

## **FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT**

### **CERTIFICATION SHEET**

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Signature:	
Date:	20/01/2005

### **IMPLEMENTATION REPORT**

**Please provide the following details on the origin of this report**

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

### **General introduction**

The United Nations Convention on access to information, public participation in decision-making and access to justice in environmental matters, commonly called the Aarhus Convention, was signed in Aarhus on 25 June 1998. Belgium's instrument ratifying the Convention was submitted to the United Nations' Secretary-General on 1 January 2003. This convention thus went into effect for Belgium and the Walloon Region on 21 April 2003.

It is a completely new type of convention, for it is the first convention to connect environmental and human rights, the public authorities' responsibility and environmental protection. Above all, the Aarhus Convention confers rights on the public and sets obligations on the public authorities in the "three pillars" of the convention, namely, public access to environmental information, public participation in environmental decision-making, and access to justice in environmental matters.

Pursuant to Article 10 of the Aarhus Convention, the Contracting Parties are required to submit a report on the progress made in implementing and enforcing the convention's provisions before each Conference of the Parties. As the next Conference of the Parties will take place in Almaty, Kazakhstan, on 25-27 May 2005, Belgium must thus submit its report to the Convention Secretariat by 23 January 2005.

The Aarhus Convention is a "mixed" convention in Belgium. That means that its implementation depends on several authorities, specifically, the federal government and three federated entities (the Walloon Region, Brussels-Capital Region, and Flemish Community). Each authority has thus responded internally by writing up a report covering the matters in its jurisdiction. So it is that Belgium's national report is composed of four separate reports.

The Walloon Region has thus drafted a regional draft report for Wallonia in line with its powers in this area.

Given that some powers remain national and activities thereunder are thus administered by the federal authority, the regional reports may refer to the federal report for some matters, especially when it comes to the jurisdictional aspect of access to justice. On the other hand, other powers are exclusively regional. In that case, the federal report mentions this explicitly.

This national report was coordinated by the Aarhus Network, which is accountable to Belgium's Coordination Committee for International Environmental Policy (CCIEP), which brings together all of the political and administrative authorities that are responsible for environmental affairs in Belgium. This Aarhus Network has the task of preparing for and monitoring the international negotiations that are linked to the Aarhus Convention. The Aarhus network thus coordinated the preparations for the national consultation in order to ensure uniform conditions across Belgium.

With regard to the consultation itself, the Aarhus Network decided to carry out two types of consultation, namely, a coordinated national consultation of Belgium's four major environmental protection federations and which consequently covers all of the Belgian reports, and a consultation of the public at large, carried out by each authority for its own report. The Walloon Region's draft report is now being submitted to you for comment. Your comments must reach us by the post or e-mail (see the contact point's address) by 30 November 2004 at the very latest.

### **Article 3**

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

Explain how these paragraphs have been implemented. In particular, describe:

(a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;

(b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;

(c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;

(d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally;

(e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

#### ***Answer:***

(a)

The Civil Service Code (Book I, Title 1, Art. 2) stipulates that the Ministry of the Walloon Region's officials are required to observe the laws and regulations that are in effect as well as the Charter of Good Administrative Behaviour. The latter stipulates that the civil servant must serve the public interest and process requests for information and data in a lapse of time that is in line with their nature and complexity. This charter of professional ethics also states that the civil servant must avoid imposing useless administrative constraints on users and indicate clearly the possibilities and legal remedies to which [the Ministry's] decisions give rise.

As part of the implementation of an environmental management system and the EMAS certification granted in 2004, the DGRNE (Directorate-General for Natural Resources and the Environment) adopts a yearly environmental statement outlining the DGRNE's environmental policy. It is based on three axes (transparency, dialogue and preciseness) chosen to ensure clear and specific responses to all information requests but also to advise partners (NGOs and socio-economic players) in carrying out their environmental projects.

One of the main tools of this policy is the website, which provides the public with a full range of information related to the environment in the Walloon Region.

The DGRNE has also filed for ISO 9001 quality assurance certification covering the Director-General's offices and Environmental Police Division so far.

