Economic Commission for Europe

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Task Force on Public Participation in Decision-Making

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Item 2 of the provisional agenda

Ensuring effective public participation

Overview of the implementation of articles 6, 7 and 8 of the Aarhus Convention

Prepared by the secretariat

This information paper directs participants to selected information from the 2017 national implementation reports submitted by the Parties to the Convention with regard to the implementation of the public participation pillar of the Convention, responses to questions XV-XXVII. Where the responses are not available in English, they are provided in other original language, namely, Russian. Specifically, it provides an overview of the implementation of articles 6, 7 and 8 of the Aarhus Convention and highlights key trends, good practices and challenges on the basis of the information provided by the Parties. Participants are invited to consult this document in advance of the meeting in order to gain an overview of the status of implementation. They will be further invited to share challenges, good practices, lessons learned and information on recent legislative and practical developments as well as identify needs in relation to this subject.

1 This document was not formally edited.
2 Available from http://apps.unece.org/ehlm/pp/NIR/. Information from 2017 national implementation reports provided in accordance with their availability to the secretariat by 15 September 2018.
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Albania

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

For the implementation of the second pillar of Aarhus Convention, the legal framework is already built, inter alia, according to the following laws:

1. Law No 10431, dated 09.06.2011 “On Environment Protection”, Article 49 highlights that “Public participation and public involvement in decision making, specifies that there will be a Decision of Council of Ministers which shall clarify public hearing procedures in EIA process”. (Decision of Council of Ministers No 247, dated 30.04.2014 “On determination of regulations, requirements and procedures to inform and involve the public in environmental decision making”).

2. Law No 12/2015 on some amendments to law No 440, dated 7.7.2011, “On environmental impact assessment”
   - The amendment of the law avoided National Licensing Center until the moment of receiving environmental permit. One of the reasons was also to give the necessary time to public information process and to the process of attracting the opinion of public affected by activities listed under Annex 1.
   - Another important change is that since the new Law on Environment Protection establishes National Environmental Agency (NEA) and authorizes it, inter alia, as the “competent authority to determine conditions for environmental permits”, NEA shall play a central role in the approval of decisions on EIA instead of MoE, along Regional Environmental Agencies. According to the new draft of Law on EIA, NEA shall review the application and documentation together with REAs and shall give the opinion by proposing to the minister if an EIA application shall pass or not to a detailed (in-depth) EIA procedure, and shall also be responsible for the detailed procedure of EIA, through review of documents, consulting with other institutions, public information and consultation and providing the opinion on EIA report for the proposed project. The Minister shall take the final decision both for the preliminary and detailed report of EIA.

3. Law No 146/2014 on Public Information and Consultation, which regulates the process of public information and consultation for project laws, national and local strategic project documents and also policies with high public interest. This law determines procedural regulations which shall be implemented to guarantee transparency and public participation in policy making and decision making processes by public bodies. This law also aims to enhance transparency, accountability and integrity of public authorities.

4. Decision of Council of Ministers “On public participation in decision making” No 994, dated 02.07.2008. This decision includes detailed requirements on public participation in the approval of policies, strategies and their action plans which are related with the environment. Furthermore under Chapter II, the Decision of Council of Ministers regulates the process of Public Decision Making in the process during preparation of normative project acts on environment. The decision also determines public participation in the drafting and implementation of environment control programs, undertaken by State Inspectorate of Environment.

5. Decision of Council of Ministers No 247, dated 30.04.2014 “On determination of regulations, requirement and procedures on public information and involvement in environmental decision making”. In this decision are defined all the steps to attract the public in environmental decision making for all activities listed under Annex 1, also for all activities which are not activities of that list, they still undergo the process of public information. This decision in in full compliance with Aarhus Convention and also with Directive 85/337/CEE of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended. 6. Code of the Administrative Procedures, No 8485, dated 12.05.1999.

6. Law on Local Self-Government 139/2015 under chapter IV. Are also made available Practical Manuals on how to inform the public and how businesses which undertake activities included in Annex 1 can organize a hearing. It is also drafted a manual on the role of local government in environmental decision making process for activities which have
an impact on the environment. These manuals are distributed to stakeholders but are also published in the official website of the Ministry of Environment.

Referred to paragraph 1, It is adopted Decision No 912, date 11.11.2015 “On adoption of National Methodology of Environmental Impact Assessment Process”, in this decision it is specified that the developer of the activity shall address to environmental structures in districts or to National Agency to be informed if the activity that they undertake shall be subject or not to Environmental Impact Assessment. The developers of the activity submit nontechnical report of the environmental impact assessment, during this time the public is informed on the activity planned to be developed in the area and comments are expected. During review from National Environmental Agency is taken the decision whether the activity shall undergo detailed (in depth) environmental impact assessment (these are all the cases of activities listed under Annex 1, but also other activities which due to the zoning or capacity are considered as activities with an impact to environment). All these activities which need detailed (in depth) EIA are subject to Decision 247, dated 30.04.2014 “On determination of regulations, requirements and procedures on public information and involvement in environmental decision making”.

Regarding paragraph 2, in the Decision of Council of Ministers 247, dated 30.04.2014 are explicitly detailed the parties involved in the process of public information and attraction to decision making, time limits and as well are clearly defined places and method of public information, and also documents made available to interested public.

Regarding paragraph 3 as it was already mentioned, to the public are given 20 days’ time, for information and comments in the idea phase, without being decided whether the activity needs detailed EIA. Then if the developer shall be subject to draft EIA, the process of public information and organization of hearings shall depend on the expansion of the activity, but are already determined the minimum deadlines which shall not be violated, such as information with required documentation is made not less than 20 days, then it is determined the place and date of hearing, and 15 days after it are expected public comments. The latter together with minutes of the hearing and photos, are delivered to National Environmental Agency, which takes the decision if the permit requested for the activity is granted or not.

Regarding paragraph 4, In DCM on methodology of Environmental Impact Assessment, it is written that in the impact assessment process also the public can be expressed.

Regarding paragraph 5, the legislation provides cooperation of the developer of the activity with Regional Environmental Agency, where the activity will be developed, where representative of this office orientate the developer with several processes which shall undertake the developer and one of them is also the orientation to identify the affected public. REA cooperates with the developer by providing addresses and contacts that REA possess for civil society and NGOs and parties which might be interested for the hearing.

Regarding paragraph 6. All data described in this paragraph, i.e. from point ‘a’ to ‘e’, are part of the non-technical report of EIA. These data are free of charge and are made available to the public both in electronic mean and hard copy (DCM 247, dated 30.04.2014)

Regarding paragraph 7 – Decision 247, dated 30.04.2014 requires that the representative of Regional Environmental Agency, who participates in the meeting, keep meeting’s minutes independently from the developer of the project and reflects those in a special report and within 5 days delivers it to the National Environmental Agency, which is made aware with public’s opinion, contestations and suggestions for changes.

Regarding paragraph 8 and 9, the legislation provides publication of decisions taken.

Regarding paragraph 10, Albanian legislation which regulates public information on Genetically Modified Organisms is treated under Chapter II of Law No 416, dated 7.4.2011 “On planting and multiplying plant material”

XVI. Obstacles encountered in the implementation of article 6

Obstacles encountered in the implementation of article 6 results due to the fact that several liabilities, in the process of public participation in environmental decision-making, are on local government, which changes every 4 years, which requires continuous attention of the Ministry of Environment on legislation enforcement.
Second, it is noticed that meeting minutes which are kept in hearings, for activities which have impact on the environment, are not put in the website of National Environmental Agency.

There is missing a report/statistic which shows how much is taken in consideration public opinion and how it has affected in the improvement of the document or investment.

XVII. Further information on the practical application of the provisions of article 6

Responsibilities, within the Ministry of Environment (MoE), its institutions and structures, for the Convention, in the field of public participation in the context of EIA

EIA Department in the MoE and Directorate of EIA and environmental permits, depending on National Environmental Agency.

Provides information regarding permit applications, EIA documents according to the request.

Analyses the requests and documentation prepared during EIA and SEA process as well as during renewal of permits, inclusion of public consultation process.

Supervises and prepares decisions for the approval of Preliminary Reports or Detailed reports of EIA, including observation of public consultations, results of public meetings, during decision making.

Respective departments of MoE:

Legal and Environmental Policies Department, near MoE and other line ministries prepare draft laws to be adopted, including also comments provided by interested public.

Information centre provides information on EIA and relevant documentation according to the request and preparation of strategic documents drafts, including draft policies, draft strategies, action plans, and draft programs related with environment and also draft law.

Aarhus Centre in MoE facilitates participation by making the flow of information easier, collects comments related with policy documents and draft laws, promotes dialogue between NGOs, other actors and MoE and institutions depending on it and also other line ministries.

REAs prepare for adoption decisions of EIA from MoE, including results of public consultation and participation in public consultation; approves activities of local character in cooperation with local government bodies (environmental opinion for investments at small scale).

Environmental Inspectorate: Request for participation of different actors, including local government authorities, representative of municipalities, of non-profit environmental organizations and of the media during control/examination in the environment.

Environmental Inspectorate: responsible for law enforcement; requests for criminal procedure, deciding on sanctions and penalties.

Chief Inspector in MoE decides the suspension or permanent closure of the activity of the entity, which does not comply or fulfill, within legal time limits, measures and sanctions given by Environmental Inspectorate.

During this period the Ministry of Environment has organized trainings in all the districts with chairmen of municipalities, communes, specialists or offices responsible for environment matters. Topics treated in these trainings clarified legal liabilities that local authorities have in the context of attracting public’s opinion for all decisions taken, which have environment impact and also for specific activities which have environment impact in their governing territory.

In the trainings were brought positive examples applied in practice in Albania, thus helping their organization, in every hearing undertaken in the area covered by their authority. Also in these trainings participated other staff of Regional Environmental Agencies, where was explained their role in this process. All-inclusive trainings were organized by
TAIEX – project of European Union – where the target group under training were staff of National Environmental Agency, which were made aware with the new legislation of Environmental Impact Assessment and also one of the topics was public attraction in decision making process.

National Environmental Agency is the agency having as a subject of its work organization and leading the process of granting environmental declaration for activities with environment impact.

This Agency has enabled the draft of a Type Form named “Form of public consultation in the process of environment impact assessment” which is formulated in a very explanatory and unifying form. This form helps businesses in what to offer to the public during a hearing session. This form is published in the official website of National Environmental Agency. Also, to improve its work, this Agency has designated an employee who is the coordinator for public consultation. In this way the institution has a dedicated person to follow the consulting process with the interested public.

National Agency publishes the date, time and place of every hearing, for activities having environment impact and which are under the application process of taking environmental declaration.

Trainings also from organizations for EIA process, especially for Water use projects in the context of the project Senior A and Achieve of REC Albania.

XVIII. Website addresses relevant to the implementation of article 6

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

General legal framework, for the articles of this pillar and on rights and possibilities according to article 8 of the Conventions, is provided under article 78 and 79 of Law on Environment Protection, which includes the following articles and determines a general right to public and NGOS:

  
to participate and play an active role during decision making process;

  
to complain, to public bodies of environment, on any activity which uses, threatens, damages and pollutes the environment and to request its closure in case of risk. In addition to taking measures these bodies answer to the requests within 1 month from its receipt;

  
to request wide or partial referendums for environmental matters (according to Law No 7866, dated 6.10.1994).

Decision making types, for which decision making authorities “ensure the right to make opponency and to cooperate with environment protection units”, as provided under article 79 of Law on Environment Protection, include specifically:

  
a) designing of policies, strategies and development plans and programs on environment protection;

  
b) preparation and implementation of management plans for different areas;

  
c) preparation and implementation of monitoring plans;

  
d) environmental control;

  
e) EIA process and approval for environmental permits;

  
f) preparation of legal acts and standards for environment.

The Minister of Environment is responsible to determine binding regulations and procedures, for environment units, to fulfill the above mentioned rights. Representatives of non-profit organizations can also participate as members in councils or committees established for environment management and protection.
In addition to the above mentioned, law on environment protection enables the public and NGOs that in particular:
to be interested parties in EIA and SEA processes (together with local government) and the authority responsible
provides to consultation public, the documentation submitted by the applicant and also takes in consideration the
opinion of local government, public and NGOs during decision making process (Article 33, paragraph 1-3).

To request the Minister of Environment that he demands environment assessment for an activity in case when, having
an environmental permit, that activity pollutes or damages the environment, together with public units, those central
and local. (Article 48).

Local government has also the liability to “promote and support the activity of NGOs for environment, by attracting
their attention in the process of environment decision making” (Article 73, paragraph e) and it shall involve the public
and professional non-profit organizations and business organization, in the development and approval of
environmental programs and plans (Article 10, paragraph 3).

Decision of Council of Ministers on public participation in decision making, No 994 of 2 July 2018, adopted in
response to the recommendations of the Committee for Aarhus Convention Compliance, includes detailed
requirements on public participation in the approval of “activities which have environment impact” and also “public
concern” in drafting policies, strategies and action plans related to environment, and also public participation in
legislation drafting.

During this period, in the Ministry of Environment, it has become a tradition to attract public opinion regarding plans,
programs and legal acts. Implementation of legal time limits for notification and consultation is one of the priorities
of this Ministry. Regarding important documents, as we can mention National Action Plan on Climate Changes, Law
on Chemicals or Law on Protected Areas, are legal acts where the consulting process has already passed a period of 1
year and involvement of stakeholders and public has been consulted during all drafting stages.

The Ministry of Environment has designated the coordinator for public consultation and also in the official websites
of the Ministry of Environment and Regional Environmental Agency and National Agency of Protected Areas are
represented the process of public attraction in decision making for the fields covered by the respective institution.

Also in the website of the Ministry of Environment are published meetings minutes, which are kept during hearings,
for all normative acts, legal acts, plans, strategies and programs since 2015 and up to now.

There are also improvements in the process of drafting plans, programs and strategies which are not drafted by the
Ministry of Environment but that relate to environment, after the issues of Law No 146/2014 “On public notification
and consultation”, which regulates the process of public notification and consultation on project laws, national and
local strategic project documents and also policies with high public interest.

Thus all public institutions which approve documents with high public interest but that also relate with environment
field are subject to public consultation process.

Since the end of September 2016 is functioning the Unique Electronic Register for public notifications and
consultations.

http://www.konsultimipublik.gov.al/RENJK/Rreth-nesh

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant
to article 7

Public right to participate in environmental decision making is mainly determined under Law on Environment
Protection No 10 431 of 9 June 2012. Law on Environment Protection determines public participation in decision
making as one of its main priorities: Article 13(2) of that Law states that during all institutional solutions of problems,
related with environment protection, public authorities shall ensure, that to public and stakeholders, it is provided the
real possibility to participate in the procedures of identifying environment state; drafting and adoption of strategies,
plans and programs related with environment protection and their elements and also in drafting and adoption of
administrative regulations and acts with general character related with environment protection and decision making of environmental permits.

