limit values for pollutants, particularly those listed in Annex 3, and for the industrial activities included in the scope of application of this Law.

76. Royal Legislative Decree 1/2008 concerns: the performance of works, facilities or any other activity included in Annex I of the EIA Law, which must only be subject to an EIA when the environmental department so decides on a case-by-case basis, and the projects or activities in Annex II not included in Annex I but which could directly or indirectly affect the spaces in the Natura 2000 Network. The reasons must be publicly stated for the corresponding decision and it must take into account the criteria established in Annex III.

77. The Autonomous Communities have developed general legislation in both cases (Law 11/2006, of 14 September, on environmental impact assessments and strategic environmental assessments, of the Balearic Islands; Law 17/2006, of 11 December, on integrated environmental control, of Cantabria; Law 4/2007, of 8 March, on environmental assessment in Castile-La Mancha; Law 3/1997, of 27 February, on the integral intervention of environmental administration in Catalonia; Law 2/2002, of 19 June, on environmental assessment, of the Community of Madrid; Law 5/2002, of 8 October, on environmental protection in La Rioja; etc.), and there are also some instances of institutional or organisational legislation regulating public participation (Law 4/2006, of 30 June, on transparency and best practices in the Government of Galicia).

Article 6, paragraph 2

78. The regulation of the procedures for Integrated Environmental Authorisation in Law 16/2002, which includes the guarantee of the “real and effective” participation of stakeholders (article 14), deals with the participation and processing of public information (articles 14, 16 and Annex 5) and instances of activities with cross-border effects (article 27).

79. For Environmental Impact Assessment (EIA) procedures, Royal Legislative Decree 1/2008 also guarantees “real and effective” participation (article 1.4) and regulates that concerning the processing of public information and consulting of the stakeholders and public authorities involved (article 9). EIAs with cross-border effects are regulated in article 11 of the aforementioned Royal Legislative Decree.

80. Public participation in making decisions on the authorisation of waste management activities corresponds to the Autonomous Communities in the scope of their powers. Article 19 of Royal Decree 653/2003 on waste incineration regulates access to information and public participation in the processing of new permits.

81. Some Autonomous Communities are drawing up regulations on participation to regulate the processing of permits or decision-making, among others, for those not subject to a regulated procedure of public participation.

82. In some instances, the Autonomous Communities have set up ad hoc bodies of participation as part of their administrative structure.

83. The Autonomous and local authorities have generally adopted measures on participation, establishing new options or bolstering existing ones, particularly those deriving from the Local Agenda 21 in the case of municipalities.

Both types of authority have encouraged the use of new technologies for this purpose.

Article 6, paragraph 3

84. In the EIA procedure, the decision-making body must inform stakeholders and the public authorities involved of the right to participate in the corresponding procedure and the moment at which they can exercise this right; this notification must include the competent authority to which observations and allegations must be addressed, specifying the participation and the deadline by which they must be sent, which cannot be less than 30 days (article 9.3 of Royal Legislative Decree 1/2008).

85. However, the general regulation of public information as set forth in Law 30/1992 (26 November) on the Legal System of Public Authorities and the Common Administrative Procedure allows for the possibility of emergency processing, which cuts these deadlines by half but must be justified as being in the public interest.

Article 6, paragraph 4

86. Law 16/2002, through the modification introduced by Law 27/2006, guarantees participation from the initial phases of the respective procedures (article 14). To this effect, the provisions on public participation in decision-making set forth in its Annex 5 are of application.

87. Royal Legislative Decree 1/2008 includes this guarantee in its article 8, by opening up the consulting process to the public authorities involved and to the natural persons or public and private legal entities linked to protection of the environment, at the start of the EIA procedure, when the sponsor has established its alternative options in an initial document of intent but they have not been studied from the perspective of their environmental impact. At this stage, no decision on project requirements will be approved by the competent authority.

88. In fact, the State and Autonomous authorities, in addition to the intervention of consultative collegiate bodies where this is provided for, encourage early participation through the Internet and by sending information to the associations, organisations and agents involved in the procedures.

Article 6, paragraph 5

89. Though not set down in the regulations, the MARM places no restrictions on the project sponsor making consultations prior to the start of procedures for project authorisation.