(b)

The regional decree of 6 May 1999 on an introduction to the environment that was recently incorporated in the Environment Code (Book I, Part III, Title II) made it possible to set up a string of Regional Environmental Initiation Centres (CRIEs) for the purpose of promoting general knowledge of the environment in the public at large.

The DGRNE and minister in charge of environmental affairs often conduct various environmental awareness-raising campaigns. In addition, they provide financial, technical and/or logistic support (e.g.,

housing websites) to various activities carried out by NGOs or the public authorities to raise environmental awareness (see, for example, the world water days). What is more, branch agreements that are signed within the framework of waste recovery obligations provide for advertising space for waste prevention awareness-raising campaigns to be made available in the daily and weekly press.

(c)

Several advisory boards have been set up by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development (CWEDD), water policy (Water Commission), and so on. If the public authority does not heed these opinions, it must give in some cases the reasons for this. These commissions are composed of representatives of the region's business federations, trade unions, associations, and NGOs.

Several framework agreements link the DGRNE to various bodies representing civil society. These include Inter-environnement Wallonie (Wallonia's Environmental Associations Federation), L'Union des villes et communes (federation of municipalities), L'Union wallonne des entreprises (Walloon Business Federation), L'Union des classes moyennes (federation of small businesses, trades and the self-employed), trade unions, La Fédération wallonne de l'agriculture (Walloon Agriculture Federation), and so on).

The minister in charge of environmental affairs and DGRNE subsidize a series of NGOs each year via the budget act. The DGRNE grants support for housing the websites of local associations that are active in environmental matters.

(d)

As a rule, the Foreign Ministry heads the Belgian delegation.

In matters that come under the region's jurisdiction, the Walloon Region strives to ensure that NGOs are informed and participate through prior coordinating activities (e.g., preparation of the plenary meetings of the International Commissions for the Protection of the Meuse/Maas and Scheldt Rivers).

(e)

Labour laws and the principles of the Constitution (freedom of expression) are federal powers. See the Federal Government's report (<http://www.haelth.fgov.be>).

#### **Article 4**

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

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Any person may have access to information without having to state an interest;
  - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
  - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:

- (i) Provide for exemptions from requests;
- (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
  
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
  
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
  
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
  
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

***Answer:***

Access to environmental information in the Walloon Region is currently governed by the decree of 13 June 1991, which has been incorporated in the Environment Code. This decree transposes European Directive 90/313/EC of 7 June 1990 on the freedom of access to environmental information into regional law.

The term “public authority” is defined therein as municipal, provincial, and regional administrations and bodies having public responsibilities related to the environment and under the control of public authorities. Persons acting in a judicial or legislative capacity are not included within the scope of this definition.

The term “environmental information” is defined therein as all data, whether factual or legal, related to one of the areas stipulated in Article 6 §1, I, II, III, IV, V, of the special institutional reform act of 8 August 1980, concerning:

- a. the state of the water, air, soil, fauna, flora and natural areas, as well as the deterioration thereof;
- b. plans and activities likely to harm the environment or endanger human health and animal or plant species, notably as concerns the emission, discharge, or release of substances, radiation, vibrations, living organisms, or energy into the water, air, or soil, as well as the manufacture and use of hazardous products or substances; and
- c. measures to conserve, protect and improve the quality of water, air, soil, fauna, flora and natural areas, as well as those intended to prevent and repair damage that is likely to be incurred.

The decree of 13 June, 1991, incorporated in the Environment Code, instituted an Appeals Commission appointed by the Walloon government. A judge presides over this commission, which consists of an additional three members with at least five years’ proven administrative experience and two members put forward by the Walloon Environmental Council for Sustainable Development (CWEDD). This commission is tasked with handling complaints concerning access to information held by Wallonia’s public authorities and if necessary revising the positions taken by these authorities. This Appeals Commission is an administrative procedural review board. Its decisions override those of the authority originally empowered to take the decision.