Law No 10 440 of 2011 on Environmental Impact Assessment (LoEIA) determines requirements, responsibilities and procedures for negative environmental impact assessment. The scope of the law, as stated under Article 3, are all proposed private or public projects (as determined in law as implementation of construction works, installations or other schemes or interventions to environment and landscape, including interventions related with extractions of minerals) which have the possibility to produce significant negative impacts, direct or in direct on the environment due to their nature, size or location.

Article 7 of Law on Environmental Impact Assessment determines the application for environmental impact assessment of specific activities. Under an Annex in the law are described all specific activities subject to EIA. Such lists include all activities described under Annex 1 of the Convention, some of them defined with more limiting criteria (reflecting county’s condition), essentially by reducing the threshold of activities subject to EIA. That list also includes several other activities not specifically determined in the Convention.

Law on Environmental Impact Assessment (Article 14) requires the involvement of all parties in EIA process, including also the public and non-profit organizations (NGOs), without any qualification.

Law on Environmental Impact Assessment (Article 16) obliges the developer (determined as public persons or authorities, who request approval to carry out a private or public project) to undertake in depth EIA for their projects, to inform and consult the interested public during EIA process. Furthermore, it requires that all documentation related with public information and consultation shall be part of the application to take environmental declaration from National Licensing Centre – national agency of permits and licenses which grants environmental permits and licenses. It shall be highlighted that Law on Environmental Impact Assessment determines “affected public”, as the affected public or likely to be affected or interested public in environmental decision making, including non-profit environmental organization which show such an interest.

Law on Environmental Impact Assessment (Article 17) requests NEA to perform, for any project, a hearing session with interested public and NGOs in order to include their opinion in the final decision making of the project. Such hearing sessions shall be performed in cooperation with relevant local authorities and project’s developers. Local authorities are liable to notify interested public and NGOs on date, time and place of the session, as soon as these details are determined. Law on Environmental Impact Assessment explicitly determines (Article 17(4)) that opinions and comments expressed by public and NGOs during hearing sessions are a binding criteria in EIA decision making.

Regulations, requirements and procedures on public information and involvement in environmental decision making process are further specified in the Decision of Council of Ministers No 994 since 2008/07/02 on Public Attraction in Environmental Decision Making. It was developed as a direct measure in the implementation of Aarhus Convention and specifically in response to III/6a, Decision adopted by Parties Meeting of Aarhus Convention related with Albanian compliance with the Convention.

The Ministry of Environment, to increase the number of public or associations to participate in the hearings it organizes, besides the publication notification on hearings, publishes it in noticeable places in the official website of the Ministry, sends notification e-mail to all environmental associations which are part of address books updated by REC during last years. In addition, to increase the number of interested persons which want to be part of consultations on strategic documents, are also used social means of Ministry of Environment but also of Aarhus Centre.

Regarding public hearings on strategic environmental plans and programs there has been a qualitative increase in the organization of consulting processes for strategic plans and programs. We mention here the example of strategic documents on climate changes. Public consultation process started very early and lasted during time, by providing civil society and public the possibility to feel involved in that process.

As well, we can mention as a positive step, the process followed by local authorities on the adoption of urbanistic plans, we mention here the example of Tirana municipality (consultative process on city centre) or Berati and Korca city on the organization of a very regular consultative process. We mention here examples, since once consultative
processes were organized only for plans drafted with foreign donations, whereas today is local government which organizes them pursuant to Law No 146/2014.

XXI. Obstacles encountered in the implementation of article 7

Obstacles are encountered in the qualitative organization of the consultation process. Often there is lack of infrastructure for employees who shall follow consultation processes in remotes areas

Also another element to be improved is putting minutes of hearing sessions in the website of National Environmental Agency.

XXII. Further information on the practical application of the provisions of article 7

It’s important to mention than we have improvement at local level. At local government level, have also been possibilities for involvement and comments regarding urban plans (for e.g. EIA on Tirana urbanistic plan) and main constructions.

Municipalities usually organize consulting meetings in districts and communes, open to all citizens, businesses and not only to NGOs, as regards plans related with their services such as waste management plans, cleaning, city greening or establishment of places for waste discharges (for e.g. Tirana, Skadar, Durres etc.). Cooperation with NGOs at municipality level is more concentrated in concrete actions or projects, increasing environmental awareness.

Regarding measures taken on consultation process, for activities which undergo Environmental Impact Assessment, it is a process organized and monitored by National Environmental Agency. This Agency has designated the consultation coordinator who monitors consultation process.

To improve its work, National Environmental Agency has signed an Understanding Memorandum with Aarhus Centres in Skadar and Vlora, which are engaged to advice and monitor the organization of consulting processes, for activities which will be developed in the geographic area that these Centres cover.

XXIII. Website addresses relevant to the implementation of article 7

Ministry of Environment:


National Agency of Protected Areas:


Agency of Environment and Forestry:

http://akm.gov.al/publiku.html;

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Decision making types, for which decision making authorities “ensure the right to make opponency and to cooperate with environment protection units”, as provided under article 79 of Law on Environment Protection, included specifically under point “f” where is stated “preparation of legal and normative acts for environment”.

The Ministry of Environment publishes, at the beginning of every year, the matrix of acts which shall be drafted during the year. This information is used by civil society and public to become part of drafting since early stage. After drafting, the draft is always published in the official website of the Ministry of Environment to be commented by anyone interested, expressing comments, suggestions, and remarks.

XXV. Obstacles encountered in the implementation of article 8

Not any
XXVI. Further information on the practical application of the provisions of article 8

It is now a tradition in Albania to hold public hearings on legal basis, part of which are also regulations and guidance’s, which have environment impact, drafted by the Ministry of Environment. In these hearings participated NGOs and stakeholders interested to any Law, Decision of Council of Ministers or Guidance drafted during the last years by the Ministry of Environment. Also, the undertaken measures and time limits available to public, in the context of their participation and inclusion of their comments, have been completely in compliance with Aarhus Convention requirements. Legislation drafts, which are under discussion with the public, remain published in the website of the Ministry of Environment and also in the website of Aarhus Convention. Comments provided by the public, in most of the cases are reflected in adopted acts.

The process of attracting public’s opinion on legal acts, drafted by the Ministry of Environment, is already a consolidated process and completely known by civil society.

Positive steps which can be mentioned in this report is that the Ministry of Environment often, for laws which cover wide action areas, the consulting process is expanded both in time and geographical extension, we bring as an example here the process of draft law on Protected Areas, where the consultative process was developed in 6 different cities, with a considerable number of local authorities and civil society, in total 8 hearings with local authorities, experts, civil society, donators and representative of academic world.

There have also been cases when different draft decisions are drafted by the Ministry of Environment but there have been considerable objections from civil society during consultation process, thus resulting in the establishment of a working group from this ministry with representatives of civil society to re-draft it. A good example was the Decision of Council of Ministers “On adoption of regulations, procedures and criteria to be granted the expert certificate on environmental impact assessment, environmental expertise and environmental audit”.

During the period of time covered by the report, the Ministry of Environment has drafted legal acts which although they had the support of civil society and environmental experts, there have been strong objections of stakeholders; we mention here Hunting Moratorium and Forestry Moratorium, but however the followed procedures have been in compliance with national and foreign legislation.

As well, there have been objections for draft Law on Integrated Waste Management, an initiative of Albanian Parliament, which has engaged in the process of attracting the public in decision making. The adoption of this draft law is still under process.

However we have to express that these are extreme legal acts which result due to significant damage to forests and wild fauna in Albania and have a limited time frame.

XXVII. Website addresses relevant to the implementation of article 8

Ministry of Environment:


Austria

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

60. In order to comply with the citizen-participation provisions of the Convention, the Environmental Impact Assessment (EIA) and Integrated Pollution Prevention and Control (IPPC) Directives were adapted at the European level by Directive 2003/35/EC which amends with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC. The same Directive was also used to implement the Convention for the plans and programmes (listed in Annex I to Directive 2003/35/EC) not yet covered by Directive 2001/42/EC on Strategic Environmental Assessment (SEA Directive), adopted only two years earlier. The SEA Directive had already implemented the Convention with regard to the plans and programmes covered by it.
A need for implementation evolved in particular from the interaction of Article 2, paragraph 5, Article 6 and Article 9, paragraph 2 of the Convention, requiring the involvement of certain environmental non-governmental organizations in approval procedures.


62. Annex I to the Aarhus Convention, to which the provisions set forth under Article 6 refer, includes projects which are covered by the EIA and IPPC Directives. Further adaptations to the Convention were made at a Federal level in the area of commercial equipment law by way of the 2005 Amendment to Industrial Law (Federal Law Gazette I No. 85/2005) with regard to the 1994 Trade and Industry Act, the Air Pollution Act for Boiler Facilities and the Mineral Resources Act, the 2004 Amendment to the EIA Act 2000 (Federal Law Gazette I No. 153/2004), the Amendment to the Waste Management Act (Federal Law Gazette I No. 155/2004), the Agricultural Amendment Act concerning the Federal Act on Forest and Pastures Usage Rights (Federal Law Gazette I No. 87/2005) and the Immission Control Act in the framework of the 2005 Act adapting the Laws on Environmental Protection (Federal Law Gazette I No. 34/2006). The Industrial Emissions Directive (2010/75/EU), chapter II, replaced the IPPC Directive and had to be transposed by January 2013. Compared to the IPPC Directive no major changes have been introduced with regard to Article 6 of the Aarhus Convention, although some new categories of activities are covered. The respective amendments of the relevant national laws (Trade and Industry Act, Waste Management Act, Emission Protection Act for Steam Boilers) were passed by Parliament in 2013. The respective amendment of the Mineral Resources Act was adopted in 2015 (Federal Law Gazette I No. 80/2015).

Article 6, paragraph 1

Article 6, paragraph 1 (a) and (b)

63. The projects subject to EIA are listed in Annex I to the EIA Act 2000, which covers not only the projects of Annex I but also those of Annex II to the EIA Directive 2011/92/EU (and thus also those of Annex I to the Convention).

Article 6, paragraphs 2, 3, 4 and 5

64. The Austrian EIA procedure provides for the repeated information and involvement of the general public. In EIA procedures, the first step towards public participation is taken early, by publicly announcing the project for at least six weeks in accordance with paragraph 9 of the EIA Act 2000, with every interested citizen or organization having the opportunity to submit comments. A circular published on the website of the BMLFUW points to the fact that project applicants are supposed to do respective public relations work already in the preparations for the application. In addition, there is the option of oral proceedings in accordance with paragraph 16 of the EIA Act 2000, which is to be announced accordingly (also via the Internet).

Article 6, paragraphs 6 and 7

65. The information given in Article 6, paragraph 6, of the Convention is subject of the Environmental Impact Statement in accordance with paragraph 6 of the EIA Act 2000, which is to be published for at least six weeks in accordance with paragraph 9. Within this period, anyone is entitled to submit comments to the responsible authority with regard to the project or to the Environmental Impact Statement.

Article 6, paragraphs 8 and 9
In accordance with paragraph 17, subparagraph 4, of the EIA Act 2000, the statements received shall be taken into account. The decision, including the measures and the review of the received statements, shall be published without any delay, in accordance with paragraph 17, subparagraph 7, of the EIA Act 2000.

Article 6, paragraph 10

Modifications of projects are subject to an EIA procedure in accordance with paragraph 3(a) of the EIA Act 2000.

Article 6, paragraph 11


According to Decision II/1 the Genetic Engineering Act includes provisions on the announcement to and the hearing of the general public in the case of GMO release (paras. 43 and 44) and on the information of the general public on permits granted for bringing the respective substances into circulation (para. 58(a)).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

The competent authorities did not provide any information on this issue. Some NGOs as well as the Environmental Ombudsmen claimed, inter alia, that public participation takes place at a rather late stage of the EIA procedure and costs in relation to presenting a counter expertise to the competent authority in the context of the EIA procedure were rather high.

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

On its website, the BMLFUW has published a list of all environmental organizations approved in Austria according to the EIA Act 2000 and also gives information on the application procedure required for obtaining approval (https://www.bmlfuw.gv.at/umwelt/betriebl_umweltschutz_uvp/uvp/anerkennung_uo.html).

The Federal Environment Agency consolidates the key information on ongoing and completed EIA procedures in an EIA database and makes it accessible online. Accordingly, a description of the respective project, information on the legal foundations as well on the project status, the opinion of the BMLFUW and information on the documents available in the EIA documentation are accessible to the general public. Every three years, the BMLFUW also submits a report to the Parliament on the implementation of the EIA Act 2000, recently in 2015.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

https://www.bmlfuw.gv.at/umwelt
https://www.bmlfuw.gv.at/umwelt/betriebl_umweltschutz_uvp/uvp.html
https://www.bmlfuw.gv.at/umwelt/betriebl_umweltschutz_uvp/uvp/materialien/berichte_rundschr.html
http://www.umweltbundesamt.at/umweltschutz/uvp/supemas/uvpoesterreich1/uvpdatenbank/

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

As regards the EIA, including public participation, also Article 2, paragraph 7, of the Espoo Convention includes a provision encouraging the application of EIA principles also in policies, plans and programmes. The SEA Directive 2001/42/EC implements advanced relevant public participation provisions of the Aarhus Convention for a
wide range of plans and programmes. As mentioned under Article 6, the relevant provisions of the Aarhus Convention have been implemented by way of Directive 2003/35/EC for several other plans and programmes (excluding policies) which were not covered by the SEA Directive. Also the SEA Protocol to the Espoo Convention provides for public participation for certain plans and programmes as well as for the consideration and integration of the SEA principles to the extent appropriate in the preparation of proposals for policies and legislation (Article 13).

73. Based on the distribution of competences in accordance with the Federal Constitution, in Austria not only the Federal Government, but also the Federal provinces, which have transposed both directives in several relevant Federal and provincial acts, are responsible for the transposition of the SEA Directive 2001/42/EC and the Public Participation Directive 2005/35/EC (and thus also of the relevant provisions of the Convention). The Federal Government and some Federal provinces (e.g. Carinthia, Lower Austria, Salzburg, Styria, Tyrol, Vorarlberg) have, as an additional measure, published SEA Guidelines to support the authorities and the general public in applying SEA principles in a way that is in line with the EU and with the Convention.

74. Moreover, several federal acts have been amended with regard to adaptation to the provisions of the Aarhus Convention for the following areas: waste (2002 Austrian Waste Management Act as amended by Federal Law Gazette I No. 115/2009, Radiation Protection Act as amended by Federal Law Gazette I No. 133/2015), noise (Federal Act on the Assessment and Management of Environmental Noise, Federal Law Gazette I No. 60/2005), air (Immission Control Act, as amended by Federal Law Gazette I 2007/70), transport (Federal Act on the Strategic Assessment of Transport, Federal Law Gazette I No. 96/2005), water (Federal Water Act, Federal Law Gazette 1959/215 as amended by Federal Law Gazette I No. 2006/123). At the provincial level, laws pertaining to the same and other environmental areas are covered as well as the pertinent regional planning legislation.