90. In the Autonomous Communities, the disclosure of information stimulates spontaneous preliminary debate, though not regulated in legislation, and some Autonomous Communities have signed social pacts for the environment to reinforce mechanisms of communication.

Article 6, paragraph 6

91. Law 27/2006 regulates access to environmental information in articles 5 to 12, and access to environmental information on request in its article 10 in particular.

Likewise, the Environmental Assessment regulation – articles 7 and 9.2e) – guarantees the public disclosure of information.

92. To facilitate application of these rights, databases are published on the Internet of cases of projects subject to EIA, both by the MARM and by the Departments for the Environment of the Autonomous Communities.

Article 6, paragraph 7

93. The general regulation on the processing of public information allows for the possibility of submitting comments since, pursuant to the aforementioned Law 30/1992, the public has the opportunity of presenting objections to the project in writing to the competent authority, and this right is set down in particular in article 9 of Royal Legislative Decree 1/2008.

94. All channels of information (e-mail, post, fax, telephone, personal presence or website) are generally available to the public at all public authorities for participation and the presentation of allegations. The MARM has also made available to the sectors involved its “Sede Electrónica” application on its website, for diverse procedures within the scope of its powers, including those on EIA (Sabia programme).

Article 6, paragraph 8

95. In the EIA procedure, the results of consultations and public information must be taken into account by the project sponsor and the decision-making body authorising the same (RLD 1/2008, article 9.5).

Article 6, paragraph 9

96. Article 12 of RLD 1/2008 determines that the Environmental Impact Statement must be made public in all events (Official Gazettes). The result of the procedures is also published on the website and made public by other means, as explained in this report.

97. Likewise, the public must be informed by public notice of the approval or rejection of a project application. The decision is subject to public examination, with the reasons adopted for the decision, as regulated by RLD 1/2008, article 15, in the case of the disclosure of authorised projects and in article 3.2 and 17.2, in the case of projects which, following a screening procedure, have been determined not to have a significant impact on the environment.

Article 6, paragraph 10

98. The modifications and changes to the characteristics and circumstances in which a project that falls within the scope of application of an EIA (article 3 of RLD 1/2008), in accordance with the basic regulation of the State, is always subject to a screening procedure (Group 9.k) of Annex II and articles 16 and 17 of the same regulation), in order to determine the possible existence of significant impacts. The channel of public participation has already been mentioned in this procedure.

Article 6, paragraph 11

99. For GMOs, articles 16.2. d) and 25.4 of Royal Decree 178/2004 approving the General Regulation for the development and execution of Law 9/2003 regulate the

obligation of publicly disclosing notices of activities of confined use and notices of voluntary release of GMOs.

100. The public must send its comments to the GMO inbox of the Directorate-General for Environmental Assessment and Quality of the MARM: (buzon-omg@mma.es).

101. The corresponding resolutions within the scope of competence of the State authorities are made public on the MARM website.

102. The competent authorities of the Autonomous Communities are also required to make public notices of voluntary release and confined use of GMOs within the scope of their competence. Each Autonomous Community has developed its own mechanisms for this public consultation, mainly through the publication of case summaries on its websites or in the Official Gazettes of the corresponding Community.

XVI. OBSTACLES ENCOUNTERED IN THE APPLICATION OF ANY OF THE PARAGRAPHS OF ARTICLE 6

103. Public participation in the GMO procedure has been scant to date. The buzon-omg@mma.es address has not received a single comment of technical interest, only general comments about GMOs.

104. On occasion, with the EIA procedure, the decision-making body of the Autonomous Community has taken too long to supply the information to the environmental organisation.

105. In other cases, there has been a lack of greater resources, clarity of competences and preparation of technicians and officials for promoting civic participation in government.

106. The main obstacles identified by local authorities in the application of the Aarhus Convention have been the lack of detailed knowledge of its terms and the lack of interest by a considerable proportion of the population. Public participation in environmental decision-making continues to be structured around existing channels or through consolidated instruments such as the Local Agenda 21.

