

FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT
CERTIFICATION SHEET

The following report is submitted on behalf of the Federal Authority of the Kingdom of Belgium in accordance with decision I/8

Name of officer responsible for submitting the national report:	ISTASSE Maud
Signature:	
Date:	07/01/2005

IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

Party	Federal Authority of the Kingdom of Belgium
Competent Federal Body	
Full name of the institution:	Federal Public Service for Public Health, Food Safety and the Environment Directorate General for the Environment
Name and title of officer:	MOREAU, Roland – Director General
Postal address:	Box 3 20, Rue Montagne de l'Oratoire 1000 BRUSSELS
Telephone:	+32 (0)2 210.46.87
Fax:	+32 (0)2 210.46.99
E-mail:	Environment@health.fgov.be

Contact officer for national report (if different):	
Full name of the institution:	Federal Public Service for Public Health, Food Safety and the Environment Directorate General for the Environment
Name and title of officer:	ISTASSE, Maud
Postal address:	Box 3 20, Rue Montagne de l'Oratoire 1000 BRUSSELS
Telephone:	+32 (0)2 210.45.44
Fax:	+32 (0)2 210.46.99
E-mail:	maud.istasse@health.fgov.be

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.

Answer:

In Belgium the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters is a “joint” convention, meaning that several authorities are responsible for implementing it. In practical terms they are the federal authority and the three federal entities (Walloon Region, Brussels-Capital Region and Flemish Community). Each authority therefore replied internally to this report on matters within its own remit. As a result, Belgium’s national report comprises four different reports.

Since certain responsibilities remain national in scope and are therefore managed by the federal authority, the regional reports refer certain points to the federal report (particularly with regard to the judicial aspect of access to justice). Conversely, certain responsibilities are exclusively regional in scope. In this case, the federal report expressly mentions this.

This national report was coordinated by the Aarhus network, which comes under the international environmental policy committee, a committee comprising Belgium’s competent political and administrative authorities for the environment. The Aarhus network is responsible for preparing and following up international negotiations relating to the Aarhus Convention.

The Aarhus network coordinated the preparation of the national consultation with a view to Belgium-wide harmonisation.

The Aarhus network decided to hold two types of consultation: firstly, a coordinated national consultation of the four major environmental protection federations in Belgium (which therefore covers all the Belgian reports) and, secondly, a public consultation by each authority on its own report.

The federations of NGOs have provided joint comments for the federal report and individual comments for the regional reports. As those remarks do not directly relate to the reporting process but are more based on general issues (i.e. the improvements that can be done on access to justice, having in mind notably the restrictive case-law), they are integrally annexed to the present report. They could be then obtained by using the federal hyperlink for what concerns the federal report and via the regional hyperlinks for what concerns the regional reports.

Concerning the public, each authority has organized an on-line consultation during a month (November 2004). For the federal level, this consultation was implemented via the federal portal <http://www.Belgium.be>. No response, except one, made was related to the federal report but well to a questionnaire elaborated by the federal authority in order to obtain information on the state of knowledge by the public of the Aarhus convention.

Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer:

In constitutional terms, since 1993 Belgium has been a Federal State comprising three Regions and three Communities. This federal mechanism has repercussions on environmental powers, since they are exercised jointly by the federal authority and the three Regions. The three Regions are distinct federal entities that are not subordinate to the federal authority or the other Regions. The Regions exercise their own powers in accordance with the territorial basis demarcating their geographical remit.

The law of 08/08/80 on institutional reforms, amended several times, lays down this division of powers. Thus, in Belgium the bulk of the environment policy comes within the remit of the Regions. In particular this means the policy on water, air, waste, nature conservation, rational energy use, planning and regional development, and so on.

The federal authority has absolute jurisdiction in the field of environmental protection:

- Transit of waste.
- Import, export and transit of protected non-indigenous species.
- Protection of the North Sea.
- Product standards (i.e. the environmental standardisation of products before they are placed on the market)
- Nuclear energy sector.

Furthermore, Belgium's federal authority retains full responsibility for the judicial aspect of "access to justice", with the Regions having responsibility only for non-judicial administrative appeals.

In Belgium, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, commonly referred to as the Aarhus Convention, is a "joint" convention. This means that it has legal effect not only in the field of jurisdiction of the Regions but also in that of the federal authority. Thus the four competent Parliaments for this dossier (Federal Parliament, Parliament of the Walloon Region, Council of the Brussels-Capital Region and Parliament of the Flemish Community) gave their opinion on the dossier for approving the Convention, separately and with regard to the remit of the authority of which they are the legislative authority. This means that Belgium joined the Convention when all the approval dossiers were passed by the various Belgian parliaments concerned.

As a result, this implementation report reflects the distinctive nature of Belgium's federal system. The document entitled "Report of the Kingdom of Belgium to the Aarhus Convention" compiles the reports of the four competent authorities for the dossier with respect to their field of jurisdiction.

In view of the federal authority's exclusive jurisdiction for the judicial aspect of access to justice, the "regional" reports use a system of referral to the "federal" report.

Although the chosen methodology for the dossier for implementing the Convention in Belgium may seem a little fragmented, it scrupulously respects Belgium's current federal system.

A BELGIQUE

L'ETAT FEDERAL



LES COMMUNAUTES

LA COMMUNAUTE FLAMANDE



LA COMMUNAUTE FRANCAISE



LA COMMUNAUTE GERMANOPHONE



LES REGIONS

LA REGION FLAMANDE



LA REGION DE BRUXELLES-CAPITALE



LA REGION WALLONNE



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:

*** Paragraph 2**

Requests for information are sent to our Directorate General for the Environment (Environment DG) by:

- e-mail
- telephone
- fax

Most of these requests concern subjects that do not come within the remit of the federal administration but within that of the regions. This is true for around two thirds of the requests we receive. Such requests are redirected to the competent authorities.