75. The definition of the term “general public” in Austria is rather generous. Basically, the general public which is to be consulted covers “everyone”. Some laws specify this general public by defining it, e.g. as “… natural and legal persons as well as their associations, organizations or groups, and, in particular, organizations promoting environmental protection …” (e.g. Regional Planning Act of the Federal province of Vorarlberg, Provincial Legal Gazette No. 29/1996, para. 10(c), subpara. 2).

76. In addition, Austria has provided for SEAs involving voluntary public participation with regard to plans and programmes not covered by the SEA Directive, e.g. for the SEA development area “Vienna North-East” or the National Strategic Framework Plan in the framework of EU structural funds 2007-2013 (STRAT.AT) and at the level of Local Agenda 21. For some plans the public has been involved even beyond legal requirements, e.g. waste management plans for Vienna. Moreover, some laws provide for public participation platforms, such as provincial regional planning laws (irrespective of whether SEA is required or not).

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

77. It can be assumed that the existing Austrian practice and, in particular, the review procedure and the information available on the Internet comply with the relatively general requirements of the Convention as regards the preparation of “policies”. As already mentioned, the promotion of excellent cooperation and decision-making processes involving the State and civil society in matters of public interest accordingly play a key role in Austria.

78. To include the general public in decisions which are affecting them is an integral part of a modern concept of politics and administration. In this process, Austria has set the following three priorities: (a) strengthening policy making which is open and close to the citizen in order to improve the quality of democracy, (b) stimulating stakeholders’ responsibility vis-à-vis society, and (b) promoting local/regional sustainable processes.

79. Central activities are:

(a) The existing “public-participation standards” should also be regarded as a contribution to the implementation of the Austrian and EU sustainability strategies (see also under Art. 3 para 2).
In 2002, ÖGUT, the Austrian Society for Environment and technology, set up a “participation” strategy group at the instigation of the BMLFUW, made up of members from ministries and authorities as well as NGOs, public participation practitioners and the scientific community.

The “Public Participation Manual”, which was drawn up by the Federal Ministry of Agriculture, Forestry, Environment and Water Management, ÖGUT, the Austrian Institute for Ecology and Büro Arbter provides for advice for successful public participation, the required framework, the expected costs and successful Austrian case histories.

Over the last years, a website on the subject of participation (www.partizipation.at) has become an information hub (“one-stop shop”) for public participation.

In the future, more attention shall be paid to e-participation/e-democracy instruments. As mentioned earlier, it is the aim of the Austrian e-government strategy to enable citizens and businesses to handle all public administration procedures electronically, smoothly and swiftly without being required to have specialist knowledge about public responsibilities and technical details. A task force on e-democracy was set up by the Federal Chancellery. The task force published a position paper on e-democracy and e-participation in Austria in 2008. It worked on an e-democracy strategy for Austria including e-participation principles and on a guideline on the evaluation of e-participation processes, e-participation tools and hints for administrators using web 2.0.


In order to overcome obstacles with public participation at the strategic planning level (policies, plans, programs) the BMLFUW commissioned a study on the interfaces between public participation and political decision makers, summing up experiences and recommendations for good practice.

The competent authorities did not provide any information on this issue. Some NGOs as well as Environmental Ombudsmen claimed that public participation would take place too late, once the draft plan was already available. Some NGOs criticised the lack of early and effective participation within a reasonable period of time.

In early December 2007, Austria organized an international UNECE-Aarhus workshop in Sofia on issues relating to Articles 7 and 8 involving experts from the Aarhus and Espoo Conventions. In the workshop, case studies and contexts with regard to both the Espoo Convention and the SEA Protocol, as well as individual experiences, were presented, making a small but specific contribution to better implementation in the UNECE area.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

http://www.nachhaltigkeit.at
http://www.partizipation.at
https://www.digitales.oesterreich.gv.at
http://www.unece.org/env/pp/ppsd.htm
http://www.oerok.gv.at/eu-regionalpolitik

SEA websites including information on public participation in SEAs:
https://www.bmlfuw.gv.at/umwelt/betriebl_umweltschutz_uvp/uvp/sup.html
http://www.strategischeumweltpruefung.at
http://hw.oeaw.ac.at/6631-3
http://www.arbter.at/sup/sup_b.html

Examples of SEA guidelines used by some Federal provinces:
http://www.landesplanung.ktn.gv.at/155116_DE-Uebernahme_Abt.20_Raumvertraeglichkeitspruefung_%28RVP%29_Strategische_Umweltpruefung_%28SUP%29-Strategische_Umweltpruefung_%28SUP%29
http://www.raumordnung-noe.at/index.php?id=28
http://www.vorarlberg.at/pdf/kurzinfo-120_umsetzungder.pdf
https://www.salzburg.gv.at/bauenwohnen_/Seiten/raumplanung.aspx
http://www.raumplanung.steiermark.at/
https://www.tirol.gv.at/landesentwicklung/raumordnung/
https://www.wien.gv.at/stadtentwicklung/partizipation/index.html
https://www.land-oberoesterreich.gv.at/23986.htm
https://www.vorarlberg.at/vorarlberg/bauen_wohnen/bauen/raumplanung/start.htm

XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION 8REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

81. In Austria, the social partners – i.e. the above mentioned organizations of business and industry, agriculture, employees as well as the national trade union federation, which are partly established by law – play an important role in the representation of interests of the respective groups of society with regard to generally binding legal regulations which have a significant impact on the environment.

82. The Acts on the Incorporation of the Federal Chamber of Commerce of Austria (para. 10), of the Chambers of Labour (para. 93, subpara. 2) as well as of the Chambers of Agriculture provide that draft laws (as well as implementation rules) shall be submitted to the chambers by the public bodies for the purpose of review before being brought before the legislative body.

83. Where applicable, these representations of interest conduct respective internal consultation procedures for the purpose of opinion-making and submit statements (expert opinions) to the public bodies. It is then the task of these public bodies to recognize the statements and consider them accordingly. In addition, pertinent working committees made up of members of the responsible public bodies and of the social partners do exist in many cases already prior to official review procedures, for example for the purpose of expert discussion of the predrafts of legal instruments. Environmental NGOs are sometimes also part of these internal consultations. Normally they are consulted on environment related laws in the official consultation process.

84. The definitions set forth under Article 2 of the Convention have been implemented to the following extent: for example, the terms of “public” and “public concerned” regarding the interests represented by the respective
corporate body with a view to environmental policy are also included in the provisions on review rights. The “public authorities” are partly mentioned in the review rules (see, for example, para. 93 of the Austrian Chamber of Labour Act).

85. Within the individual stakeholder groups provided with review rights, there is no discrimination. According to the legal foundations, membership in the representations of interest/chambers is based on certain circumstances.

86. Moreover, mention has to be made of the fact that a series of plans and programmes covered by the SEA Directive (e.g. in the area of regional planning) are also enacted as ordinances in Austria, i.e. there is public participation in the preparation of executive regulations or there are general and legally binding provisions.

87. The Austrian public participation standards should also be applied to public participation in legislative processes. They recommend 6-12 weeks as an appropriate consultation period and recommend providing two weeks more when the consultation coincides with vacation periods. They also recommend coming up with a consultation report, where the public can follow-up how the received statements have been taken into account by the responsible administration. By now, this recommendation is, however, not applied comprehensively.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

The competent authorities did not provide any information on this issue. An NGO complained that in practice time limits for consultation are sometimes too short.

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

88. The responsible Federal and provincial bodies publish draft laws on their websites (see below). This information also includes a general e-mail address as well as other partners which can be contacted for the submission of statements. Moreover, adequate time limits are provided for. In this process, every received statement is considered. Draft laws and the related received statements are published on the website of the Austrian parliament.

89. Also some of the representations of interest maintain separate consultation websites, such as the Federal Chamber of Commerce.

90. In its capacity as coordinating body of Austrian environmental NGO organizations, ÖKOBÜRO publishes the statements submitted in the framework of national review procedures on its website.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

Examples of websites providing the opportunity to comment on environmental draft laws are:

http://iris.bka.intra.gv.at/Begut/
https://www.bmlfuw.gv.at/ministerium/begutachtungsverfahren.html
http://www.parlament.gv.at/PAKT/MESN/
http://www.akeuropa.eu/de/publikations.html?type_id=1
http://www.oekobuero.at/schwerpunkte/aarhus-gerichtszugang/
Azerbaijan

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Public participation in environmental protection is accorded particular attention in Azerbaijani legislation. Participation of the population and public associations in environmental protection is one of the basic principles of legislation (article 3 of the Environmental Protection Act).

Citizens, stateless persons and foreigners have the right:
- to address state authorities and organizations about environmental protection;
- to advance proposals regarding public state environmental reviews (article 6 of the Environmental Protection Act);
- to participate in making decisions that have an effect on public health and the environment (article 7 of the Public Health Security Act).

Citizens and public associations also have the right to submit proposals to state and local self-government authorities (article 7 of the Environmental Security Act).

Public Environmental Council under the Ministry of Ecology and Natural Resources, which is composed mainly (over 80%), NGOs and members of the public, jointly participate in decision-making discussions.

Hot Line - contact line (168) was established in order to provide operative communication among related offices, institutions, organizations and citizens regardless of organizational-juridical form of activities implemented in the sphere of environmental protection.

XVI. Obstacles encountered in the implementation of article 6

No obstacles were encountered in the implementation of the provisions of article 6 relating to public participation in decision-making on specific types of activity.

XVII. Further information on the practical application of the provisions of article 6

During the public participation procedure, state authorities present the public concerned with all the information on the decision-making process specified in article 6 by posting this information on the internet as well as sending it electronically to environmental NGOs. The environmental council attached to the Ministry of Ecology and Natural Resources (which includes NGO and public representatives) holds on-going discussions of decisions on specific types of activity.

XVIII. Website addresses relevant to the implementation of article 6

http://eco.gov.az

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

The Environmental Council (which includes NGO and public representatives) attached to the Ministry of Ecology and Natural Resources carries out on-going discussions to ensure public participation in the preparation of plans and programmes relating to the environment. The materials relating to discussions and decision-making are posted on the Ministry’s web site.

The relevant definition of environmental information exists at national level: it is information on the state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements; factors, such as
substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment and cost-benefit and other economic analyses and assumptions used in environmental decision-making; the state of human health and safety, conditions of human life, cultural sites and built structures, in as much as they are or may be affected by the state of the elements of the environment or, through these elements, by these factors, activities or measures.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

The public is given the opportunity to participate in the preparation of draft environmental laws, programmes and other regulations through the internet. Discussions are also held with NGOs.

XXI. Obstacles encountered in the implementation of article 7

No obstacles were encountered in the implementation of article 7.

XXII. Further information on the practical application of the provisions of article 7


XXIII. Website addresses relevant to the implementation of article 7

http://eco.gov.az

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

The necessary conditions have been created for the public to effectively participate in the preparation by state authorities of regulations that have a direct executive effect and other generally applicable legally binding rules that may have a significant effect on the environment by the development of environmental legislation between 2008 and 2010 and its harmonisation with EU requirements.

- To improve effectiveness, amendments and additions were made to the Criminal Code and the Administrative Offences Code by Act 896-IIQD of 20 October 2009. The administrative penalties for breaking the rules on environmental protection, natural resource use and environmental security contained in the Administrative Offences Code (Act 478-IIQD) were made tougher.

- Act 557-IIIQ of 1 April 2008 on Natural Healing Resources and Health Sites and Resorts was passed.

- Act 650-IIIQ of 13 June 2008 on Environmentally-sound Agriculture was passed.

- A draft law on ensuring the safety of genetic engineering has been prepared and sent to the Cabinet of Ministers. The Milli Majlis (Parliament) is currently examining a draft law on protecting the genetic resources of cultivated plants and their efficient use that provides the legal basis for the latter law.

- The Presidential Administration is currently examining a draft law on additions and amendments to the act on specially protected natural areas and sites, sent to the Cabinet of Ministers after its approval by the relevant state bodies.

- A draft decision on additions to Decision No. 173 of 19 September 2005 on the rules for the use, protection and preservation of trees and shrubs that do not form part of Azerbaijan’s forests was submitted to the Cabinet of Ministers for examination.

- A draft decision amending Decision No. 176 of 6 November 2004 was submitted to the Cabinet of Ministers for examination. This decision lists several other generally binding legal instruments, namely: on the approval of new
scale of charges for the release of pollutants into the environment; on the approval of [the instrument on] selling the main types of trees and bushes growing in the Republic’s woods as standing timber; the rules for state compliance monitoring as regards the protection and use of wild animals; the application of the rules on payment and on the extent of use of wild animals and fines for illegal hunting; and on the approval of the instructions for use of wild animals and fines for illegal hunting.

-A draft law on environmental review has been prepared and presented to the Cabinet of Ministers.

-A draft law has been drafted on protecting green belts, which will soon be submitted for examination.

-Draft amendments to the following laws have been prepared in order to harmonise them with EU legislation: Act 678-IQ of 8 June 1993 on Environmental Protection; Act 423-IQ of 30 December 1997 on the Radiation Safety of the Population; Act 514-IQ of 30 June 1998 on Industrial and Residential Waste; Act 675-IQ of 4 June 1999 on Wild Animals; Act 677-IQ of 8 June 1999 on Environmental Security; Act 723-IQ of 28 October 1999 on Water Provision and Sewage; Act 840IQ of 24 March 2000 on Specially Protected Natural Territories and Sites; Act 109-IIQ of 27 March 2001 on the Protection of Ambient Air; Act 270-IIQ of 12 March 2002 on the Acquisition of Environmental Information; and Act 637-IIQ of 20 April 2004 on Hunting.

XXV. Obstacles encountered in the implementation of article 8

No obstacles were encountered in the implementation of article 8.

XXVI. Further information on the practical application of the provisions of article 8

When implementing the public participation procedure, state authorities provide the public concerned with all of the information relevant to the decision-making process specified by article 8 by posting this information on the internet and sending it electronically to environmental NGOs.

XXVII. Website addresses relevant to the implementation of article 8

http://eco.gov.az

Belarus

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

92. The Aarhus Convention is binding and has the force of a Presidential decree, in accordance with Article 20 of the Statutes and Regulations Act.

93. The procedures specified by article 6 of the Convention are applied to decisions that require environmental impact assessment (‘EIA’) under the 2009 State Environmental Review Act and under Council of Ministers’ Resolution No. 755 of 19 May 2010 on several measures to implement the State Environmental Review Act, which approved the Regulations on the Conduct of State Environmental Review [Expertiza] and the Regulations on the Conduct of Environmental Impact Assessment.

Amendments and additions have been made to Decree No. 349 of the President of the Republic of Belarus of 24 June 2008 on Criteria for categorizing economic and other activities that have an adverse environmental impact as ‘environmentally hazardous activities’; these entered into force on 12 February 2016.

These amendments were intended inter alia to supplement and specify the types of activities covered by annex 1 to the Aarhus Convention, which are mentioned in an annex on the Criteria for categorizing economic and other activities that have an adverse environmental impact as ‘environmentally hazardous activities’. This ensures opportunities at an earlier stage – i.e. before the EIA takes place – for public participation with respect to laws and regulations intended to govern relations associated with carrying on economic and other activities regarded as environmentally hazardous under the Criteria.