European Directive 2003/4/EC has governed public access to environmental information since 28/01/2003 (Directive 90/313 has been abrogated). A new decree on the right to access environmental information that abrogates the 1991 decree is being drafted in order to incorporate the new directive’s stipulations, in particular those related to the active dissemination of information. It will align the definitions of public authority, environmental information, and the public with those of the Convention.

(a)

- i) Article 3 of the decree of 13/06/1991 stipulates that the right of access to information is assured for all persons, without an interest having to be stated.

This element will be taken up by Article 5 of the future decree, which stipulates that access to information is assured to all who request it, be they natural or legal persons, without an interest having to be stated.

- ii) Article 4 of the decree of 13/06/1991 stipulates that access to data incorporated in written documents shall be given to applicants via on-site consultation, free of charge, or the delivery of copies, as the applicant prefers. Access to data incorporated in automated data processing bases and visual and/or audio recordings is assured through the delivery of copies (Art 4§2).

Article 6 of the new decree currently in the works stipulates that copies may be delivered for a price that may not exceed the actual cost of producing the material in question.

- iii) Article 4 of the decree of 13/06/1991 stipulates that applicants will be given access to data incorporated in written documents via on-site consultation, free of charge, or the delivery of copies, as the applicant prefers. Access to data incorporated in automated information processing bases and visual and/or audio recordings is assured through the provision of copies (Art 4§2).

Article 9 of the draft decree allows the applicant to request that the information be issued in a particular format. The public authority shall then deliver the information to him in that format, unless it is available in another, easily accessible, format.

Article 7 of the decree stipulates that the data shall be made available to the applicant with due diligence and no later than two months from the date on which the request was received. The deadlines in the future decree will be shorter. The requested information will be made available to the applicant as soon as possible and within one month of the request's receipt. The two-month deadline will be maintained when the volume and complexity of the information that is requested are such that the one-month deadline cannot be met (Art. 8).<sup>⊖</sup>

(c)

- i) Articles 8 (refusal) and 10 (conditions of confidentiality) of the decree of 13/06/1991. The Appeals Commission on the Right of Access to Environmental Information has always interpreted exceptions to the right of access restrictively. In some cases it settled the matter by allowing access to internal communications between the administration and minister. Article 11 of the future decree will contain five reasons for refusal that will be interpreted restrictively, bearing in mind the interest of the requested information.<sup>⊖</sup>

- ii) The Appeals Commission will decide, according to the circumstances of the matter that is brought to it, what interest the requested information's divulgation holds for the public. In the future decree it will be incumbent upon the public authority (the definition of which is given in Article 4(2)) to decide on the public interest of divulging the requested information.<sup>⊖</sup>

(d)

The requirement set down in Article 4, Paragraph 5, of the Aarhus Convention is not taken up as is in the

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<sup>⊖</sup> The future decree has yet to come up for parliamentary debate and the options that are finally taken depend on the legislature.

decree but – and this has been recalled several times in the Appeals Commission’s decisions – the principle of good administration requires that a public authority that is not in possession of information for which it is asked point the requester towards the appropriate public authority.

Still, the charter of good administrative behaviour that applies to all of the Walloon Region’s officials stipulates that the official must inform the user of the letter’s referral to the competent office or offices when s/he cannot handle the request her/himself.

The future decree, for its part, provides (Art. 10) for free public access to the list of environmental information held by the public authority. The place where this information is made available must be made known to the public. What is more, everything shall be done to help and direct the applicant’s steps.<sup>9</sup>

(e)

Article 10§2 of the decree of 13/06/1991 provides for partial communication when it is possible to scratch the passages that the public authority has recognized as being confidential. When it is possible to separate information covered by the scope of the derogations from the rest of the information that is requested, the public authority makes part of the information that has been requested available to the applicant. All refusals to communicate part of the requested information are duly explained and made in writing.

(f)

Under Article 8 of the decree of 13/06/1991, a written answer spelling out the reasons for refusing a request for information must be accompanied by the possible courses of action that are open to the applicant. The future decree stipulates that this decision must be taken in the same deadlines as those that apply to giving information.<sup>9</sup>

(g)

Article 4 of the decree of 13/06/1991 provides for free on-site or online consultation or the delivery of copies, the actual cost of which is borne by the applicant. The Appeals Commission has recalled what must be understood by “actual cost” in several of its decisions. In particular, payroll expenses may not be included therein.