The deadlines established in sector legislation for presenting allegations in the procedures requiring environmental authorisation, particularly EIAs and AAAs, are sometimes too tight in view of the size of the cases and their technical complexity.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 6

107. Projects related to National Defence objectives are excluded from the EIA procedure when such an application could have negative repercussions for these objectives. Projects specifically approved by a State law (first additional provision of RLD 1/2008) are also exempted. The exclusion of projects from this procedure is also permitted for exceptional reasons, by reasoned agreement of the Council of Ministers, in the scope of the State Government or the legislative body of each Autonomous Community, in their respective scopes of competence. In these events, the convenience of submitting the excluded project to another form of assessment will be assessed (second additional provision).

XVIII. RELEVANT WEBSITES FOR THE IMPLEMENTATION OF ARTICLE 6

108. Those indicated in Section 27.

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

109. Article 16 of Law 27/2006 sets down the obligations of public authorities to guarantee that this right is made effective. Law 9/2006, which incorporates Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, introduces the environmental assessment of plans and programmes (strategic environmental assessment) and encourages transparency and civic participation in their drafting.

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

110. Besides that set down in article 16 of Law 27/2006, article 19 of the latter also establishes the functions of the Environmental Advisory Council, as a collegiate body for the participation and monitoring of environmental policies. There are also other sectorial participation agencies, such as the National Water Council, the National Council for Natural Heritage and Biodiversity and the Council for Rural Affairs.

111. The Autonomous Communities, without prejudice to the application of Laws 27/2006 and 9/2006, have incorporated tools to suit the new approach to participation in the drafting and approval of plans and programmes. This entails consulting the authorities involved, including local authorities, and the stakeholders. Participation is also structured through consultative collegiate bodies.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

112. The main obstacle has been the lack of public participation in general, a problem that will be gradually redressed with the increase in information on rights and guarantees for the drafting of plans and programmes. In all events, any obstacles encountered at this early stage will be gradually overcome and a high level of public participation is expected.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 7

113. In both the State and Autonomous levels, public participation in the drafting and approval of plans and programmes is facilitated through the implementation of new technologies allowing the interactive participation of citizens, whose aim is the transparency and promotion of these plans and programmes. At the local level, new channels of participation are being set up or existing ones are being strengthened, particularly those deriving from the Local Agenda 21.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

114. Those indicated in Section 27.

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

115. At State level, the general legal framework is set down in article 24 of State Law 50/97 regulating the procedure for public information and comments in the drafting of regulations. This State provision is complemented by the obligation of public authorities, set down in article 18 of Law 27/2006 to ensure that the necessary guarantees are observed to ensure participation in environmental matters.

116. Article 19.2 of Law 27/2006 establishes that the CAMA must make public all draft legislation on the matters mentioned prior to their approval. Depending on the matter, the intervention of other consultative sector organisations with a representation of social partners may also be required. The legislation also allows for other forms of participation.

117. The implementing regulations of the Autonomous authorities establish the fostering of social participation, the guarantee of effective public information procedures and respect and fostering of the exercise of this right by the competent government drafting the regulation in each case.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

118. The same as those indicated in paragraph 115.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 8

119. The MARM publishes an internal guide for processing draft legislation that describes all of the steps to take for correct application of article 8 of the Aarhus Convention and articles 16 and 18 of Law 27/2006. The Ministry also keeps records on all actors in each activity sector and holds coordination meetings with environmental organisations.

As mentioned in point 14, a number of environmental awareness campaigns have been carried out by various authorities and NGOs. However, specific action is considered necessary to improve rights of access to information, public participation and access to justice in environmental matters, particularly in relation to the local authorities, given their proximity to citizens.

XXVII. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

120. Those indicated in Section 27.

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

Article 9, paragraphs 1 and 2

121. The current legal system establishes a system of administrative appeals and, when this possibility has been exhausted, the possibility of court action, allowing citizens to fully exercise their right to access to justice with the characteristics and requirements described in article 9 of the Convention. Article 20 of Law 27/2006 establishes that a member of the public who considers that an act or, where applicable, an omission attributable to a public authority has impaired his/her rights to information and public participation as recognised by this Law may seek the administrative remedy regulated in Law 30/1992 on the Legal System of Public Authorities and the Common Administrative Procedure. Following resolution of the administrative appeal, if the private party is not satisfied, a judicial review may be sought, as established in Law 29/1998 (13 July) regulating the jurisdiction of judicial reviews. Likewise, article 21 of Law 27/2006 regulates a special system of complaints against public authorities for cases in which the request for environmental information is submitted to a public authority that does not have the legal status of a public authority. In the event of failure to comply with the ruling, penalties may be imposed. The decision on the appeal or complaint, made in accordance with the general rules of the Common Administrative Procedure, is binding for the authorities and its reasons must be set down.