Requests regarding our tasks and activities are dealt with on an ad-hoc decentralised basis by the departments concerned. Many requests come by e-mail.

With regard to e-mail requests, generic addresses have been created both at the level of the Environment DG (environment@health.fgov.be) and at the level of the sections making up the Environment DG (risk@environment.be / products@environment.be / climate@environment.be, etc.). E-mail sent to these web site addresses is retrieved daily and sent for processing to the experts concerned. This represents an average of 5 to 7 requests per day, which can rise to 10 to 15 requests per day when topical subjects are mentioned in the media.

In order to centralise and process all these requests for information, the Environment DG plans to set up a one-stop shop for public information. Another aim is to set up a database of answers sent, as well as statistics on the number and type of questions received.

The one-stop shop for information consists of a unit in the Environment DG of the Federal Public Service for Public Health, Food Safety and the Environment that is specifically responsible for:

- Centralising all requests for environmental information by whatever means (telephone, fax, e-mail, mail, green papers from the Cabinet, parliamentary questions, etc.).

- Organising the processing of such requests (re-wording unclear requests, referral to the experts concerned, explaining the reasons for reply periods and formats, drafting replies, dispatching requested documents, dispatching publications, etc.).
- Drawing up statistics on the number, type and source of requests.
- Electronically archiving and disseminating the answers to the most interesting or frequently asked questions in order to build up the web site.
- Handling requests for information stemming from an alert or crisis situation in synergy with the procedures and system in place at the Federal Public Service call centre.

The Environment DG makes sure that requests for information are processed in such a way as to guarantee a balance between the right of access to information and certain exceptions on disclosure provided for in the directive on access to environmental information. This is why requests relating to issues that could be subject to exceptions are analysed from a legal standpoint by the “Environment/Citizenship” unit, which is responsible for work related with the Aarhus Convention.

*** Paragraph 3**

The Environment DG develops awareness campaigns and educational aids on subjects that come under the Federal State's environmental remit, i.e.:

- **The integrated product policy.**
- **Reduction of greenhouse gas emissions** in compliance with Kyoto protocol commitments.
- The policy relating to **marketing chemicals** and preventing risks associated with non-ionising radiation (cell phones) and noise.
- **Inspection** relating to the marketing, approval and use of such chemicals.
- Registration and control of **waste transit**.
- Coordination of the **international environment policy**.
- **Protection of the North Sea**

In 2004, awareness campaigns focused particularly on the integrated product policy and the protection of the North Sea.

-Ecolabel and European Flower Week:

Initiated in December 2002, this European information and advertising campaign on the Ecolabel will be held in 11 European Union countries from 18 to 24 October. In Belgium, this campaign will be publicised by a vast media campaign (magazine press, banner, radio), press relations, point-of-sale advertising, via the web site www.ecolabel.be and participation in ‘Bruxelles Champêtre’ “rural Brussels”) on 19 September 2004.

An environmental education strand has also been devised, involving the production of education packs on the life cycle of paper. This pack will be available from loan centres throughout Belgium to pupils in their 5th and 6th year of primary school.

-The CO2 guide and advertising campaign

The publication of the CO2 guide is a legal obligation laid down by European Directive 99/94 EC and the Royal Decree of 05/09/01. The aim of this guide is to help the public to choose a fuel-efficient and more eco friendly car. The guide is distributed at retail outlets. In order to promote this guide, the Environment DG will conduct a communication campaign in late 2004 through the media (magazine press, daily press, banner), press relations and via the web site of the Federal Public Service For Public Health, Food Safety and the Environment.

-Brochure and leaflet on tropospheric ozone

The Environment DG has published 800,000 folders and 3,000 brochures to raise the Belgian public's awareness of the ozone problem. The leaflet was distributed via post offices, town halls and pharmacies. The brochure is available on request from the DGV (via mail, fax or e-mail) and can be downloaded from the web site of the Federal Public Service or from CELINE/IRCEL, the inter-regional environmental information centre.

-Leaflet on paints and varnishes

In connection with the ozone problem, the Environment DG, working jointly with the Belgian Federation of Distribution Companies (FEDIS), the paint and varnish manufacturers' organisation (IVP), the Research and Information Centre for Consumer Organisations (CRIOC) and environmental federations, is seeking to promote more eco friendly paints and varnishes. To this end, 1,125,000 folders have been produced and distributed throughout Belgium.

-Exhibition on the Federal State's role in controlling marine pollution

This exhibition was held at the Zwin nature reserve throughout April 2004. The Zwin reserve attracts numerous tourists and school groups.

-Exhibition on the North Sea (from May to end of June 2004)

This educational exhibition was designed specially for school groups (5th and 6th years of primary education) and held at a holiday centre in Ostend (North Sea) during the traditional period of school trips and excursions in May and June. Specialised educational guides led the groups of children around the exhibition to draw their attention to the many activities on offer.

*** Paragraph 4**

Since 2001, the four Belgian federations of environmental protection associations have received an annual federal grant towards each federation's running costs.

Ad hoc grants are also regularly awarded to other associations working in the environmental field, or in the health/environment or environmental law fields.