The new SER, SEA and EIA Act has been adopted, to enter into force on 22 January 2017.
In particular, Article 7 of this Act includes a list of installations that are subject to environmental impact assessment. This list of installations conforms with annex I to the Aarhus Convention. Types of activities mentioned in annex 1 to the Aarhus Convention and not listed in Article 7 of the SER, SEA and EIA Act will be subject to EIA under Article 7(1)1.1 or Article 7(1)1.2. (The dimensions of public health protection zones are defined in Decision No. 35 of the Ministry of Health of the Republic of Belarus of 15 May 2014 approving Public Health Protection Standards and Rules for the requirements for establishing Public Health Protection Zones around enterprises, facilities and other installations with an impact on human health and the environment, and recognizing the loss of force of Decision No. 11 of the Ministry of Health of 10 February 2011.)

Resolution No. 458 of the Council of Ministers of the Republic of Belarus of 14 June 2016 approving Regulations on the Procedure for Organizing and Conducting Public Discussions of Drafts of Environmentally Significant Decisions, of Environmental Impact Assessment Reports, of the Record of Environmentally Significant Decisions Taken and amending and adding to certain Resolutions of the Council of Ministers has been adopted.

The Resolution provides for public participation in environmentally significant decision-making and in public discussions of EIA reports.

Furthermore, the procedures specified in article 6 of the Convention are currently applied to decisions on construction and urban development, pursuant to Article 4 of the Architecture, Urban Development and Construction Act.

Article 13 of the 2009 State Environmental Review Act lists the installations that are subject to EIA and the procedure for conducting an EIA.

Article 6, paragraph 2

Announcements that the drafting of environmentally significant decisions is being initiated; notices; drafts of environmentally significant decisions; EIA reports; outcomes of public discussions (minutes of meetings held, records of public discussions, documents consolidating comments and suggestions submitted into tabular form and presenting the outcomes of reviewing them); announcements that a process of drafting environmentally significant decisions has been concluded; decisions taken; information on reversal of decisions taken; information on the conduct of public environmental reviews initiated (if any); other information.

In addition, under Article 4 of the Architecture, Urban Development and Construction Act, decisions taken by local councils of deputies on planning, developing and improving residential areas and housing must be made after public discussions have been held.

The duty of public authorities, legal entities and officials to grant the public the opportunity to examine information on questions relevant to their rights and lawful interests that arise from architectural, urban development and construction activities is also enshrined in the Act.

The public also has the right to submit suggestions before urban development documentation is approved, to participate in discussion and decision-making relating to urban development and to conduct independent professional reviews of urban development documentation at their own expense. If an independent professional review of urban development documentation is conducted, the State review body shall issue its conclusion [full report] after it receives the conclusion of the independent professional review.

The Architecture, Urban Development and Construction Act and Resolution No. 687 employ the concept of ‘independent professional review’; but other national legislation does not currently expand on this, and no procedure has been drawn up for conducting such reviews.

Article 6, paragraph 6
101.

Article 6, paragraph 7
102.
103.
104.

105. Article 61 of the Environmental Protection Act makes provision for a particular form of public participation – public environmental review, organized and conducted in accordance with Council of Ministers’ Resolution No. 1592 of 29 October 2010, on the initiative of public associations and citizens, by independent experts, who are entitled to receive documentation from the project owner, including materials on the EIA and other activities.

However, it has been difficult to enforce this right in relation to architectural, urban development and construction activities because, in these cases, under Resolution No. 687, only the organizer’s details must be given in the notification.

106. Under paragraph 18 of the Regulations on the Organization and Conduct of Public Environmental Review, approved by Council of Ministers’ Resolution No. 1592 of 29 October 2010 (as amended on 13 October 2011), where the conclusions of the public environmental review include comments, suggestions and recommendations on the intended activity, the project owner is to prepare a reasoned reply to all the comments, taking into account as necessary the outcomes and findings of the public environmental review and amending the project documentation before submitting it to State environmental review.

107. Article 12 of the 2009 State Environmental Review Act specified the types of project documentation or other documents to be submitted to State environmental review. Under the second subparagraph of the first paragraph of Article 5 of the Act, project documentation for the projects listed must include the outcomes of discussions on urban development projects with the public whose rights and lawful interests may be affected by implementation of these projects (for example, minutes of meetings, comments and suggestions from interested parties, publications in the media).

For installations listed in the first paragraph of Article 13 of the 2009 Act, the project documentation submitted to State environmental review must include an EIA report.

To the EIA report must be appended inter alia the outcomes of discussions on the EIA report with the public whose rights and lawful interests may be affected by implementation of the project (minutes; comments and suggestions from interested parties; media publications, etc.); documentation evidencing approval of the EIA report by affected parties (for proposed economic and other activities in the Republic of Belarus that may have a transboundary impact); and the conclusions of public environmental review (if one exists).
Article 6, paragraph 11


XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

110. There is no provision enshrined in legislation obliging local executive agencies and administrative authorities to provide Ministry of the Environment bodies with information about the opening of public discussions.

111. At present, under Article 15(4) of the SER, SEA and EIA Act, “the conclusion [full report] of a State environmental review [expertiza] is deemed, for the purposes of the Convention on Environmental Impact Assessment in a Transboundary Context, signed at Espoo on 25 February 1991, to be a final decision on proposed economic and other activities with regard to the acceptable environmental impact of such activities and to the use of natural resources for their implementation”.

The question of how to define ‘final decision’ requires further critical analysis.

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

112. Statistics are not kept on public participation in decisions relating to specific types of activities nor on decisions not to apply article 6 of the Aarhus Convention to a proposed activity serving national defence purposes.

Public discussions of EIA materials on proposed activities have become significantly more frequent.

The Aarhus Centre website has an ‘EIA’ section where EIA materials on proposed activities are published. The ‘News’ section provides information on forthcoming public discussions of EIA materials on proposed activities.

113.

114. When new manufacturing facilities with an environmental impact are to be constructed, Ministry of Industry organizations involve the public in discussions of the proposed activities.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

115. Websites where information about the proposed construction in the Republic of Belarus of installations subject to environmental impact assessment is posted:

(http://www.priroda.brest.by/content/informaciya-o-zaklyucheniyah-gosudarstvennoy-ekologicheskoy-ekspertizy-po-obektam) - Brest Oblast,

(http://priroda-vitebsk.gov.by/ru/static/ekol_ekspert - Vitebsk Oblast,

(http://naturegome.by/ru/expertiza) - Gomel Oblast,

(http://ohranaprirody.grodno.by/state/AA:navID.98/AC:-1.180004045334) - Grodno Oblast,


http://mogilevpriroda.gov.by/yekologiya-oblasti/yekologicheskaya-yekspertiza-proektov - Mogilev Oblast,
http://www.aarhusbel.com/ - Belarus Aarhus Centre website,
http://perv.minsk.gov.by/obshchestvennoe-obsuzhdenie - Pervomaysky District Administration, Minsk,
http://perv.minsk.gov.by/obshchestvennoe-obsuzhdenie - Partizansky District Administration, Minsk,
http://lenadmin.gov.by/obshchestvennoe-obsuzhdenie - Leninsky District Administration, Minsk,
http://www.fr.gov.by/public_disc/ - Frunzensky District Administration, Minsk,
http://mogilev.gov.by/obshchestvennoe-obsuzhdenie.html - Mogilev City Executive Committee,
http://mrlik.gov.by/ru/obsuzhdenia/ - Minsk District Executive Committee (Minsk Oblast),
http://www.soligorsk.by/ru/obsch_obsuzhd/ - Salihorsk District Executive Committee (Minsk Oblast),
http://www.borisov.minsk-region.by/ru/obsugdenija - Barysaw District Executive Committee (Minsk Oblast),
http://lida.by/isp/124/495 - Lida District Executive Committee (Grodno Oblast),
http://www.petrikov.gomel-region.by/ru/o-o/ - Pyetrykaw District Executive Committee (Gomel Oblast),
http://mozyrisp.gov.by/ru/ob_obsuzdenia/ - Mazyr District Executive Committee (Gomel Oblast),
http://svetlogorsk.by/for-citizens/public-discussion.html - Svetlahorsk District Executive Committee (Gomel Oblast),
http://www.novopolotsk.by/content/blogcategory/241/333/ - Navapolatsk City Executive Committee.

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

116. Belarusian legislation provides the legal basis for the public to be involved in deciding issues that relate to environmental plans and programmes.

117. The National and Local Assemblies Act gives local assemblies the power to review draft development and redevelopment plans for the area in question, draft plans for the efficient use of natural resources, etc. The procedure for holding referendums is described in the Electoral Code.

Under Article 15-2 of the Environmental Protection Act, conceptual frameworks, programmes, plans and schemes, the implementation of which has an environmental impact and (or) is related to the use of natural resources, as well as non-technical amendments and additions to such documents, are subject to discussion.

The procedure for organizing and conducting public discussions of drafts of environmentally significant decisions, of EIA reports and of the record of environmentally significant decisions taken is enshrined in the Regulations on the Procedure for Organizing and Conducting Public Discussions of Drafts of Environmentally Significant Decisions, of Environmental Impact Assessment Reports, of the Record of Environmentally Significant Decisions Taken, approved by Resolution No. 458. Chapter 2 of these Regulations also enshrines a procedure for conducting public discussions of drafts of plans, the implementation of which has an environmental impact and (or) is related to the use of natural resources.

Under Paragraph 8 of these Regulations, the procedure for conducting public discussions of drafts of conceptual frameworks, programmes, plans, schemes or legislation shall include the following stages:

- preliminary information to citizens and legal entities that the drafting of conceptual frameworks, programmes, plans, schemes or legislation is being initiated;
- organizing and conducting public discussions of drafts of conceptual frameworks, programmes, plans, schemes or legislation, and, if there is interest from citizens and legal entities, organizing and conducting meetings to discuss them;

- ensuring that information about a decision taken is communicated to citizens and legal entities.

The time frame for public discussions cannot be less than 30 days.

Resolution No. 458 also enshrines the duty to review comments and (or) suggestions made by participants in public discussions, submitted in written or electronic form; to prepare detailed, reasoned written answers to them; to prepare a document consolidating comments and suggestions (including any submitted in the course of any meeting held to discuss a draft conceptual framework, programme, plan, scheme or piece of legislation) and replies to them into tabular form, and to post it in the ‘Public Discussions’ section of the website. Provision is also made for the possibility of holding consultations with the public concerned.

According to Paragraph 20 of the above-mentioned Regulations, a meeting to discuss the draft conceptual framework, programme, plan, scheme or piece of legislation shall be held if, within 10 working days of the date of publication of the notice of public discussions, a written or electronic application for such a meeting to be held is submitted by a citizen or legal entity.

Citizens and legal entities have the right to put forward written or oral comments and suggestions in the course of a meeting. Based on the outcomes of the meeting, a record of the meeting is to be compiled, with a list of questions, comments and suggestions about the draft conceptual framework, programme, plan, scheme or piece of legislation which were submitted in the course of the meeting, with details of the names of those submitting them, the answers given and the number of participants at the meeting; a summary of feedback is to be prepared as an appendix to the record of the meeting, to include all comments and suggestions on the draft conceptual framework, programme, plan, scheme or piece of legislation which were submitted as part of the meeting procedure.

The minutes of the meeting shall be signed by members of the committee for the preparation and conduct of the public discussions and approved by the committee Chair.

The Rules on Preparation of Management Plans for Specially Protected Natural Areas were confirmed by Decision No. 94 of the Ministry of the Environment of 29 October 2008 on certain issues relating to Specially Protected Natural Areas. Under paragraph 6 of these Rules, public authorities shall submit [these plans] to public discussion according to the procedure established by Resolution No. 458.

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

120. Article 7 of the Environmental Protection Act states that involving citizens and public associations in environmental protection and monitoring is a fundamental area of State policy. Article 4 lists the duty to involve public associations, other legal entities and citizens in activities to protect the environment as one of the principles of environmental protection.

121. A section entitled ‘Public discussions’ has been created on the main page of the Ministry of the Environment’s website at http://minpriroda.gov.by/ru/ob_obsuzd_ru/; it includes the following subsections:

‘Drafts of environmentally significant decisions’

‘In the pipeline’

‘Draft laws currently under discussion’

‘List of decisions taken’

ARCHIVE

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7
122. Because the legislative provisions on public participation in the preparation of plans and programmes came into force only in July 2016, it is too early to draw any conclusions.

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


XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7


http://www.aarhusbel.com – Belarus Aarhus Centre.

http://perv.minsk.gov.by/obshchestvennye-obsuzhdeniya - Pervomaysky District Administration, Minsk


http://mogilev.gov.by/obshchestvennye-obsuzhdeniya.html - Mogilev City Executive Committee

125.

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

126. Under the Statutes and Regulations Act, transparency in the operation of rule-making authorities (and their officials) is ensured by informing citizens of the activities of rule-making authorities (and their officials) and of the laws and regulations which they pass, and by publishing laws and regulations in official publications and the mass media or making them generally available through other means. At the discretion of the rule-making authority (or an official), a draft law or regulation may be submitted to public (nationwide, community or workplace) consultation (discussion and/or referendum). In practice, there is evidence of insufficient involvement of the public in drafting laws and regulations. National legislation covering this area needs to be improved.

127. Presidential Decree No. 609 of 16 December 2002 created the National Legal Internet Portal, one of the goals of which is “the timely provision of full and reliable legal information, commentaries and other legal analytical material to citizens, public authorities and other organizations”.

128. Under Presidential Decree No. 318 of 16 December 2007 on the Procedure for Making Technical Regulations Generally Available, public authorities that approve technical regulations must publish the following documentation on their websites: programmes (or plans) for developing technical regulations (if such programmes/plans exist); constantly updated lists of current technical regulations which they are responsible for approving; texts of decisions (or orders) adopting, amending and (or) adding to, interpreting, suspending or repealing technical regulations or recognizing their loss of force.

129. Law No. 333-3 of the Republic of Belarus of 24 December 2015 amending and adding to certain Laws of the Republic of Belarus with regard to Environmental Protection and to Public Participation in Environmentally Significant Decision-Making introduced Article 15-2, which enshrines the right of citizens and legal entities to participate in public discussions of draft laws and regulations of the Republic of Belarus (to the extent that these provisions are intended to govern relations associated with carrying on economic and other activities regarded as environmentally hazardous under criteria defined by the President of the Republic of Belarus or a competent public environmental protection authority). The Law came into force on 1 July 2016. The procedure for organizing and conducting public discussions of such draft laws and regulations is enshrined in the Regulations on the Procedure for Organizing and Conducting Public Discussions of Drafts of Environmentally Significant Decisions, of Environmental
Impact Assessment Reports, of the Record of Environmentally Significant Decisions Taken, approved by Resolution No. 458. This also came into force on 1 July 2016.