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

***Answer:***

When it comes to the actual enforcement of the provisions concerning access to environmental information, the Appeals Commission for the Right of Access to Environmental Information was instituted by the Walloon Regional Executive’s order of 06/05/1993 (based on the decree of 13/06/1991). This commission began meeting on 19/11/1993 and has issued more than 260 decisions since then. Over the years the number of appeals has fallen. This means that the public authorities have done a good job in meeting the obligations contained in the decree of 13/06/1991.

The following statistics concern the number of cases brought to the Appeals Commission since 1997 (no statistics before 1997).

1997: petitions handled: 33 (24 admissible, 5 rejected, 4 moot)

1998: petitions handled: 25 (17 admissible, 6 rejected, 2 moot)

1999: petitions handled: 25 (16 admissible, 5 rejected, 4 moot)

2000: petitions handled: 17 (11 admissible, 6 rejected)  
2001: petitions handled: 10 (6 admissible, 3 rejected, 1 moot)  
2002: petitions handled: 16 (10 admissible, 4 rejected, 2 moot)  
2003: petitions handled: 8 (7 admissible, 1 rejected)

Plans are to post the most relevant decisions on appeals on the environment administration's website. In this way these decisions will be available to all the people. Currently, the decisions are available upon a simple request made to the Appeals Commission's Secretariat.

### Article 5

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

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Public authorities possess and update environmental information;
  - (ii) There is an adequate flow of information to public authorities;
  - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;
- (f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;
- (g) Measures taken to publish and provide information as required in **paragraph 7**;
- (h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;
- (i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

**Answer:**

(a)

The Environment Code (Book I, Part V) stipulates that an assessment of the environmental plans and programmes subject to public inquiries be done in the course of developing a plan or programme and before it is adopted or submitted for legislative approval, depending on the case.

The decree of 21 April 1994 on environmental planning within the framework of sustainable development and which has been integrated into the environment code (Book I, Part IV), provides for the drafting of an annual report on the state of the Walloon environment, called The Environmental Scoreboard, to be put on line on the DGRNE's website. This reference puts special emphasis on the constant assessment of the policies that are being implemented as well as public information, awareness-raising, and participation.

When it comes to environmental monitoring, the Walloon Region has also set up various monitoring networks, such as air quality measurement networks, surface water quality measurement and alert networks, the authorized landfill monitoring network, the study and characterization of emissions from waste incinerator stacks, and the network for continuous monitoring of dioxin levels in emissions from residential waste incinerators. The public authority is responsible for keeping the data up to date.

The decree of 11 mars 1999 on environmental permits and its implementing orders regulate the procedure for issuing operating permits for activities that are likely to have an environmental impact. This decree organizes the conduct of an impact study prior to the filing of a permit application for activities likely to have significant environmental impacts. The permits that are granted must include environmental impact surveillance obligations.

For emergencies, the Walloon Region has set up an environmental incident watch and intervention service within the Environmental Police Division called "SOS Pollutions" that is accessible to everyone around the clock. If action is required, the officer who is on call, working in cooperation with the traditional emergency and rescue services (federal police, local police, fire brigades and civil guard), searches for the causes of the pollution on site (by taking witnesses' testimony, taking samples, consulting a data bank of dangerous products, etc.) and proposes measures to limit the harmful consequences of the phenomenon as much as possible.

Finally, the draft decree on the right of access to environmental information includes a chapter (Art. 24-26) on "active" information. So, the public authority must, at the very least, make available and disseminate to the public regularly updated - to the extent that this is possible - and concordant information, such as the texts of the treaties and conventions to which the Walloon Region is party; policies, plans and programmes concerning the environment; and its state-of-the-environment reports. <sup>⊖</sup>

(b)

Creation of the DGRNE website ([mrw.wallonie.be/dgrne](http://mrw.wallonie.be/dgrne) or [environnement.wallonie.be](http://environnement.wallonie.be))  
Decree of 13/06/91 on the citizen's freedom of access to environmental information (see the answer concerning Art. 4).