*** Paragraph 7:**

There are no legislative or regulatory provisions governing the application of article 3 §7 of the Convention at Belgian federal level. However, it should be noted that paragraphs 552 and 554 of the first Federal Plan for Sustainable Development, covering the years 2000 to 2003, make explicit reference to the Aarhus Convention: "*the Aarhus Convention is not only an instrument of environmental policy, it is also important for democratising the policy. (...). In bilateral and multilateral relations with Central and Eastern Europe, the signature, ratification and application of this convention must also be given all the required attention. In view of the central role of international policy in any sustainable development strategy, the government will redouble its efforts to inform and raise awareness among the Belgian public on this subject. Moreover, it will continue to involve the major social groups in preparing international conferences and negotiation rounds and will fully and openly explain any standpoints which it adopts or its representatives adopt in international forums*".

It is also important to note that, under the second Federal Plan for Sustainable Development, covering the years 2004 to 2008, the measures defined in the first plan continue to be implemented, meaning that attention will remain focused on the Aarhus Convention in the future.

With regard to the composition of our delegations responsible for international negotiations, it has become a growing practice for representatives from non-governmental organisations to be included in the regular delegation.

With regard to the coordination of Belgium's standpoints on multilateral sustainable development policy, representatives from non-governmental organisations are invited to participate in the discussions via their representation of their organisation within the Federal Council for Sustainable Development.

*** Paragraph 8:**

The Belgian Constitution governs the fundamental freedoms of individuals in section II "Belgians and their Rights" (Des Belges et de Leurs Droits). The following provisions are of special note:

- Article 11: Enjoyment of the rights and freedoms to which Belgians are entitled must be guaranteed without discrimination. To this end, the law and the decree guarantee in particular the rights and freedoms of ideological and philosophical minorities.
- Article 12: Individual freedom is guaranteed.
- Article 19: (...) the freedom to express one's opinions on any subject (is guaranteed) unless to repress offences committed when availing oneself of these freedoms.
- Article 23: Every individual has the right to lead a life in keeping with human dignity. To this end, the law, the decree or the rule mentioned in article 134 guarantees economic, social and cultural rights, taking into account the corresponding obligations, and lay down the conditions for exercising those rights. These rights include in particular:
 1. (...)
 2. (...)
 3. (...)
 4. The right to the preservation of a healthy environment.
- Article 27: Belgians have the right of association; this right may not be subject to any preventive measures.
- Article 32: Anyone has the right to consult any administrative document and to receive a copy of it, except in cases and conditions laid down by the law, the decree or the rule mentioned in article 134.

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 3 listed above.

Answer:

Provide further information on the **practical application of the general provisions of the Convention**.

Answer:

Give relevant web site addresses, if available:

- **Portal of the federal government** (www.belgium.be)
Management of the content of the environment section and use of the portal for promoting communication campaigns and publicising news.
- **Portal of the Federal Public Service for Public Health, Food Safety and the Environment** (www.health.fgov.be under construction) .Management of the content of the environment section and use of the portal for promoting communication campaigns and publicising news. This portal is due to open during the first quarter of 2005.
- **Web site of the Environment DG of the Federal Public Service for Public Health, Food Safety and the Environment** (www.environment.fgov.be). In 2005, when the portal of the Federal Public Service is open to the public, the Environment DG's web site will be shut down.

In addition, ad hoc web sites have been created for most of the matters under federal remit. These web sites comply with national obligations (cooperation agreements between the different levels of authority in Belgium) or with European or international obligations.

- <http://www.ecolabel.be>: web site of the communication campaign on EU Flower Week (see reply to article 3, paragraph 3 on this subject)
- <http://www.climat.be> or www.klimaat.be: web site on climate change
- <http://www.climateregistry.be> (under construction): web site for organising exchanges of greenhouse gas emissions
- <http://www.nehap.be> (under construction): Belgian portal on the National Environment/Health Plan
- <http://www.aarhus.be> (under construction): Belgian portal on the implementation of the Aarhus Convention

Scientific institutes that come under the Federal Public Service for Public Health, Food Safety and the Environment have also developed web sites:

- <http://www.mumm.ac.be>: web site of Management Unit of North Sea Mathematical Models, an institute devoted to studying the marine environment of the North Sea
- <http://www.biosafety.be>: Belgian bio-security server
- <http://www.biosafetyprotocol.be>: Belgian bio-security clearing-house

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;

<p>(g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.</p>
<p><i>Answer:</i></p>
<p>Paragraph 1:</p>
<p>Article 32 of the Constitution, under the section “Belgians and their Rights”, states that “<i>Anyone has the right to consult any administrative document and to receive a copy of it, except in cases and conditions laid down by the law, the decree or the rule mentioned in article 134</i>”.</p> <ul style="list-style-type: none"> - At present, access to environmental information is implemented at federal level by the law of 11 April 1994 regarding disclosure of information by the administration ('Moniteur Belge' (official journal) of 30/06/94), as amended by the law of 26/06/00 ('Moniteur Belge' of 15/07/00). The aim of this law is to give the public access to information regarding administrative documents in general, and access to information regarding environmental administrative documents in particular. In this case the law does not lay down any conditions of nationality, residence or registered office. - The field of application <i>rationae personae</i> covers all the federal administrations as well as the administrative authorities other than the federal administrative authorities, but only where the present law prohibits or limits the disclosure of administrative documents on federal grounds (article 1 (a) and (b)). - The field of application <i>rationae materiae</i> covers any information available in written, visual or audio form, or contained in databases, which concerns the state of water, air, soil, fauna, flora, natural land and areas, as well as activities (including those that cause nuisance such as noise), or measures affecting them or liable to affect them, and activities or measures aimed at protecting them, including administrative measures and environmental management programmes. - The principle of access to information is contained in Article 4 “<i>The right to consult an administrative document of a federal administrative authority and to receive a copy of the document means that anyone, in accordance with the conditions laid down in the present law, is allowed to consult any administrative document on the spot, to obtain explanations about it and to receive a copy of it</i>”. <p>(a) (i) Except for personal documents, the law does not require the statement of an interest in the request. (a) (ii) The right to consult an administrative document by an administrative authority is guaranteed (article 4). Consultation of the document, as well as the explanations relating to it, is by request (art. 5). (a) (iii) the principle contained in the law is to provide a <u>paper</u> copy. However, provision is made for requesting a copy of the document in another format (art. 7 of the royal decree of 30/08/96)</p>
<p>Paragraph 2:</p>
<p>(b) At present, the statutory time limit for general disclosure of information is one month (and two months non-renewable for environmental administrative documents). The forthcoming amendment of the 1994 law is due to change the time limit to one month for environmental information.</p>
<p>Paragraphs 3 & 4:</p>
<p>(c) (i) The law also provides for three possibilities for refusing to disclose information, as laid down in article 4.3 of the Aarhus Convention.</p> <ol style="list-style-type: none"> 1. The administrative authority can reject a request if the request: <ul style="list-style-type: none"> • Is manifestly unreasonable or worded in too general a manner (art. 6§3, points 3 & 4)