A section entitled ‘Public discussions’ has been created on the main page of the Ministry of the Environment’s website at http://minpriroda.gov.by/ru/ob_obsuzd_ru/; it includes the following subsections:

‘Drafts of environmentally significant decisions’
‘In the pipeline’
‘Draft laws currently under discussion’
‘List of decisions taken’

ARCHIVE

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

130. It is not at present mandatory to disseminate information on the preparation and contents of draft generally applicable laws, regulations and other legally binding rules (with the exception of draft statutes), including those adopted by government bodies, and this information is not made generally available. It is planned to eliminate this problem by adopting draft amendments and additions.

Not all legislation that may have a significant effect on the environment is subject to public discussion within the meaning of Article 15-2. It is only for the draft legislation indicated in Article 15-2 that a procedure for conducting public discussions is provided, that a 30-day public discussion period is defined and that there is a guaranteed opportunity to submit comments and suggestions and have these taken into account.

131. Moreover, Council of Ministers’ Resolution No. 802 of 5 October 2016 amended and added to Council of Ministers’ Resolution No. 247 of 20 March 2012 on certain issues in the Organization of Public Discussion of Draft Laws and Regulations on Business Development and amending Council of Ministers’ Resolution No. 2070 of 31 December 2008, thus enshrining the duty of national government bodies and other organizations subordinate to the Belarusian Government, of oblast executive committees and of Minsk City Executive Committee to conduct public discussions of draft laws and regulations which may have a significant effect on the conditions in which business activities are carried on. Resolution No. 802 came into force on 12 November 2016.

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

132.

133.

134. Legislation that is subject to public discussion is posted on the Ministry of the Environment website at http://minpriroda.gov.by/ru/obsuzhdaem/ in the section ‘Draft laws currently under discussion’.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

135. Websites as follows:


http://www.economy.gov.by/ru/actproject - Ministry of the Economy

Belgium

 XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6
I. APPLICABLE REGULATIONS WITH REGARD TO PARTICIPATION IN SPECIFIC ACTIVITIES

- Government of Flanders Order of 5 May 2000 on public inquiries into planning applications and land division applications (B.S., 20.05.2000).
- Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy, (B.S., 03.06.1995) (DABM), Title IV: environmental impact and safety reporting.
- Government of Flanders Order of 12 October 2007 on environmental impact reports on plans and programmes (B.S., 07.11.2007)
- Flemish Parliament Act of 25 April 2014 on complex projects (B.S., 27.08.2014)

The participation procedure for environmental licenses had been brought completely into line with Art. 3 and 4 of the 2003/35/EG European Directive by the Government of Flanders Order of 03 June 2005 (amendment Vlarem I).

II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Art. 4 of the Aarhus Convention.

III. APPLICATION OF THE NON-DISCRIMINATION REQUIREMENT

See earlier comments to Art. 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 6 OF THE AARHUS CONVENTION

(a) With respect to paragraph 1

(i)

In the Flemish Region there are two important licensing systems: the environmental licence on the one hand and the planning permission on the other. The first licensing system is governed by the Flemish Parliament Act on Environmental Licences and by VLAREM I, whereas the second system is set out in the Flemish Spatial Planning Codex.

An environmental licence is required to operate or change category 1 or 2 hazardous installations. Hazardous installation (and their classification into three categories) can be found in Annex I of VLAREM I. In accordance with Article 4.2.1 of the Flemish Spatial Planning Codex, a planning permission is required for various activities (construction, deforestation, the felling of standard trees, considerable changes to the relief of the soil, etc.).

There are also other licensing systems as well as other forms (than licensing systems) of decision-making regarding activities.
Within the framework of the environmental impact reporting, disclosure of environmental impact reports on intended plans, programmes and projects is governed by Title IV of the DABM. Disclosure is linked to the possibility for the public concerned to participate in the EIR approach mentioned in the notice.

With regard to the projects that observe the procedure in compliance with the complex projects regulations, a similar freedom of information is in place.

Flemish regulations on environmental licences (Flemish Parliament Act on Environmental Licences and VLAREM I) and planning permissions (Flemish Spatial Planning Codex) provide opportunities for participation (see below) and lists of activities and/or installations for which participation in the decision-making process is possible.

The Flemish Parliament Act of 27 March 2009 made procedures for environmental licenses and planning permissions interface one another by introducing a unique municipal one-stop shop for category 2 installations subject to environmental licensing. A common public consultation for joint applications was opted for. This public consultation takes place in accordance with the procedure that is applicable to environmental licensing (Art. 8bis up to and including 8nonies of the Flemish Parliament Act on environmental licenses).

(ii)

The list of activities in the Flemish Region is not completely identical to the list in Annex I of the Aarhus Convention. Annex I of VLAREM I contains a lot more activities and sometimes uses formulations or descriptions that deviate from those used in Annex I of the Aarhus Convention.

(b) With respect to paragraph 2

Disclosure of information to the public concerned with a view to participation in decisions on specific activities, specified by Art. 6, second paragraph, is regulated at the level of the Flemish Region in the “public consultation” procedures as laid down in the regulations regarding environmental licences and planning permissions.

Environmental licences.

In agreement with the Flemish Parliament Act on Environmental Licences and VLAREM I, each environmental licence application must in principle be subject to a public consultation (Art. 11 Flemish Parliament Act on Environmental Licences and Art. 17-19 VLAREM I). This public consultation implies that – for thirty days – the application is made available for public inspection at the town hall and that it is displayed on the site of operation and on the official notice board in the town hall. If the application relates to a category 1 activity, all residents living within a hundred metres of the installation are also notified in writing of the licence application and the public consultation is announced in at least two daily and/or weekly magazines, one of which of regional importance, or in at least one daily or weekly magazine of regional importance and in an appropriate and clearly designated area for announcements on the web site of the municipality. For first category installations for which an environmental impact report or a safety report is required, at least one information meeting must be organised within the framework of the public consultation about the licence application.

The required content of these notices can be summarised as follows: they must contain, among other things, the subject of the application, together with a short description of the installation. In addition, it must be announced at which local authority services the file will be available for inspection during the period of notice. The possibility must also be mentioned to submit objections and remarks to the municipal authority, either orally or in writing. If necessary, the notice must also specify the time and place of the information meeting. The meeting must begin between 6 and 9 p.m..

Planning permissions

Article 4.7.15 of the Flemish Spatial Planning Codex (as implemented by the Government of Flanders Order of 5 May 2000) lays down the basic rules on public consultation about planning permissions and the subdivision of land into lots. The application for a planning permission must be submitted in accordance with the set terms to the Board of Mayor and Aldermen or to the regional spatial planning official (Article 4.7.26 of the Flemish Spatial Planning Codex). After that, the submitted dossier is regarded as either complete or incomplete and the applicant is given notice.
If an environmental impact report is required or in one of the cases referred to in above-mentioned Decree, a public consultation is open for sixty days. This fact is made public so that anyone can lodge a notice of objection during this period. During the next stage, following completion of the period of public consultation, the municipal secretary or his proxy draws up an official report containing the starting date, the closing date and an inventory of the objections and technical remarks submitted (both orally and in writing) during the public consultation. The advice of the competent authorities is also gained, after which the Board of Mayor and Aldermen or the regional spatial planning official takes a decision.

(c) With respect to paragraph 3

Environmental licences.

In principle, each environmental licence application must be subject to a public consultation. Any natural or legal person who may experience nuisance as a result of the establishment of the installation, and any legal person the objective of whom is to protect the environment which may be affected by this nuisance, can submit objections and remarks during the period of the public consultation (Art.11 Flemish Parliament Act on Environmental Licences and Art. 17 – 19bis VLAREM I). The time limits provided for the public consultation within the framework of an environmental licence application are mentioned in the aforementioned provisions of VLAREM I. Both for first and second category activities a public consultation of thirty days takes place. During this period the provided information will be available for inspection by the public which may give objections or remarks.

Planning permissions.

Under Art. 8 of the above-mentioned Government of Flanders Order of 5 May 2000, the local authority posts a notice at the usual posting places and in any case at the town hall for a period of thirty days from the beginning of the public consultation. To this end, the local authority uses a duly completed standard form. If the municipality itself is the applicant of the licence, it posts the notice for thirty days on the designated notice boards and on the premises where the works take place before sending the dossier to the regional spatial planning official. During the period of thirty days anyone can submit objections or remarks in writing regarding the subject to the Board of Mayor and Aldermen.

(d) With respect to paragraph 4

Environmental impact reporting

Within the framework of the environmental impact reporting the public nature of the notices of environmental impact reports on intended plans, programmes and projects is linked to the possibility for the public concerned to participate in the approach to the environmental impact reporting mentioned in the notice. Thus the public is given the opportunity to participate in activities that are subject to environmental impact reporting at an early stage when alternatives are still possible. With regard to the projects that observe the procedure in compliance with the complex projects regulations, a similar freedom of information is in place.

Environmental licences

Under Flemish Parliament Act on Environmental Licences and VLAREM I, a separate procedure has been set up for first category installations and second category installations. Both procedures are similar as far as time and duration of the public consultation are concerned. The same framework regulation is applied to the public consultation, irrespective of the category to which the intended installation belongs. After submission of the application, the dossier is, if necessary, declared complete and admissible. The applicant is given notice of this within fourteen days. Once this has been done, the official starting date of the procedure is set. The public consultation must be started within ten days of the start of the procedure. It must last thirty days and during this period everyone must have the opportunity to formulate objections and remarks. At the same time advice is gained from the appropriate authorities after which a decision can be taken.
In accordance with the Flemish Spatial Planning Codex and the Government of Flanders Order of 5 May 2000, the application must be submitted to the Board of Mayor and Aldermen or to the regional spatial planning official according to the terms set. After that, the submitted dossier is regarded as either complete or incomplete and the applicant is given notice. If an environmental impact report is required or if in accordance with the Government of Flanders Order of 5 May 2000, the application must be subject to a public consultation, it shall be on public display for sixty days. This fact is made public so that anyone can lodge a notice of objection during this period.

During the next stage, following completion of the period of public consultation, the municipal secretary or his proxy draws up an official containing the starting date, the closing date and an inventory of the objections and technical remarks submitted (both orally and in writing) during the public consultation. The advice of the competent authorities is also gained, after which the Board of Mayor and Aldermen or the regional spatial planning official takes a decision.

(e) With respect to paragraph 5

Within the framework of the notification phase of the environmental impact reporting process the public nature of the notification dossier gives the public concerned the opportunity to participate. The resulting interaction may give an idea of the public concerned and gives the initiator the chance to clarify the project objectives at an early stage. With regard to the projects that observe the procedure in compliance with the complex projects regulations, similar avenues of participation are in place.

(f) With respect to paragraph 6

(i) + (ii)

Environmental licences

On the basis of the Flemish Parliament Act on Environmental Licences, VLAREM I and the DABM, certain proposed installations are required to submit an environmental impact report in addition to the environmental licence application.

With regard to the content of an environmental impact report, Art. 4.3.7 of the DABM requires to include, inter alia, the following data: a description of the project priorities, namely of the physical characteristics of the project, a description of the main characteristics of the construction- or production processes and a prognosis of the expected emissions and residues. Next, a draft of the main alternatives to the project, a description of probably major environmental effects on man and environment; when the occasion arises: a description of the probably major environmental effects of the proposed project on the territory of a neighbouring EU Member State or on the territory of another Region (Art. 4.3.4); a description of the intended measures so as to avoid, restrict and remedy or compensate major environmental effects of the project; a description of the knowledge gaps that were found; a report on employment, anticipated investments, and the nature and quantity of the goods (or services) to be produced and a non-technical summary.

The documents on establishments operated within the municipality (notifications of third category establishments, licence applications and related decisions, confirmations of notifications of small changes…) are on public display for third parties free of charge at the city/town hall. The documents can be consulted, without an interest having to be demonstrated, for at least two days a week, to be determined by the municipal authorities. In addition, the municipal authorities shall provide a copy of these decisions against a cost-recovery fee to anyone who requests it, without an interest having to be demonstrated (Article 32 Vlarem I).

Reports and advices and all other relevant information must be made available under the new article 32 bis of Vlarem I.

In transposition of the Directive on Industrial Emissions, decisions regarding an IPPC (Integrated Pollution Prevention and Control) establishment shall be notified to the public via the Internet (new Article 33 Vlarem I). This information pertains to decisions on environmental licence applications, the licences of notifications of small changes or decisions to modify or complement the licensing conditions or the derogations from the emission limit values that are granted in the context of Section 1.2.2.bis of Title II of Vlarem.
Planning permissions

The same DABM provisions are applicable to planning permissions.

(g) With respect to paragraph 7

Environmental impact reporting

There is a possibility for the public concerned to react (see above) as a result of the right of access to the notification dossier in the environmental impact reporting.

Environmental licences

As indicated earlier, a public consultation is organised for each environmental licence application for a category 1 and 2 hazardous installation. For installations that are subject to the environmental impact or safety reporting obligation, at least one information meeting is also organised on the environmental licence application within the framework of the public consultation. The Board of Mayor and Aldermen may decide to organise an information meeting for other applications as well. Under Art. 17 VLAREM I anyone can submit objections and remarks in writing to the Board of Mayor and Aldermen during the provided period of thirty days. These can also be communicated orally to the Mayor or to a civil servant appointed by him, who will draw up an official report of this to be signed by the party interested.

Planning permissions

As indicated earlier, a public consultation must be organised – under the Flemish Spatial Planning Codex and the Government of Flanders Order of 5 May 2000 – about all applications for planning permissions that are subject to the environmental impact reporting obligation or that are mentioned in the above mentioned Decree. During this period of sixty days, anyone can submit his objections or remarks with regard to the draft in writing to the Board of Mayor and Aldermen.

(h) With respect to paragraph 8

General obligation to state reasons under the Act of 29 July 1981 on the explicit stating of reasons for administrative acts.

Environmental impact reporting

Art. 4.1.7. DABM contains a specific obligation to state reasons on the basis of which the decision-making on projects, plans or programmes should take into account the results of the environmental impact reports drawn up to this end.

It shall state reasons for any decisions on the intended action, in particular with respect to the following aspects:

1. The choice of the intended action, a certain alternative or certain partial alternatives, except when it concerns the environmental safety report;

2. The acceptability of the potential consequences or the consequences to be expected of the chosen alternative for man and environment;

3. The measures proposed in the report(s).

Environmental licences.

Article 17 of the Flemish Parliament Act on Environmental Licences stipulates that reasons must be stated for the decisions regarding environmental licence applications. In addition, Art. 21, §1 of the Flemish Parliament Act on Environmental Licences stipulates that the environmental licence conditions can be modified or supplemented through a decision stating reasons. Article 33 of the Flemish Parliament Act on Environmental Licences states that also within the framework of the supervision and the compulsory measures, reasons must be stated for the measures taken. Finally, Art. 36 of the Flemish Parliament Act on Environmental Licences also stipulates that an environmental licence can only be suspended through a decision for which reasons are stated.
Apart from the Flemish Parliament Act on Environmental Licences, VLAREM I also imposes specific rules for stating reasons. With regard to the decisions in the framework of an environmental licence application, we can find this in Art. 35 and Art. 36 of VLAREM I. A similar regulation is laid down in Art. 30 of VLAREM I (on ignoring advisory opinions and taking the final decision respectively) and Art. 47 of VLAREM I (which provides for the complete or partial suspension of an environmental licence).