Article 9, paragraph 3

122. Article 22 of Law 27/2006 sets forth the popular action by which appeals may be lodged against acts and, where applicable, omissions attributable to public authorities that contravene the environmental regulations listed in article 18.1 of Law 27/2006 through the administrative appeals system regulated in Law 30/1992 and the system of judicial reviews established in Law 29/1998. All non-profit legal entities accrediting compliance with the requirements set down in article 23 of Law 27/2006 are legitimated for the exercise of popular action.

Article 9, paragraph 4

123. The general regulations on the procedure for the resolution of administrative appeals and judicial reviews apply. These establish all of the guarantees for ensuring the efficacy and public disclosure of the decisions adopted to resolve administrative appeals and judicial reviews, including the possibility of adopting injunctive measures.

Article 9, paragraph 5

124. Article 58 of Law 30/1992 sets forth the obligation of publishing notices within ten days. These notices must indicate whether the act is final in the administrative system, the applicable expression of appeals, the body to which these should be submitted and the term in which to present them, without prejudice to the fact that stakeholders may carry out, where applicable, any other procedure that they consider appropriate. In terms of the reduction of financial barriers, article 23.2 of Law 27/2006, in accordance with article 119 of the Constitution, establishes that the non-profit legal entities referred to in

paragraph 1 of this article will be entitled to legal aid under the terms set down in Law 1/1996 on Free Legal Aid and in its regulation (Royal Decree 996/2003).

125. On a different note, this report should mention the action of the Ombudsman and the Autonomous bodies with the equivalent role of guaranteeing the rights of the public. These institutions investigate whether the authorities had been guilty of abuse, arbitrariness, discrimination, error or negligence and mediate between citizens and the authorities.

136. Finally, both in the State and Autonomous and local levels, systems of complaints and suggestions have been implemented to allow citizens to use this channel if they consider that their request has not been dealt with as they expected.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ANY OF TH PARAGPAHS OF ARTICLE 9

126. No major obstacles in the implementation of this article were detected since, with the exception of some slight modifications, it is consonant with our legal system.

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

127. In most cases, environmental associations rather than private individuals have lodged appeals against the corresponding legal entity, probably due to a lack of information among the general public on this matter, despite Government efforts in this area.

XXXI. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

128. The 2008 Public Prosecutor Report can be consulted at the following address: <http://www.fiscal.es/fiscal/public>.

XXXII. HOW THE IMPLEMENTATION OF THE CONVENTION CONTRIBUTES TO THE PROTECTION OF THE RIGHT OF EVERY PERSON OF PRESENT AND FUTURE GENERATIONS TO LIVE IN AN ENVIRONMENT ADEQUATE TO HIS OR HER HEALTH AND WELL-BEING

129. The State, Autonomous and local authorities consider that the transparency and fostering of public participation are key instruments for a modern environmental policy and the consolidation of citizenship. Better service to citizens is the reasoning behind the reforms that Spain has been introducing following approval of the Constitution to shape a modern Government. The shaping of a society in which people are perfectly knowledgeable of their rights, empowering them to demand compliance with environmental regulations and play an active role in the conservation and improvement of the environment, is becoming a key element for the effective monitoring and control of government activities.

The role of NGOs and environmental organisations has been decisive in raising widespread awareness about environmental issues and promoting legal instruments of control and protection.

130. There can be no doubt that implementation of the Aarhus Convention has served to guarantee a series of rights of access to information, public participation in decision-making and access to justice in environmental matters. However, with the participation of departments with environmental powers from all public authorities and the social partners involved and their activities to raise the profile of the Convention and Law 27/2006, it has also served to take stock of the importance of the exercise of these rights on the one hand and of the need to respect and foster them on the other.