- Concerns an administrative document the disclosure of which could be a source of misunderstanding because the document is unfinished or incomplete (art. 6§3, point 1)

Where the information requested is not held by the administrative authority, the law stipulates that the administrative authority should inform the requester without delay and should tell the requester the name and address of the authority which, according to its information, does hold the document (art. 5, paragraph 2).

2. The authority can reject a request if it decides that the benefit of disclosing information is secondary to protecting the following interests:

- Public safety
- Citizen's freedoms and fundamental rights or Belgium's federal international relations
- Public order, national security or defence
- Investigations and proceedings for punishable acts
- The intrinsically confidential nature of business or production information disclosed to the authority
- Protection of the identity of the person who disclosed the document or information to the administrative authority on a confidential basis in order to denounce a punishable act or alleged punishable act.

3. The administrative authority can reject a request for information if publication of the administrative document infringes:

- Privacy, except where the person has given his or her prior written consent to the disclosure of information
- The confidentiality of the proceedings of the federal government and of the competent authorities that come under the federal executive authority or with which the federal authority is associated

(c)(ii) See above and the reference to article 6§1

Paragraph 5:

(d) See above and the reference to article 5, paragraph 2.

Paragraph 6:

(e) Article 6§4: "*Where part of an administrative document must not or cannot be disclosed, its consultation, explanation and provision in copy form is limited to the remaining part*".

Paragraph 7:

(f) Article 6 § 5 paragraph 2 states that the federal administrative authority must notify the information requester of its decision, as well as the grounds for refusal, within 2 months at the latest. In any case, the reasons must be given at the same time as the refusal decision. Moreover, the law on formal justification of administrative acts also applies here. The law states that the required justification consists of stating, in the administrative act, the *de jure* and *de facto* considerations that served as the basis for the decision. The law states, moreover, that such justification must be adequate.

In addition, in accordance with article 2, paragraph 4, of the law of 1994, information on rights of appeal must accompany any federal notification: "*any document notifying a citizen of a decision or administrative act relating to an individual, which emanates from a federal administrative authority, must indicate any avenues of appeal, the competent bodies for hearing the case, as well as the time limits to be respected, failing which the prescribed period for filing an appeal does not start to run*".

Paragraph 8:

(g) Article 12 of the law states that receipt of a copy must be subject to the payment of a sum stipulated by the King. The royal decree of 30/08/96 lays down the system for the collection of payment for a copy of an administrative document. The decree states that a charge may be requested as from BEF 50 (+/-€1.25), given that one black and white recto-verso page is worth 5 euro cents. A cost-price charge is applied when the information is supplied on a medium other than paper. The charge is payable in cash if the requester receives the copy directly at the offices of the administrative authority. However, the charge is payable in advance if the copy needs to be sent by post.

It is important to note that in general the Environment DG applies the principle of not charging.

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 4.

Answer:

The current federal law does not fully meet the stipulations of the Aarhus Convention regarding the regime of access to environmental information, especially with respect to part of the exceptions regime and the time limit for formulating the administrative reply. However, this will be remedied after the law is amended. The amendment is currently under way and also aims to transpose directive 2003/4/EC on public access to environmental information, repealing Council directive 90/313/EEC.

The federal level has chosen not to draw up any sectoral law relating solely to the environment but to use the law currently in force (1994 law) in order to extend the principles of the Aarhus Convention to all types of federal information, not just environmental information.

It is interesting to note that, in certain respects, the federal law currently goes further than the Aarhus Convention.

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:

Many measures have been instigated to implement the provisions of the Aarhus Convention and of directive 2003/4/CE on the “active” disclosure of information. These measures are aimed mainly at reorganising the Environment DG web site in connection with creating the portal for the Federal Public Service for Public Health, Food Safety and the Environment.

This means that numerous web pages are currently being developed on the new structure of the Environment DG and on its activities. These web pages focus particularly on the environmental matters that fall within the federal remit. In 2004, 16 subjects were addressed. These environmental subjects are tailored to various target groups: citizens, businesses and “experts” (NGOs and administrations).

In 2005, a further ten or so subjects will be developed. What is more, the taxonomy of the web site is being developed in such a way as to take into account all the stipulations of the Aarhus Convention regarding access to environmental information. This work has been entrusted to a consortium of consultants and is due for completion by the end of 2004. The portal of the Federal Public Service is expected to become operational during the first quarter of 2005. It will be possible to consult the web pages relating to the Environment DG as from that time.