The appeal decision as well contains a decision, for which reasons have been stated, regarding the objections and claims made by the appellants (Vlarem I Art. 50, 3°, b and 52, 3°, b)

Planning permissions

It can be derived from Art. 4.7.16, § 2 and 4.7.17 of the Flemish Spatial Planning Codex that the decision on the permission application must be substantiated within the framework of the spatial planning procedure as well.

Practical measures

The environmental licence procedure contains the obligation for the Mayor to compile a dossier at the end of the public consultation to which he must append, apart from a report of the information meeting (Art.18 VLAREM I) an official report describing the objections and remarks that have been submitted both in writing and orally during the public consultation (Art.19, § 3 VLAREM I).

It has been decided for the planning permission procedure that the local spatial planning official is to complement the application dossier with the official report of the public consultation. This official report contains the starting and closing dates, as well as an inventory of the objections submitted in writing and orally during the public consultation. In addition, the local spatial planning official draws up a report, as part of the dossier, formulating a proposal of reply to the notices of objection that were submitted (Art. 4.7.17 of the Flemish Spatial Planning Codex).

(i) With respect to paragraph 9

Environmental licences

With regard to the environmental licensing procedures, it has been laid down in Article 35, 5° VLAREM I and Art.36, 5° VLAREM I respectively that the final decision must be made known to the public through posting within ten calendar days from the date of the decision by the Board of Mayor and Aldermen, or from the date of receipt of the decision by the provincial executive. Both Articles refer to Chapter IX of VLAREM I. This includes, among other things, Art. 31 which describes what information must be made publicly known. Thus, not only the decision taken must be made known, but also the name of the service of the municipal authority where the decision is open to public inspection and where an oral explanation can also be asked. This notification is also provided for the appeal procedure in the framework of an environmental licence application (Art. 50 and 52 VLAREM I).

Planning permissions

Within a formal time-limit of ten days after taking the decision (expiry: 75 or 150 days), the Board of Mayor and Aldermen sends the decision on the application by secure mail to the applicant (Art. 4.7.19, § 1 of the Flemish Spatial Planning Codex). After that, the applicant is responsible for displaying this decision at once on the premises to which the application relates (Art. 4.7.19, § 2 of the Flemish Spatial Planning Codex). This posting is also provided for the appeal procedure (Art. 4.7.23, § 4 of the Flemish Spatial Planning Codex). In this case, however, the decision of the executive is sent by secure mail to the applicant within a formal time-limit of ten days (expiry: 75 or 150 days) (Art. 4.7.23 of the Flemish Spatial Planning Codex). This notification obligation is also applicable if the authority fails to take a decision and the appeal is considered to be rejected (tacit refusal).

(j) With respect to paragraph 10

Environmental licences A modification of or addition to the licensing conditions is laid down in the regulations regarding environmental licences (Art. 21 Flemish Parliament Act on Environmental Licences, Art. 45 VLAREM I). Reasons must be stated for such a decision and the decision must be taken by the authority that is competent in first
instance. This decision can be taken officially or at the request of the advisory government bodies, of the operator or of the people who may experience nuisance from it.

Planning permissions

The Flemish Spatial Planning Codex does not provide for the opportunity to reconsider or adjust the conditions for the implementation of an activity after the planning permission has been granted.

(k) With respect to paragraph 11

No longer applicable due to the Almaty amendment.

XVI. Obstacles encountered in the implementation of article 6

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

Answer:

(e) With respect to paragraph 5

Currently, the Flemish environmental legislation does not contain an overall regulation with regard to the encouragement of the contact between potential applicants and the public concerned. Taking into account the fact that in the Flemish Region the participation procedure is led by the authorities instead of the applicant himself, the question could be raised whether an implementation is either desirable or necessary. Although it can hardly be disputed that this work method has many advantages, it cannot be denied that, once it has been formalised, it will not simplify the procedure. Moreover, the added value seems to be rather limited compared to the current work method used in the Flemish Region.

XVII. Further information on the practical application of the provisions of article 6

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:

National defence is a federal competence.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

http://www.lne.be/milieuvergunningen

http://navigator.emis.vito.be/

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

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, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

I. APPLICABLE REGULATIONS WITH REGARD TO PARTICIPATION IN PLANS AND PROGRAMMES

The Flemish environmental policy contains a wide range of plans and programmes relating to the environment.
First of all, there is the co-ordinating environmental policy plan which is laid down by the Flemish Government and normally runs five years. Each year, an annual environmental programme is appended to this which is linked to the annual budget cycle and is also submitted for advice to SERV and the Mina- Council. A five-yearly environmental policy plan can also be drawn up at the local level of provinces, cities and municipalities. The legal basis for this is the Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy (DABM).

Next to this, there are more detailed plans and programmes at sectoral, compartmental or thematical level. The plans laid down by Flemish Parliament Act are, among other things:

- The prevention plans and the sectoral implementation plans resulting from the Flemish Parliament Act of 23 December 2011 on the sustainable management of material cycles and waste, (B.S., 28.02.2012)

- The nature policy plan and the nature attainment plans resulting from the Flemish Parliament Act of 21 October 1997 on nature conservation and the natural environment, (B.S., 10.01.1998);


Apart from these instruments there also exists a wide range of regional plans and programmes, such as emission reduction plans, decontamination plans, ... For any of these instruments the government seeks the participation of at least the target groups and other actors that are directly involved.

Title 4 of the DABM (environmental impact reporting – Art. 4.2.4) also contains a possibility to participate in the notification stage of a strategic environmental impact reporting (strategic EIR). This (indirect) execution of the Aarhus requirement has – theoretically speaking – a larger scope because the strategic EIR is also aimed at plans and programmes other than those relating to the environment. The field of application of the strategic EIR has been delimited by a decree of 27 April 2007.

II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Art. 4 of the Aarhus Convention.

The Flemish government maintains an extensive advisory and consultative network which is systematically involved in policy developments and through which the voice of a considerable number of stakeholders is heard. The regulation provides an adequate and balanced composition of the advisory and consultative bodies. When a plan, programme or policy development has been made subject of a public consultation, there are no restrictions with regard to the ‘public’ which is authorised to participate. Therefore, a formal ‘indication’ of such a public is unnecessary.

III. APPLICATION OF NON-DISCRIMINATION REQUIREMENT

See earlier comments to Art. 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 7 OF THE AARHUS CONVENTION

The afore-mentioned plans and programmes that have been laid down by Flemish Parliament Act contain detailed provisions with regard to participation. By way of example regarding the provisions on participation, detailed information is given on the plans within the framework of the integrated water policy at the end of this section.

For the sectoral implementation plans regarding waste policy there exists a strongly established practice of involving other authorities and actors (mainly sectors involved in the waste chain, but other organisations as well).

Directive 2003/35/EC of the European Parliament and of the Council has encouraged the Flemish government to screen the participation provisions of the various plans and programmes with an eye to improving them. The operation of implementation-oriented plans, programmes and some projects often provides for the establishment of an advisory body where the terms for implementation can be discussed between the government and the different stake holding
sectors. During the reorganisation of the Flemish public administration, a limited screening has taken place of the operation of these bodies with a view to further optimising them.

Regional environmental planning

When drawing up the regional environmental policy plan, the possibility has been provided for the public to participate (Art. 2.1.9 DABM). After a few intermediate stages, the draft plan is made available for public inspection in the municipalities for sixty days. During this period anyone can submit written remarks to the Board of Mayor and Aldermen. In addition at least one information and participation meeting is organised during this period per province. In this way, reasonable periods are provided which, in addition, take place at a sufficiently early stage in the procedure, thus leaving all options open. The Flemish Government informs the population about this through publications in the press and through communications on radio and television (Art. 2.1.9 DABM). Consequently, all this takes place in an open and honest framework, as anyone who wishes so, can be informed of what is going on.

The Flemish Government receives the necessary remarks and advisory opinions and lays down the plan by a Decree for which reasons are stated. For the second draft the administration draws up a ‘consideration document’ explaining how the remarks of the people who participated were taken into account. This information is also sent to the Flemish Government when the plan enters the final stage of the political decision-making process (Art. 2.1.10 DABM). The plan is published both on paper and electronically. In addition the plan is announced by extract in the Belgian Official Gazette and it is made available for public inspection at the offices of the provincial and municipal authorities (Art.2.1.10 DABM).

Spatial planning

Spatial planning in Flanders is conducted in two tiered planning levels: the structure planning and the spatial implementation planning. These two planning levels are conducted at the three levels of governance: regional, provincial and municipal, each within their own scope of competence. The structure planning sets out a spatial vision with just a few binding provisions, whereas the spatial implementation planning is an instrument that has the binding force of a Decree, in amongst other things serving as the framework for the planning permissions. Both planning levels, spatial structure planning and spatial implementation planning, involve similar forms of participation, as seen in the area of environmental planning, whereby the draft spatial plan is subjected to public consultation before it is established to final effect.

Moreover, the spatial implementation planning is subject to the environmental impact reports for plans and programmes at regional, provincial as well as municipal level, in amongst other things because spatial implementation plans constitute the framework for the permission to be awarded. As such, spatial implementation plans (at all three levels of governance) are screened in order to establish if they involve a risk of significant impacts on man and the natural environment (including whether or not they have impacts on the designated European birds and habitat areas and the targets set out in this respect). If this is the case, an environmental impact report is prepared and the wider public is involved in the planning process from the very early stages of the plan preparations, so as to determine which aspects are to be included in the environmental impact report.

Integrated water policy.

The Flemish Parliament Act of 18 July 2003 on Integrated Water Policy (amended by the Flemish Parliament Act of 19 July 2013 attaches much importance to citizen participation in the water policy to be conducted. This reveals itself in two ways. First of all, Art. 6, 8° of the Flemish Parliament Act on Integrated Water Policy – and this is a first in Flemish environmental regulations – explicitly raises the so-called participation principle to an environmental principle. On the basis of this principle, all Flemish public administrations, services and agencies carrying responsibility with regard to integrated water policy must allow the citizens to participate – at an early stage, in time and in an efficient way – in the preparation, definition, implementation, follow-up and evaluation of the integrated water policy. It is important to mention in this respect that on the one hand the participation principle originates from and refers to the Aarhus Convention (see the Explanatory Memorandum to the draft Flemish Parliament Act on Integrated Water Policy, Parl. St., Flemish Parliament, 2002-2003, no. 1730/1, page 21), and that it contains on the other hand an imperative obligation for all bodies to actively involve the citizens, not only in the preparation and
definition of the integrated water policy (through water management planning), but also in the concrete implementation thereof in the field.

Secondly, the Flemish Parliament Act on Integrated Water Policy develops a participation arrangement at each level of the water management planning (at the level of catchment basin and basin).

(1) Consultation of the population and of the social target groups

The measures regarding information and consultation of the public imposed by the Flemish Parliament Act on Integrated Water Policy are partially based on the procedure laid down by the Flemish Parliament Act containing general provisions regarding environmental policy for the regional environmental policy plan. In order to allow the public to be consulted and participate actively, the draft water management plans and a number of preparatory documents must be available for public inspection during six months at the offices of the municipal authorities. During this period anyone can submit written remarks to the local authority with regard to the documents available for public inspection (Art. 37, § 2 Remarks can also be directly submitted digitally to the Coordination Committee for Integrated Water Policy. At the same time, the authorities that drew up the draft plans present these drafts to a number of institutional social target groups (Mina-Council, SERV, Strategic Advisory Council for Agriculture and Fisheries and the basin councils) for advice. These are given ample time (six months) to study these drafts and give advice on them (Art. 37, § 3). The provisions regarding the announcement of the public consultation (such as the way in which the public consultation is announced, the content of this announcement, the organisation of information meetings) were deleted in the amended Flemish Parliament Act. This makes it possible to make the announcement in a more flexible manner that is customised to the target groups, in amongst other ways by way of digital media.

In this context the Explanatory Memorandum to the amended Flemish Parliament Act reads as follows: “Naturally, this announcement will be done both in time and in an efficient manner in keeping with the participation principle from Article 6,8° of the Flemish Parliament Act.”

However important citizen participation is, it is best to avoid an excessive inquiry of the population and interest groups. The original Flemish Parliament Act already aimed as much as possible at linking the formal procedures for public inspection of and participation in catchment basin management plans, flood risk control plans and those of the basin management plans in time. The flood risk control plans are an integral part of the catchment basin management plans. The amended Flemish Parliament goes even further in this respect. The basin and sub-basin management plans are integrated into the catchment basin management plans as basin-specific parts. Consequently, the water management plans are presented for public consultation at the same time at all levels. The participation procedures are also clustered to a maximum extent in the preparatory documents for the water policy memorandum.

(2) Procedure after the public consultation has ended

After the public consultation has ended, the authorities forward all written remarks which they received to the authorities responsible for drawing up the water management plans (namely the Co-ordination Commission on Integrated Water Policy, basin secretariats). These authorities examine all remarks and advisory opinions they receive, harmonise the various water management plans, and draw up a final draft plan which they submit to the Flemish Government for approval. After completing the final draft of the water management plan, the Flemish government informs all authorities concerned of this (municipalities, provinces …). Finally, the approved water management plans are published by extract in the Belgian Official Gazette and they are made available digitally by the Coordination Committee for Integrated Water Policy.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:
The environmental policy plan, the water policy memorandum, and the sectoral waste plans are examples of instruments that are referred to as a “plan”, but that hold an overall policy vision covering several years. In that sense these examples could just as well be regarded as “policy”(instruments).

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

1. The description “relating to the environment” does not ensure a sufficient or sound definition of the type of “plans and programmes” to which the provisions of the Convention apply. That is why the Flemish Government has opted to consider the whole of participation regulations of the plans and programmes coming under the Environment and Nature policy area in the light of the Aarhus Convention. In a first stage it has been found that there are many participation regulations, but that only a few of them have been the object of policy evaluation research. As a result, it cannot be assessed with certainty for each regulation whether or not it is sufficiently effective and efficient.

In order to increase the basis for and quality of plans, the public and private actors concerned are starting to co-operate more and more with other actors involved. It indeed seems generally more difficult to organise participation successfully when:

- participation takes place at a late stage (when the citizen has the impression that everything has already been decided anyway);
- there is a huge ‘mental’ distance between the actors (for instance, higher authority with individual citizen).

In the case of strongly implementation-oriented “plans and programmes” various forms of ‘interactive policy’ are – in addition to formal regulations – increasingly experimented with. This is due to the fact that sometimes regulatory provided participation provisions are insufficient to reach local citizens and other parties involved to a sufficient extent in the field, for instance in the case of a development project.

2. The following remarks are made about the participation regulation in the Flemish Parliament Act on Integrated Water Policy.