(c)

Creation of the DGRNE website (<http://www.environnement.wallonie.be>)

(d)

Creation of the DGRNE website (<http://www.environnement.wallonie.be>)

(e)

Creation of the DGRNE website (<http://www.environnement.wallonie.be>)

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<sup>⊖</sup> The future decree has yet to come up for parliamentary debate and the options that are finally taken depend on the legislature.

(f)

Roll-out of annual environmental reporting to the public authority via the Walloon Government's draft order implementing the decree concerning the environmental permit in matters of reporting of environmental data.

The decrees of 11 September 1985 organizing environmental impact assessment, as integrated in the environment code, and of 11 March 1999 concerning the environment permit both cover the procedure for granting permits to establishments engaged in activities that have environmental impacts. In accordance with these decrees, a prior impact study is required for a series of activities that can potentially have significant environmental impacts. Information meetings are to be held at the start of the impact study process and a public inquiry is required as part of the environmental permit investigation process.

(g)

Creation of the DGRNE website (<http://www.environnement.wallonie.be>)

The Environment Code (Book I, Part V), which includes amongst other things the decree of 21/04/94 on the public inquiry aspect of environmental planning, stipulates that impact assessments of environmental plans and programmes with public inquiries must be carried out as the plans or programmes are developed and before they are adopted or submitted for legislative approval, as the case may be. It also provides for the drafting of an annual report on the state of the Walloon environment, called The Environmental Scoreboard, and placing this report on line on the DGRNE's website.

This reference puts special emphasis on the constant assessment of the policies that are conducted as well as public information, awareness-raising, and participation.

(h)

The Walloon Region intervenes in the environmental aspects of products after their market release.

An agreement has been signed with a non-profit association of consumer defence and environmental protection associations to set up an "ecological consumption network" to raise consumer awareness and inform and help consumers to make more environmentally friendly and healthier consumption choices (limiting pollution, conserving natural resources, and generating less waste). The tools to achieve these goals include a computerized database, publications, an information centre, and a telephone hotline.

(i)

Implementation of the EPER Decision (instituting an emissions inventory system for the installations covered by Directive 96/61 IPPC) and the PRTR protocol in Europe.

Regional transposition, via the Walloon government's draft order implementing the provisions of the decree on the environmental permit that concern the reporting of environmental data.

## **Article 6**

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

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
  - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

- (b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
  - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
  - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;
- (k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

**Answer:**

- (a) The decrees of 11 September 1985, organizing environmental impact assessments, integrated into the Environment Code, and 11 March 1999 on the environment permit cover the procedure of granting permits to establishments that are engaged in activities that have environmental impacts. In accordance with these decrees, prior impact assessments are required for a series of activities that are liable to have significant environmental impacts. The other activities must append an environmental impact assessment sheet (notice) to their permit applications.

These decrees regulate the public information and participation procedures in these areas, including the matter of deadlines.

The public is defined in these decrees as follows: one or more natural or legal persons, as well as their associations, organizations, and groups.

The Environment Code (Book I, Part V) also provides for public participation when it comes to the environmental plans and programmes that are developed by the public authority.

(b)

The decrees of 11 September 1985, organizing environmental impact assessments, that is integrated into the Environment Code, and 11 March 1999 on the environment permit cover the procedure of granting permits to establishments that are engaged in activities that have environmental impacts. In accordance with these decrees, prior impact assessments are required for a series of activities that are liable to have significant environmental impacts. The decrees provide for information meetings at the start of the process of conducting the impact assessment and a public inquiry as part of the environmental permit investigation.

(c)

Fifteen-day deadline for submitting remarks after the information meeting that is part of the impact assessment.

Thirty-day deadline for submitting remarks after the request for a public inquiry has been submitted under the environmental permit procedure.

(d)

See paragraphs (b) and (c).

(e)

In the case of carrying out an impact assessment, the applicant must publish an announcement specifying the nature of the project at least fifteen days before the information meeting.