With regard to the “passive” disclosure of information, a call centre was set up in the Federal Public Service in 2004. This tool has been designed primarily to facilitate the management of mass requests for information, such as in crisis situations. The call centre has been operational since May 2004. In the event of an environmental crisis, the staff of the Environment DG will have use of all the material and equipment.

With regard to the plan for a one-stop shop for public information, its establishment has been postponed until 2005 in order to concentrate the bulk of the Environment DG’s communication resources in 2004 on redeploying the web site. This decision is warranted by the fact that the new web site is a vital prerequisite for launching the one-stop shop (see on this subject answer Article 3).

Also, in order to facilitate the provision of information to citizens with no access to the Internet, the federal government will distribute a citizen’s guide free of charge ('Guide Belgo-Pocket') presenting, in question/answer form, most of the measures being implemented by the federal administrations. The Environment DG is helping to draft the environment chapter of the guide. It is planned to distribute the guide in 2005.

Give relevant web site addresses, if available:

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:

*** Paragraph 1:**

- i) *The public authorities possess and update environmental information:*

In developing the portal of the Federal Public Service for Public Health, Food Safety and the Environment, the technology has been chosen and adapted to permit each expert to input the information relating to his or her own dossier directly into the content management system that feeds the portal (Oracle Portal). It will be possible to input information directly as from 2005.

ii) There is an adequate flow of information to public authorities:

The public authorities are duly informed of proposed or on-going activities likely to have a major impact on the environment by means of sectoral laws, in particular via the transposition of the law on environmental impact assessments for activities in the marine environment.

With regard to planned activities in Belgium's territorial waters, the law of 1999 on the marine environment (as well as its implementing decrees) provides for compulsory mechanisms for informing the public authorities in terms of the application for a licence to carry out such activities, when monitoring the authorised activities but also when there is a threat of marine pollution or marine pollution exists.

iii) In emergencies, appropriate information is disseminated immediately and without delay

Crisis management procedures have been defined by the Federal Public Service for Public Health, Food Safety and the Environment (deployment of a network of officers organised in a chain of command). These procedures also include all measures relating to crisis communication. Crisis communication brings into play all the conventional communication tools (press releases, appointment of a spokesperson, etc.), as well as the use of the call centre of the Federal Public Service or even the means provided for by the Federal Public Service of the Interior (pooling the resources of the Federal Public Services in order to rapidly implement a joint call centre and mobilise the required team of telephone operators).

In the Environment DG, in connection with the federal responsibility for protecting the "North Sea", crisis management procedures will be defined within the framework of the Coast Guard Service, in which the Environment DG participates, as part of the "North Sea Disaster Plan", which already exists. These procedures include joint crisis communication management with the other levels of authority concerned (primarily the department of the Governor of West Flanders).

*** Paragraph 2:**

Numerous measures have been launched to implement the provisions of the Aarhus Convention and directive 2003/04/CE on the "active" disclosure of information (see article 4).

In addition, environmental information is disseminated by conventional means, such as brochures and leaflets or press releases.

In order to facilitate the dissemination of this type of material, the contact details of information multipliers have been included in the databases. These information multipliers can be mobilised in order to bring such publications and documents to the attention of the general public.

These databases concern mainly the media (general press/specialised environment press/youth press/marine environment press), NGOs (NGO chief editors and journalists), business federations (under construction) and universities (under construction).

*** Paragraph 3:**

Databases have been set up as part of the Federal Public Service portal for matters under federal remit, i.e.:

- A guide to cars marketed in Belgium, which are classed according to their fuel consumption and CO2 emissions (Environment DG)
<http://www.health.fgov.be/envoironment/CO2>
- Biocides authorised for marketing in Belgium (Environment DG)
<http://www.environment.fgov.be>
- Phytosanitary products authorised for marketing in Belgium
(Food Safety DG)
<http://www.phytoweb.fgov.be>

In addition, the web sites of the scientific institutes that come under the Federal Public Service disseminate a lot of technical information that can be consulted in databases. This includes the following web sites:

- <http://www.mumm.ac.be>: web site of the Management Unit of North Sea Mathematical Models, a department of the Royal Belgian Institute of Natural Sciences, which studies the marine environment in general and the North Sea in particular
- <http://www.biosafety.be>: Belgian bio-security server
<http://www.biosafetyprotocol.be>: Belgian bio-security clearing-house

The nuclear energy sector is managed by the Minister of the Interior. There are several web sites relating to these activities:

<http://fanc.fgov.be>: web site of the Federal Agency for Nuclear Control

<http://www.nirond.be>: web site of the Belgian Agency for Radioactive Waste and Enriched Fissile Materials

*** Paragraph 4:**

On account of the Belgian State's federal structure, there is no national report on the state of the environment in Belgium. Each region publishes and disseminates its own report on the state of the environment.

At the federal level, in 2004 the National Statistics Institute, which comes under the Federal Public Service for the Economy, launched a portal of environment statistics in Belgium. The portal has links to the web sites of the various competent authorities and can be accessed at http://statbel.fgov.be/port/env_fr.asp. It contains reports on the state of the environment in the regions.

With specific regard to the quality of the marine environment, the obligations arising from Belgium's ratification of the OSPAR Convention call for campaigns to monitor the quality of the marine environment. The results of these measures are reported annually to the ICES, where they are added to the contributions of the other countries bordering the Northeast Atlantic. This body of information is used to draw up policies for protecting the marine environment and its living resources based on a regularly updated situation assessment.