At legal level, it is unclear how the Flemish Government will deal with the formulated remarks or objections. The Flemish Parliament Act on Integrated Water Policy does not give any ruling on this matter. From past public consultations on the first generation of water management plans (for the basin and sub-basin management plans of 22 November 2006 to 22 May 2007, for the catchment basin management plans of 16 December 2008 up to and including 15 June 2009), it appears that:

- it is difficult to reach the citizen and motivate him to use his right to participation;
- the planning of an integrated water policy with various planning levels and planning cycles was a complex issue for the citizen;
- the Flemish Parliament on Integrated Water Policy provisions on the practical organisation of the public consultation and public inspection were insufficiently linked to the possibilities of modern communication technology.

These conclusions were also considered in the amendments to the Flemish Parliament Act through the amended Flemish Parliament Act on Integrated Water Policy of 19 July 2013. The possibility was provided, among other things, to also reply digitally and the planning cycle was telescoped so that, from now on, the water management plans at the different levels are presented together. As part of the public participation in respect of the second generation water management plans, extensive use was made of this digital participation avenue.
XXII. Further information on the practical application of the provisions of article 7

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Answer:

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

www.milieubeleidsplan.be

www.integraalwaterbeleid.be/nl/stroomgebiedbeheerplannen

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to 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, pursuant to article 8. 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:

I. APPLICABLE REGULATION WITH REGARD TO PARTICIPATION IN DRAFT REGULATIONS

The most important regulations with regard to participation in draft regulation by the advisory system is laid down in the following Flemish Parliament Acts:


II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Art. 4 of the Aarhus Convention.

III. APPLICATION OF NON-DISCRIMINATION REQUIREMENT

See earlier comments to Art. 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 8 OF THE AARHUS CONVENTION

Consultations on draft regulations mainly take place through the organised advisory system of the Flemish Parliament and the Flemish Government. Draft Flemish Parliament Acts and Decrees are submitted for advice to the MiNaCouncil, the SERV, and SARO: Strategic Advisory Council Spatial Planning. These are mainly composed of social groups and experts (for instance from the academic world). The individual citizen is not directly involved in this. However, if important issues are being addressed, the advisory councils make efforts to gain information – to support their advice – about what is going outside their own environment, for instance by organising hearings.
In its intention to conduct regulatory management, the Flemish Government has decided to set up a system of ‘regulatory impact analysis’ (RIA), together with a ‘regulatory agenda’ indicating draft regulations. The idea is to have external consultations on policy intentions regarding regulations take place more systematically and more easily.

There exists a similar regulation at provincial and municipal level: participation is only possible through the provincial or municipal advisory councils for environment and nature respectively and through the provincial or municipal commissions for spatial planning respectively during the preparation of implementing regulations and/or generally applicable legally binding normative instruments.

Apart from giving advice, consultations are often also held between the environmental authorities and target groups. The former project ‘target group policy’ has now become a permanent task of the LNE Department and optimises the involvement of industry, agriculture and consumers in the policy.

Both the Flemish authorities and the LNE Department have implemented good practices of effective participation of target groups and citizens, inter alia the updated Sigma Plan through a cross-policy area steering group, a sounding board group of target groups, various thematic working groups involving target groups and hearings for citizens. Another example is participation of all target groups and administrations concerned and consultation with local authorities and citizens regarding conservation targets (conservation targets are targets for conservation of natural living areas and habitats of populations of wild animal and plant species).

So as to lend shape to the policy aimed at counteracting food wastage, close cooperation and consultation is maintained with the entire food industry and consumer organisations. This co-operation is concretised in a food wastage chain road map for the 2015-2020 time frame.

Specific instruments of environmental regulations contain an explicit system of participation and involvement, such as for instance the Flemish Parliament Act of 15 June 1994 on environmental policy agreements, B.S., 08.07.1994. This system guarantees that environmental policy agreements are also subject to different external tests.

XXV. Obstacles encountered in the implementation of article 8

Describe any obstacles encountered in the implementation of article 8.

Answer:

XXVI. Further information on the practical application of the provisions of article 8

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

Answer:

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

Bosnia and Herzegovina

XV Legislative, regulatory and other measures for implementation of the provisions on public participation in decision-making on specific matters, as specified in Article 6

Relevant definitions specified under Article 2 and conditions of non-discrimination specified under Article 3(9) are listed in the response on the subject of Article 4.

The following regulations are of relevance to this Chapter:

- LoW FBiH,
- LoW RS,
BiH HROI suggested that proactive transparency was needed, adding that public authorities should look into all options at their disposal that could enable them to disseminate information to the highest number of persons possible. In addition, the process of public consultations should be interpreted in the broadest sense possible, including in the context of openness to public, interested parties and parties to the proceedings.

In particular, describe the following:

(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 allow proposed activities listed in Annex I to the Convention

- Law on Protection of Environment of FBiH (Official Gazette of FBiH, 33/03 and 38/09) (LoPE FBiH),
- Law on Protection of Environment of RS (Official Gazette of RS, 71/12 and 79/15) (LoPE RS),
- Law on Protection of Environment of BD (Official Gazette of BD, 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
- Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of FBiH: 19/04),

Operation upon Issuance of the Environmental Permit (Official Gazette of FBiH: 19/04),

- Rulebook on Projects Requiring Environmental Impact Assessment and Criteria to Determine the Implementation and Scope of Environmental Impact Assessment (Official Gazette of RS: 124/12),
- Rulebook on Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of RS: 124/12),
- Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of BD: No 30/06),

Decree on Public Participation in Water Management (Official Gazette of RS: 35/07).

Under the provisions of national regulations, two procedures are in place for the purpose of approval of activities listed in Annex I of Aarhus Convention, specifically: environmental impact assessment and issuance of environmental
permit. During the course of both procedures, relevant provisions of LoPE of FBiH/RS/BD apply, in addition to subsequent application of the applicable provisions of LoAP FBiH/RS/BD. The requirement pertinent to public participation in decision-making is mandated under the provisions of Article 36 of LoPE FBiH, Article 39 of LoPE RS and Article 35 of LoPE RS. The activities specified in Annex I of Aarhus Convention are also specified in the facilities and machinery rulebooks in effect in FBiH, RS and BD.

The activities specified in Annex I of Aarhus Convention are also specified in the facilities and machinery rulebooks in effect in Posavina Canton and approval for their implementation is issued by the relevant cantonal Ministry of Posavina canton, which is also responsible for the procedure of issuance of environmental permits.

The cantonal ministry is responsible for issuance of environmental permits for the facilities that do not meet the criteria mandated in the Facilities and Machinery Rulebook of FBiH and the activities that are not specified in it. The Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of FBiH: 14/13), is in effect in Zenica-Doboj Canton. The Rulebook specifies facilities and machinery, as well as activities and interventions that do not require environmental impact assessment, in addition to specifying the facilities and machinery below the threshold determined under the FBiH Rulebook. Given the fact that cantons issue environmental permits for smaller facilities and machinery that do not require environmental impact assessment, the public does not have a particular interest in the procedure of issuance of environmental permits, although, in accordance with the applicable regulations, it may participate in decision-making, as specified therein.

(ii) The provisions of Article 6 applicable to decisions on proposed activities not listed in Annex I, which may have significant impact on the environment

With regard to some activities, the criteria contained in the regulations specified above have been lowered in comparison with those specified under the provisions of Annex I of the Convention. Furthermore, Cantons and units of local self-government in the FBiH and the RS are responsible for issuance of environmental permits for the activities not specified under the provisions of the by-laws listed above.

In the RS there has been no cases of issuance of environmental permits for facilities not listed in Annex I of the Convention.

In accordance with the regulations in effect, the public may participate in decision-making in this area, as specified under the provisions of those regulations.

In the opinion of the FMET, the best course of action with regard to the implementation of the provisions of Article 6 pertinent to decisions on the proposed activities outside the scope of Annex I which could have substantial impact on the environment, is to encourage units of local self-government to inform the public of those activities by broadcasting announcements on local radio or TV stations, engaging with NGOs operating on their territory, engaging with local residents and undertaking other activities, as deemed necessary, in accordance with the provisions of regulations and plans currently in effect.

b) Measures taken to ensure that the public concerned is informed early on of any environmental decision-making procedures pertinent to the matters referred to in Paragraph 2, in adequate, timely and effective manner

Law on Protection of Environment of FBiH (Official Gazette of FBiH, 33/03 and 38/09) (LoPE FBiH),

律 Law on Protection of Environment of RS (Official Gazette of RS, 71/12 and 79/15) (LoPE RS),

律 Law on Protection of Environment of BD (Official Gazette of BD, 24/04, 1/05, 19/07 and 9/09) (LoPE BD),

律 Law on Concessions of BiH (Official Gazette of: 32/02, 56/04) (LoC BiH),
Law on Concessions of FBiH (Official Gazette of FBiH: 40/02, 61/06) (LoC FBiH),

Law on Waters of FBiH (Official Gazette of FBiH, 70/06) (LoW FBiH),

Law on Waters of RS (Official Gazette of RS, 50/06, 92/09, 121/12 and 74/17) (LoW RS),

Law on Protection of Waters of BD (Official Gazette of BD: 25/04, 1/05, 19/07) (LoPW BD),

Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits (Official Gazette of FBiH: 6/08, 57/09, 72/09, 68/12),

Decree on Public Participation in Water Management (Official Gazette of RS: 35/07),

Law on Air Protection of FBiH (Official Gazette of FBiH: 33/03, 4/10) (LoAP FBiH),

Law on Air Protection of BD (Official Gazette of BD: 25/04, 1/05, 19/07, 9/09) (LoAP BD). Of relevance are the provisions of Article 36 of LoPE FBiH, Article 39 of LoPE RS and Article 35 of LoPE BD, which stipulate that upon initiation of the administrative procedure, the public would be informed of the proposed activities, bodies responsible for decision-making and course of the proceedings pertinent to public participation, time and place of public discussion, bodies responsible for provision of information as well as bodies responsible for answering to comments and questions. Of importance are also the provisions of articles 61, 62 and 63 of LoPE FBiH, articles 56, 69-71, 88 and 89 of LoPE RS and articles 59 and 66 of LoPE BD. It is also important to note the provisions of articles 10 and 29 of LoPE FBiH, Article 12 of LoPE RS and articles 10 and 29 of LoPE BD.

In addition to the applicable provisions of laws on protection of the environment, this issue is regulated by other laws as well. In that regard, of relevance are the applicable provisions of Article 15 of LoC BiH, Article 19 of LoC FBiH, articles 38, 124 and 126 of LoW FBiH, articles 29 and 130 of LoW RS, Article 15 of LoW BD, as well as the provisions of articles 8, 9 and 10 of the Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits of FBiH, and articles 4, 14 and 15 of the Decree on Public Participation in Water Management of the RS. Furthermore, public participation is also regulated under the provisions of Article 1(3) of LoAP FBiH and articles 2 and 3 of LoAP BD, although it is not specified that the public should be informed early on of the process of environmental decision-making in appropriate, timely and efficient manner.

According to the FMET, in line with the provisions of Article 61 of LoPE FBiH, the request for environmental impact assessment is submitted to the relevant ministry. Such request should be accompanied by:

- Project description specifying location, purpose and size of the facility and machinery,
- Description of measures planned to be taken to prevent, decrease or, if possible, remedy substantial negative impact on the environment,
- Data necessary for identification and assessment of basic forms of impact on the environment,
- Description of possible alternatives and the selected alternative,
- Excerpt from the planning document for the subject area,
- Non-technical description.

The relevant ministry presents the request with accompanying documentation to the relevant bodies and other interested parties for comments and suggestions. The deadline for submission of comments and suggestions is 30 days of the date of receipt of the request.

In the process of development and adoption of necessary regulations of relevance to environment protection, the FEF closely cooperates with the FMET, as well as with other ministries in the FBiH Government. Promotion of public participation in the law-making process is outside the scope of competence of the FEF.
In the RS, under the provisions of Article 64 of LoPE RS, the procedure of environmental impact assessment is initiated upon submission of the request.

The following documents should be enclosed with the request for environmental impact assessment:

a) Project description specifying location, purpose and size of the facility,

b) Description of possible impact on the environment during the course of construction, operation or exploitation,

c) Description of measures planned to be taken to prevent, decrease or, if possible, remedy substantial negative impact on the environment,

d) Brief description of alternatives considered by the project holder and reasons for selection of the most suitable alternative, from the perspective of impact on the environment,

e) Excerpt from the planning document,

f) Information on possible difficulties encountered by the project holder during the course of collection of information,

g) Non-technical description of information specified in Paragraph 2 of this Article.

Descriptions are provided using technical language, and should include narrative, numerical and visual data, while the non-technical description is provided using non-technical language, suitable for the purpose of informing the relevant bodies, organisations and the public.

c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of Paragraph 3

In the FBiH, the public is informed of an upcoming public discussion 15 days prior to the date of the public discussion, which enables the public to submit suggestions and comments to the relevant Ministry within 30 days of the announcement of the public discussion (articles 61 and 62 of LoPE FBiH). In the RS (Article 69, Paragraph (3) and Article 88 of LoPE RS) and BD (Article 66 of LoPE BD), members of the public may submit their opinion on the request for issuance of the environmental permit within 30 days of publication of the notification. In the RS, the project holder is required to notify the concerned public of the request for approval of environmental impact assessment within 15 days of submission of the request, by posting the announcement in one of daily newspapers in circulation in the RS available on the territory of the local community in which the project is to be implemented.

In the FBiH, the period for completion of the procedure of issuance of water permits cannot be less than 5 or more than 30 days from the day the information on submission of the request was released, in accordance with Article 9 of the Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits of FBiH. In the RS, this period cannot exceed 30 days, as specified under the provisions of Article 131 of LoW of RS.

In line with the provisions of Article 58 of LoPE FBiH, FMET presents the request specified under the provisions of Paragraph 1 of this Article with the accompanying documentation to the relevant bodies and interested parties for comments and suggestions. Deadline for submission of comments and suggestions is 30 days of the date of receipt of the request. The applicant and other relevant parties shall be informed of the outcome of the environmental impact assessment. In accordance with the provisions of Article 61 of LoPE FBiH, the FMET informs the public of the initiation of the procedure of environmental impact assessment by posting announcements in newspapers in circulation in the FBiH and invites the public to take part in the public discussion. Comments and suggestions received from the public are to be presented to the relevant ministry within 30 days of the date of publication of the announcement. In accordance with the provisions of Article 61 of LoPE FBiH, the FMET organises public discussion on the project, at the location in closest proximity to the project location. The public is to be informed of the upcoming discussion at least 15 days prior to the date of the discussion. The relevant ministry prepares minutes of the public discussion within three days of the date of the discussion.

d) With respect to Paragraph 4, measures taken to ensure that there is early public participation
In accordance with regulations on public participation in the process of issuance of environment permits and water legal acts, the public is informed and invited to express opinions and make comments before decisions are made by the relevant bodies.

In line with the provisions of LoW FBiH, with reference to development of water management plans, legal entities and individuals may present their written comments to the draft water management plan within six months of its publication. These provisions ensure early public participation. LoW of BD mandates that the public is to be informed of commencement of development of individual plans at least three years prior to commencement of the period covered under those plans, which ensures public participation in the process of development and adoption of the relevant plans. LoW FBiH includes similar provisions to this effect.