(f)

Under the public inquiry the local administration that is in charge of issuing the permit must inform the residents and post an announcement that spells out the project consultation procedures.

(g)

Fifteen-day deadline for submitting remarks after the information meeting in the case of the impact assessment.

Thirty-day deadline for submitting remarks after the public inquiry request has been submitted under the environmental permit procedure.

(h)

The decree of 11 March 1999 concerning the environmental permit includes an obligation to take decisions on the basis of the opinions and comments that have been received and the possibility of appealing the decision.

(i)

The decree of 11 March 1999 concerning the environmental permit specifies the measures to take to publicize the decisions that are taken by the authority responsible for granting the permits.

(j)

The same procedures apply as for granting a new permit.

(k)

See the federal government's report (<http://www.health.fgov.be>)

## Article 7

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

*Answer:*

The Environment Code (Book I, Part V) provides for public participation when it comes to plans and programmes that are developed by the public authority (see waste plan, Contract for the Future for Wallonia) and affect the environment.

The definition of “public” in this code is the one given in the Aarhus Convention, without discrimination based on citizenship, nationality, or domicile.

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

*Answer:*

Several advisory bodies have been created by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development (CWEDD), water policy (Water Commission), and so on. The public authority must give in some cases its reasons for failing to follow the opinions that such bodies give. These advisory bodies are composed of representatives of business federations, trade unions, associations, and NGOs.

The Environment Code (Book I, Part V) provides for public participation when it comes to plans and programmes that are developed by the public authority (see waste plan, Contract for the Future for Wallonia) and affect the environment. Article 54 of the Code sets the criteria for determining environmental impacts.

If a plan is likely to have significant impacts on the environment, its author must append thereto an impact report drawn up on the basis of a specific template and transmitted to the local authorities that are concerned by it for their opinions. A sixty-day public inquiry is organized and the author is required to issue an environmental statement summing up how the environmental considerations and opinions submitted by the public were integrated into the plan, along with the reasons for choosing the plan or programme that was adopted, in view of the other reasonable solutions that were considered.

## Article 8

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

*Answer:*

Several advisory bodies have been created by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development (CWEDD), water policy (Water Commission), and so on. The public authority must give its reasons for departing

from the opinions that such bodies give. These advisory bodies are composed of representatives of business federations, trade unions, associations, and NGOs.

The Environment Code (Book I, Part V) provides for public participation when it comes to plans and programmes that are developed by the public authority (see waste plan, Contract for the Future for Wallonia) and affect the environment. Article 54 of the Code sets the criteria for determining environmental impacts.

If a plan is likely to have significant impacts on the environment, its author must append to it an impact report drawn up according to a specific template and transmitted to the local authorities that are concerned for their opinions. A sixty-day public inquiry is organized and the author is required to issue an environmental statement summing up how environmental considerations and the opinions that the public submitted were integrated into the plan, along with the reasons for choosing the plan or programme that was adopted, in view of the other reasonable solutions that were considered.

### **Article 9**

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

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
  - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
  - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
  
- (b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
  
- (c) **With respect to paragraph 3, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;**

- (d) With respect to paragraph 4, measures taken to ensure that:**
- (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;**
  - (ii) Such procedures otherwise meet the requirements of this paragraph;**
- (e) With respect to paragraph 5, measures taken to ensure that information is provided to the public on access to administrative and judicial review.**

***Answer:***

(a)

The decree of 13 June 1991 concerning the freedom of access to environmental information created an Appeals Commission tasked with ruling, as an administrative review board, on petitions made to it by parties concerning late replies outside deadlines or the absence of responses from public authorities. This Appeals Commission is an administrative procedural review board and its decisions override those of the authority empowered to take the first decision (see also the answer regarding Art. 4).

Besides this body, the petitioner can take his claim to exercise his rights to the various courts and jurisdictions of the judicial system.

(b) – (e)

See the federal government's report (<http://www.haelth.fgov.be>) concerning appeals to the Court of Arbitration and Conseil d'Etat (Council of State – highest administrative authority, functions as the administrative tribunal of last resort).