*** Paragraph 5:**

Article 190 of the Constitution states that "*No law, decree or regulation by a general, provincial or district administration is binding until it has been published in the form laid down by law*". In concrete terms, such information is published in the Belgian official journal, the 'Moniteur Belge' (Law of 31 May 1961 on the use of languages in legislative matters and on the presentation, publication and entry into force of legal and regulatory texts, 'Moniteur Belge' of 21/06/61).

At present, the law of 1994 on disclosure of information by the administration does not explicitly make it compulsory to disseminate this type of information regarding planning documents. Indeed the public authorities are only obliged to disseminate information on their responsibilities and operational organisation.

*** Paragraph 7:**

- a) Via the communication policy of the Environment DG and of the other federal authorities concerned.

- b) In 2005 the Environment DG expects to launch a public communication policy focusing on public rights. Brochures explaining the Aarhus Convention, together with a manual for exercising the rights arising from the Aarhus Convention, will be distributed in Belgium.
- c) The 1994 law stipulates that each administrative authority shall publish and make available to the public a document describing its responsibilities and operational organisation.

*** Paragraph 8:**

In connection with the policy on product standards, several mechanisms currently exist at the Belgian federal level which are aimed at improving public information:

- Economic instruments: in Belgium ecotaxes are charged on certain products considered to be highly damaging to the environment. For example, the ecotax on disposable cameras and batteries has had a significant positive impact in terms of collection and recycling, as well as in terms of raising public awareness of the issue.

- Legal instruments:

* The aim of the 1998 law on product standards is to promote sustainable modes of production and consumption. Several public information initiatives have resulted from this law.

* The law of 14/07/91 on commercial practices and on consumer information and protection enables the King to regulate product labelling in order to guarantee consumer protection. Furthermore, this law prohibits any misleading advertising about a product's impact on the environment.

* Eco-label web site (see article 3)

* CO2 guide (see article 3)

*** Paragraph 9:**

This matter is not federal but regional in its remit.

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 5.

Answer:

The main obstacles encountered are inherent in the very nature of administrations. The implementation of the concrete measures in the Aarhus Convention regarding access to environmental information demands significant funding, as well as extra personnel. Such resources are difficult to mobilise rapidly in an administration.

Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. **are there any statistics available on the information published?**

Answer:

Give relevant web site addresses, if available:
See above

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;

<p>(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;</p> <p>(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.</p>
<i>Answer:</i>
* Paragraph 1:
<p>(a)</p> <p>(i) The authorisation of specific activities, and hence the introduction of a procedure for environmental impact assessments, comes primarily within the remit of the Regions. Nevertheless, the federal authority remains responsible for authorising the operation of nuclear activities as well as for authorising activities in marine areas that come under Belgian jurisdiction (North Sea).</p> <ul style="list-style-type: none"> With regard to the nuclear energy sector, the Federal State is responsible for authorising the operation of nuclear activities. The general regulation on safeguarding the public and workers against the threat of ionising radiation has instigated this authorisation system, which must be preceded by a public inquiry (royal decree of 20/07/01). With regard to activities and installations in marine areas, article 28 of the law of 20/01/99 states that “<i>Any activity in marine areas that is subject to a permit or authorisation, (...) is subject to an environmental impact assessment by the competent authority appointed to this task by the Minister, both before and after granting the permit or authorisation. The environmental impact assessment is designed to assess the effects of these activities on the marine environment</i>”. The royal decree of 07/09/03 establishes the procedure for granting permits and authorisations required for carrying out certain activities in marine areas under Belgian jurisdiction. The royal decree of 09/09/03 lays down the rules governing this procedure for environmental impact assessments. <p>(ii)</p> <ul style="list-style-type: none"> The ministerial decree of 18/04/01 makes offshore bunkering activities subject to permits or authorisations in line with the procedure involving consultation, as defined in the royal decree of 7 September 2003 laying down the procedure for granting permits and authorisations required for carrying out certain activities in marine areas under Belgian jurisdiction. <p>(b) (c) (d) (f) (g)</p> <ul style="list-style-type: none"> With regard to the nuclear energy sector, article 6.4 of the royal decree of 20/07/01 provides that the burgomaster of the district concerned by the planned operation (class I) should post up a notice in the town hall mentioning the subject of the application for operation and should state that this request, the environmental impact study and any notice relating thereto can be consulted for a period of 30 calendar days after the first day of posting in the town hall. Any complaints or remarks should be notified within this time frame. Public inquiries are to be suspended between 15/07 and 15/08. Each burgomaster should submit the request for, and outcome of, the public inquiry to the college of municipal councillors for its opinion. After this, the scientific council responsible for the nuclear energy sector should issue a reasoned opinion, based notably on the remarks formulated during the public inquiry. The final decision must be published in the ‘Moniteur Belge’.

- **With regard to the marine environment:**

Article 18§1 of the royal decree of 07/09/03 states that the administration shall publish the permit application in the 'Moniteur Belge' within a maximum period of 15 days as from the start date of the application processing period. Any interested party is allowed to notify his or her points of view, remarks or objections to the administration with a period of 60 days as from the start of the period for processing the application.

Moreover, in accordance with article 18 § 2, between the fifteenth and forty-fifth day from the start of the application processing period, the application may be consulted at the administration's premises from Monday to Friday inclusive, except on public holidays, for at least half a day on each day.

Without it being a requirement the failure to comply with which could undermine the legality of the minister's decision, the administration requests the town councils of the coastal region to ensure that the application can be consulted in all coastal district council offices, from Monday to Friday, inclusive, except on public holidays, for at least half a day on each day.

The administration can place the impact study on its web site for consultation, without it being a requirement the failure to comply with which could undermine the legality of the minister's decision.

When formulating its opinion, the administration takes into account the following factors, amongst others:

1. The aims and general principles of the law, in particular the principles of prevention, precaution and sustainable management.
2. The outcome of the environmental impact assessment referred to in article 28 of the law.
3. The points of view, objections and remarks notified in accordance with article 18.
4. As appropriate, the points of view, objections and remarks notified in accordance with article 19 and with the consultation carried out in application of article 19.

The minister gives reasons for his or her decision. The decision mentions in particular the reasons for which contradictory opinions and remarks have been rejected. It refers to the aims and general principles of the law and to the outcome of the environmental impact assessment relating to the application.

The decision is published as an extract in the 'Moniteur Belge'.

Any interested parties may consult the decision at the offices of the administration. Consultation is subject to a prior written request to the administration.

(j) The same procedure as described above applies for the following permits and authorisations relating to the marine environment:

1. The permit and authorisation for carrying out activities.
2. The permit and authorisation for modification, i.e. for changing activities that are subject to a permit or authorisation, in cases where the change is not substantial and has no major repercussions on the permitted or authorised activity.
3. The permit and authorisation for revision, i.e. for changing activities that are subject to a permit or authorisation, in cases where the change is substantial or has major repercussions on the activity in question.

(k) Belgium is transposing directive 2001/18/EC on the deliberate release of genetically modified organisms via a royal decree.

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.

Answer:

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

Answer:

Military activities in Belgium's marine areas are also subject to permits and authorisations. Such an application is made upon joint proposal of the Minister responsible for the marine environment and the Minister of Defence. The permit or authorisation is therefore issued jointly by the two ministers.

Give relevant web site addresses, if available:

<http://www.mumm.ac.be>: web site of the Management Unit of North Sea Mathematical Models, a department of the Royal Belgian Institute of Natural Sciences devoted to the study of the marine environment in general and the North Sea in particular

<http://fanc.fgov.be>: web site of the Federal Agency for Nuclear Control

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:

A bill transposing this article of the Convention is currently being drawn up at federal level.

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

Answer:

Describe any **obstacles encountered** in the implementation of article 7.

Answer:

Provide further information on the practical application of the provisions on public participation in decisions on plans and programmes in article 7.

Answer:

Give relevant web site addresses, if available:

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:

The federal level has set up a Federal Council for Sustainable Development (Conseil Fédéral de Développement Durable), made up of the major stakeholders in society¹, which issues opinions to the federal authority on the federal policy for sustainable development. Since 1994 it has issued more than 100 opinions on planned regulations and policy.

The framework of action of the Federal Council for Sustainable Development is established on the basis of Belgium's international commitments, such as *Action 21*, the *Convention on the Climate* and the *Convention on Biological Diversity*. These commitments are a result of the *United Nations Conference on Environment and Development* (UNCED), held in Rio de Janeiro in June 1992.

The Federal Council for Sustainable Development was created by the law of 5 May 1997. This law governs the coordination of the federal policy for sustainable development. A four-year federal plan for sustainable development has been created and the Federal Council for Sustainable Development issues an opinion on the draft plan that reflects the planned federal policy for sustainable development.

Furthermore, the Federal Council for Sustainable Development acts as a *forum*. The Council encourages the debate on sustainable development by organising symposiums, for example. This enables experts, public authority representatives and professional organisations, as well as the general public, to explain their points of view and enter into dialogue. The Council then uses the outcome of the exchange of views as a basis for formulating its opinions.

Lastly the Council is also responsible for the task of *raising the awareness* of organisations and citizens about sustainable development.

In accordance with article 11 of the law of 5 May 1997, the Council is responsible for:

a) Issuing opinions on any measures relating to the federal policy for sustainable development that have been taken or are envisaged by the federal authority, particularly in application of Belgium's international commitments;

b) Acting as a forum for discussing sustainable development;

c) Proposing research in all fields relating to sustainable development;

d) Fostering the optimum involvement of public and private bodies, as well as of citizens in achieving these objectives.

2. The Council carries out the tasks referred to in paragraph 1 on its own initiative or at the request of the Ministers or Secretaries of State, the House of Representatives and the Senate.

3. The Council can call upon public federal administrations and bodies to assist it in accomplishing its

¹ Such as: environmental organisations, development cooperation organisations, consumer organisations, workers' organisations, employers' organisations, energy producers' organisations and scientific organisations.

tasks. It can consult anyone whose collaboration is deemed useful for the consideration of certain issues.

4. The Council issues an opinion within three months of the request for an opinion. In an emergency, a shorter time frame may be stipulated by the requester of an opinion. However, this time frame may not be less than two weeks.

5. The Council drafts an annual report of its activities. This report is sent to the Council of Ministers, the Legislative Chambers and the assemblies and governments of the Regions and Communities.

6. If the Council's opinion is disregarded, the government must state the grounds for this.

Describe any **obstacles encountered** in the implementation of article 8.

Answer:

Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

Answer:

Give relevant web site addresses, if available:

<http://www.belspo.be/frdocfdd>: web site of the Federal Council for Sustainable Development

<http://www.billy-globe.org> (with a special page on public consultation regarding the preliminary draft of the federal plan for sustainable development)

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;

	<p>(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;</p> <p>(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;</p> <p>(d) With respect to paragraph 4, measures taken to ensure that:</p> <ul style="list-style-type: none"> (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; <p>(e) With respect to paragraph 5, measures taken to ensure that information is provided to the public on access to administrative and judicial review.</p>
--	---

Answer:

*** Paragraph 1:**

(i) First of all, the law of 1994 provides for an administrative procedure allowing an information requester to file a request for reconsideration to the federal administrative authority. This request for reconsideration is systematically coupled with a request for an opinion from a Committee on Access to Administrative Documents (Commission d'Accès aux Documents Administratifs). This is an independent and impartial committee established by royal decree of 27/06/94. The Committee must issue its opinion within 30 days of receiving the opinion request. The federal authority then has 15 days in which to take its decision. If the authority fails to announce its decision on this reconsideration request within the stipulated time frame, the request for reconsideration is deemed to have been refused.

With regard to judicial remedies, common law applies. The information requester may therefore petition for the administrative decision be quashed by the Council of State (Conseil d'Etat), Belgium's supreme administrative court, in accordance with the rules applying thereto.

(ii) The reconsideration procedure is free of charge.

(iii) If an administrative decision to refuse access to information is quashed, it is binding on the administrative authority. Both the opinion of the Committee on Access to Administrative Documents and the decision of the Council of State must be substantiated.

*** Paragraph 2:**

- The parties concerned have several judicial avenues of appeal open to them:

* Appeal to the Council of State

* Appeal to the Court of Arbitration (Cour d'Arbitrage)

* Appeal to the President of the Court of First Instance, who gives an emergency interim ruling

* Proceedings before a magistrates' courts

* Proceedings before civil courts

In environmental matters, there is a further avenue of appeal under the law of 12/01/93 regarding an action for discontinuance in environmental matters (see explanation above for article 9.3).

*** Paragraph 3:**

Apart from the conventional avenues of judicial and administrative remedy, the law of 12/01/93 concerning a right to bring an action in environment matters is of particular relevance.

It states that if “*the president of the court of first instance, at the request of the Public Prosecutor, an administrative authority or a corporate entity (non profit-making association with the corporate aim of environmental protection) establishes the existence of an act, even one for which punitive action has been taken, that seriously threatens to infringe one or more laws, regulations or decrees on environmental protection, the president can order the discontinuance of acts that have started to be carried out or can impose measures aimed at preventing such acts from being carried out or at preventing damage to the environment. (...)*”.

*** Paragraph 4:**

- Within the framework of judicial remedies under the judicial system:
 - Article 148 of the Constitution: “*Court hearings shall be public, unless disclosure is a threat to public order or decency; and, in this case, the court shall declare this in a ruling*”.
 - Article 149 of the Constitution: “*Grounds must be given for any ruling. Rulings must be declared at a public hearing*”
 - Article 151 of the Constitution: “*Judges shall be independent in carrying out their judicial duties. The Public Prosecutor's Office shall be independent in carrying out individual investigations and proceedings (...)*”.

*** Paragraph 5:**

In order to give a person without sufficient resources effective access to justice, under positive law there are two systems of legal assistance provided for in the Judicial Code (Code Judiciaire) that apply to both civil and criminal matters. Firstly there are primary legal assistance (l'aide juridique de première ligne) and secondary legal assistance (l'aide juridique de deuxième ligne) (articles 446 bis and 508/1 to 508/23 of the Judicial Code and royal implementing decrees). Secondly there is legal aid (l'assistance judiciaire) (articles 664 to 699 of the Judicial Code).

Primary legal assistance takes the form of practical information, legal information, an initial legal opinion or referral to a specialised body or organisation. Secondary legal assistance means legal assistance to an individual in the form of a detailed legal opinion or legal assistance, whether or not in the context of formal proceedings, and assistance with a court action, including legal representation.

Primary legal assistance is available to both individuals and corporate entities.

Legal aid, on the other hand, consists of full or partial exemption from stamp duties and registration charges and other costs of proceedings and is available to litigants who do not have adequate income to cover the cost of judicial or extra judicial proceedings.

It should be noted that appeal procedures (application to set aside (opposition), appeal on a point of law or fact (appel) and appeal to the court of cassation (pourvoi en cassation)) are not free of charge. Litigants must pay the costs.

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 9.

Answer:

Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

Answer:

The Federal Public Justice Service (Service Public Fédéral de la Justice) draws up annual statistics of courts and tribunals, including for environmental dossiers: the number of environmental cases registered by the office of the civil court, the number of environmental cases referred to examining magistrates, and so on.

Give relevant web site addresses, if available:

<http://www.just.fgov.be>

Articles 10-22 are not for national implementation.

General comments on the Convention's objective:

If appropriate, indicate 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.

Answer:

The establishment of the three procedural rights by the Aarhus Convention and their implementation Belgium-wide by the Regions and the federal authority gives full meaning to article 23, point 4 of the Constitution “the right to the preservation of a healthy environment”.

Translation of diagram on p. 4:

FRENCH	ENGLISH TRANSLATION
<i>LA BELGIQUE</i>	BELGIUM
<i>L'ETAT FEDERAL</i>	THE FEDERAL STATE
<i>LES COMMUNAUTES</i>	THE COMMUNITIES
<i>LA COMMUNTAUTE FLAMANDE</i>	FLEMISH COMMUNITY
<i>LA COMMUNAUTE FRANCAISE</i>	FRENCH COMMUNITY
<i>LA COMMUNAUTE GERMANOPHONE</i>	GERMAN-SPEAKING COMMUNITY
<i>LES REGIONS</i>	THE REGIONS
<i>LA REGION FLAMANDE</i>	FLEMISH REGION
<i>LA REGION DE BRUXELLES-CAPITALE</i>	BRUSSELS-CAPITAL REGION
<i>LA REGION WALLONNE</i>	WALLOON REGION