Immediately upon submission of the request, the FMET initiates early public participation, in line with the provisions of Article 58 of LoPE FBiH.

In the RS, the provisions of Article 80 and Article 90, paragraphs 4 and 5 describe the manner in which the public is informed of the request for issuance of environmental permit and subsequent issuance of the permit.

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

Law on Protection of Environment of FBiH (Official Gazette of FBiH, 33/03 and 38/09) (LoPE FBiH),

- Law on Protection of Environment of BD (Official Gazette of BD, 24/04, 1/05, 19/07 and 9/09) (LoPE BD),

In line with the provisions of Article 36 of LoPE FBiH and Article 35 of LoPE BD, the relevant body shall request that the applicant encourages the public concerned to participate in discussions prior to submission of the request for issuance of the environmental permit.

f) With respect to Paragraph 6, measures taken to ensure that:

(i) The relevant bodies allow access of the public concerned to all information of importance to decision-making available at the time of the proceedings which include public participation, as stipulated under Article 6,

(ii) The relevant bodies ensure access of the public concerned to information specified under this Paragraph.

- Law on Protection of Environment of FBiH (Official Gazette of FBiH, 33/03 and 38/09) (LoPE FBiH),

- Law on Protection of Environment of RS (Official Gazette of RS, 71/12 and 79/15) (LoPE RS),

- Law on Protection of Environment of BD (Official Gazette of BD, 24/04, 1/05, 19/07 and 9/09) (LoPE BD),

- Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits (Official Gazette of FBiH: 6/08, 57/09, 72/09, 68/12),

- Decree on Public Participation in Water Management (Official Gazette of RS: 35/07).

The information on allowing access of the public concerned is integrated in the provisions of Article 37 of LoPE FBiH, Article 69, Paragraph 4 of LoPE RS and Article 36 of LoPE BD.

With reference to the procedure of issuance of water permits, of relevance are the provisions of Article 9 of the Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits of FBiH. In the RS of relevance in these matters are the provisions of Article 15 of the Decree on Public Participation in Water Management of RS.

In the RS, the announcement must include the following information:

a) Basic information on the request,
b) Summary of the request with conclusion of impact assessment,

c) Time and location where the public will be able to examine the request and impact assessment documents, free of charge,

d) Planned time and location of public discussion on the subject of impact assessment,

e) Deadline for submission of written comments on the request and impact assessment,

f) Address for submission of written comments referred to under item d) above, and

g) Information about the project with possible impact on the environment of other entity or Brčko District.

The Ministry posts announcements of upcoming public discussions and outcome of impact assessment on its website, upon publication of the announcement in one of daily newspapers. These announcements are to remain posted on the website until expiry of the deadline for submissions of comments and suggestions specified under the provisions of Article 70, Paragraph 5 of this Law.

The project holder shall be required to allow the public concerned the opportunity to examine the request for impact assessment and the impact assessment, free of charge, in the premises of the unit of local self-government in which the project is located, from the date of publication of the announcement until expiry of the deadline for submission of comments and suggestions.

The project holder shall be required to organise a public discussion in the premises of the unit of local self-government in which the project is located, within no more than 60 days of the date of submission of the request for approval of environmental impact assessment to the Ministry.

Public discussion shall be announced at least 15 days prior to the scheduled date of the public discussion.

Over the past several years, the Ministry of Justice of BiH invested substantial efforts to improve transparency, cooperation and openness of its operations to citizens and CSOs. These efforts resulted in the establishment of “e-Konsultacije” (e-Consultations) web platform, developed with expert support provided within the project under the title: “Capacity Building of Public Administration to Facilitate Dialogue with Civil Society”. The platform became operational in March of 2016. It enables interested citizens and representatives of CSOs to get full and accurate information online on the process of adoption of certain regulations and establishes a reliable channel of communication for their participation in policy-making. With the establishment of web platform referred to above, participation in the process of consultations became available to the broadest circle of the public concerned. With initiation of the platform, the process of public consultations became centralised at the level of the Council of Ministers of BiH, which made it easier for the citizens to become engaged in public consultations and use the system to access public consultations of all institutions from one central location, rather than having to visit individual websites of each of the institutions involved (as was the case in the past). Ideas, suggestions and additional information collected in this manner, shall be used to enhance the public policies under the scope of competence of institutions of BiH, including the issues of environment protection.

The FMET enables public participation by posting announcements of the upcoming public discussions on its website or enabling the public to examine documents, by posting them on www.fmoit.gov.ba, under the section dedicated to public discussions; by publishing announcements of public discussions in daily newspapers; by submission of documents on CD or in hard copy; and by distribution of decisions to interested bodies and the public concerned.

The FMET enables access to information contained in registers, lists, inventories and files free of charge, by mail upon written request, by email, in website posts (by posting requests / assessments / plans of activities and accompanying documents), or by telephone.

(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

*Law on Protection of Environment of FBiH (Official Gazette of FBiH, 33/03 and 38/09) (LoPE FBiH)*,
Law on Protection of Environment of RS (Official Gazette of RS, 71/12 and 79/15) (LoPE RS),
Law on Protection of Environment of BD (Official Gazette of BD, 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
Law on Waters of FBiH (Official Gazette of FBiH, 70/06) (LoW FBiH),
Law on Waters of RS (Official Gazette of RS, 50/06, 92/09, 121/12 and 74/17) (LoW RS),
Law on Protection of Waters of BD (Official Gazette of BD: 25/04, 1/05, 19/07) (LoPW BD).

Of relevance to this section are the provisions of articles 37, 48 and 61 of LoPE FBiH, articles 15, 40, 55, 66 and 69 of LoPE RS and articles 35, 36, 58, 59 and 60 of LoPE BD, which mandate that the public concerned may submit in writing any comments, information, analyses or opinions deemed important to the given activity.

In FBiH, of relevance to this area are the provisions of Article 24 (6) of LoW FBiH, which mandate that legal entities and individuals may submit written comments to water management plans to the relevant river basin agency, within six months of its publication. Also relevant are the provisions of Article 24 (5) which mandate that comments and suggestions to draft water management strategy may be submitted within three months of the date of receipt of the draft. Article 26 (e) of LoW of RS describes the process of dissemination of information to the public and outlines consultative measures and changes to plans that resulted from such measures. Article 15 (5) of LoW of BD mandates that written comments to draft plans should be submitted by the public within six months of publication of such plans.

Public participation procedures implemented by the FMET, which enable the public to present comments, information, analyses or opinions of importance to proposed activities, include public announcements:

- enabling the public to view the relevant documentation in the premises of the Ministry, and
- public announcements of upcoming public discussions, to be made 15 days ahead of the discussion focusing on presentation of environmental impact assessments, with period after discussion for submission of comments, suggestions and opinions of relevance to the presented material.

In both the RS and the FBiH, any publication of information and documents with the view of enabling public participation, shall include details of time frames and addresses for submission of comments, suggestions and opinions.

Public participation procedures implemented in the RS, which enable the public to present its comments, include:

- Viewing of the relevant documentation (environmental impact assessment),
- Public discussion,
- Viewing of the relevant documents in the process of issuance of environmental permits.

(h) With respect to Paragraph 8, measures taken to ensure that decision duly reflects the outcome of the public participation

- Law on Protection of Environment of FBiH (Official Gazette of FBiH, 33/03 and 38/09) (LoPE FBiH),
- Law on Protection of Environment of RS (Official Gazette of RS, 71/12 and 79/15) (LoPE RS),
- Law on Protection of Environment of BD (Official Gazette of BD, 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
- Decree on Public Participation in Water Management (Official Gazette of RS: 35/07),
- Law on Administrative Procedure of BiH (Official Gazette of BiH: 92/02, 12/04, 88/07, 93/09, 41/13) (ZoAP BiH),
- Law on Administrative Procedure of FBiH (Official Gazette of FBiH: 2/98, 48/99) (LoAP FBiH),
- Law on General Administrative Procedure of RS (Official Gazette of RS, 13/02, 87/07, 50/10) (LoGAP RS).
LoPE FBiH/LoPE RS/BD does not have any provisions stipulating that public suggestions and objections should be taken into consideration before issuing any environmental permits. Article 89, Paragraph 1 of LoPE RS stipulates that the body authorised to issue an environmental permit shall issue a decision concerning the issuance of an environmental permit and concerning its content, on the basis of a request filed by a responsible official, of attached documentation, as well as on the basis of opinions obtained from the local self-government unit and the interested members of the public, no later than 60 days after the receipt of a valid request for issuance of an environmental permit.

Besides, LoPE FBiH/LoPE BD do not contain any obligation to incorporate suggestions and objections of the public in the process of giving approval for the study of environment impact while, as per Article 71 of the LoPE RS, the Ministry in charge is obliged to forward its assessment of received objections from the interested members of the public to the project coordinator, as well as their own standpoint regarding this and, if necessary, to instruct the project coordinator to make some alterations and additions to the study. Finally, in accordance with Article 73 of the LoPE RS, it is noted in the explanation of the study approval decision whether the objections by the interested members of the public were taken into consideration or not. In the RS, the decision concerning a request for water/legal act has to include an explanation, describing all the implemented activities in determining whether the request is well-founded or not, describing the effects and conclusions from consulting the public, in accordance with Article 21(1) of the Regulation on Means of Public Participation in Water Management in the RS.

According to the relevant provisions of the Law which regulate civil procedures, the resolution that establishes a decision has to contain all the evidence, as well as their assessment. This way, obligations from the Convention are fulfilled.

In the FBiH Ministry of Environment and Tourism, it is obligatory for the reasons for the Decision to contain those remarks made by the members of the public which were taken into account.

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;

☐ Law on Protection of Environment of FBiH (“Official Gazette of FBiH”, No 33/03, 38/09) (LoPE FBiH);
☐ Law on Protection of Environment of RS (“Official Gazette of RS”, No 71/12, 79/15) (LoPE RS),
☐ Law on Protection of Environment of BD (“Official Gazette of BD”, No 24/04, 1/05, 19/07, 9/09) (LoPE BD),
☐ Law on Waters of FBiH (“Official Gazette of FBiH”, No 70/06) (LoW FBiH),
☐ Law on Administrative Procedure of BiH (“Official Gazette of BiH”, No 29/02, 12/04, 88/07, 93/09, 41/13) (LoAP BiH);
☐ Law on Administrative Procedure of FBiH (“Official Gazette of FBiH”, No 2/98, 48/99) (LoAP FBiH);
☐ Law on General Administrative Procedure of RS (“Official Gazette of RS", No 13/02, 87/07, 50/10) (LoGAP RS);

According to Article 37 of LoPE FBiH/Article 40 of LoPE RS/Article 36 of LoPE BD, the competent administrative body informs the public about the decision immediately following its adoption. In the RS and BD, the competent administrative body is obliged to publish the text of the decision and the reasons for making the decision. In BD there is an obligation to publish the decision on environment impact study, according to Article 61 of the LoPE BD. Article 126 of the LoW FBiH prescribes an obligation to submit the Water Act to the interested parties and to the public, but only upon their request. In the RS, Article 21(2) of the Regulation on Means of Public Participation in Water Management of RS is also relevant.

The parties involved in civil proceedings must be informed about the decision, which means that the members of the public who provided their comments should be informed about the decision.
Measures taken to ensure that the public is immediately informed about the decision, in accordance with relevant procedures of the FBiH Ministry of Environment and Tourism, shall be implemented by providing the decision to all the interested bodies and to the interested members of the public, and by publishing the decision on the web site of the Ministry.

In accordance with Article 126, Paragraph (4) of LoW and Article 24, Paragraph (1) of the FBiH Rulebook on Content, Form, Conditions, Manner of Issuance and Maintenance of Water Acts, a decision concerning an issued water act shall be published on the web site of ASRBA.

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;

In accordance with Articles 94(3) and 95(3) of LoPE RS, the public is informed about the environmental permit revision. In accordance with Article 5(6) of the Rulebook for Revision Procedures and Renewal of Environmental Permits ("Official Gazette RS", No 28/13) procedure on issuing environmental permits is followed in case there are significant changes in the operating process of the plants. In other cases it is not followed, hence there is a possibility of violation of Article 6(10) of the Convention. The procedure of issuing water/legal act is implemented in cases of altering the water/legal act of the FBiH and of the RS. The correlation between the procedure of extension and of revision of water use permit and of the procedure relating to the participation of public in the process has not been defined.

In the FBiH Ministry of Environment and Tourism, at the time of the change of a decision, provisions of Article 6, Paragraphs 2-9 of the Aarhus Convention also apply, i.e. by changing all that needs to be changed in the decision on the basis of opinions and comments, i.e. on the basis of participation by the interested members of the public.

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.

More information on the measures undertaken with the aim of application of provisions of Article 6 on decisions whether to allow deliberate discharge of genetically modified organisms in environment is contained in the answers to questions related to Article 6 bis.

XVI. Obstacles encountered in the implementation of Article 6 of the Aarhus Convention

Describe any obstacles encountered in the implementation of any of the paragraphs of Article 6.

Although legislation in both Entities provides for public participation, the NGO representatives have repeatedly pointed out the problems they encounter when a project has an impact on the citizens of the other Entity. Thus, according to the representatives of the NGO sector, in some cases in practice, they are not invited to public hearings, or else, public hearings are not held in their vicinity, although consequences are felt in their environment. In RS, the public debate is held on the territory of a local self-government unit in which the project is implemented...This non-existence of a legal obligation to incorporate proposals and objections made by the public when environment impact assessment studies are approved, i.e. this denial of detailed explanations in the decisions taken by governmental institutions does not motivate the public to try to participate actively in these processes.

In the FBiH Ministry of Environment and Tourism, they recognised the difficulty at the local level, in case the local community, i.e. the relevant service in the Municipality on whose territory the intervention is planned, does not cooperate fully on informing the public and on providing for its participation in decision-making.

XVII. Further information on practical application of the provisions of Article 6

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in Article 6, e.g., is there any statistical data or other information available regarding 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.
Detailed information on public participation referring to Article 6 of the Convention does not exist. Also, there is no data concerning the procedures which exclude the public from participation. The FBiH Ministry of Environment and Tourism does not have precise summary of statistical data on the participation of the public.

In individual cases of environment impact assessment in which the public is involved through a public debate, there is information on the number of participants with their data (a list), which is an integral part of the case file and of the minutes of the public debate, and there are minutes of the public debate (with names of people who took part in the discussion) and with proposals.

Participation of the public in environmental matters consists of two key aspects. On the one hand, that is an opportunity for the general public to participate, practically and efficiently, in administrative procedures, which lead to concrete decisions or to the issuance of permits. This aspect primarily refers to urban planning (and to related processes), as well as practically via written comments and public debates. On the other hand, there is an aspect of representatives of the public who are consulted in relevant processes of legislation adoption and of decision-making. In both aspects, regulations are at the Entity level. The Rules of Procedure of the BiH Parliament do not require that the public be consulted in any case, except when there is a specific decision to that effect. On the contrary, Entity parliaments should include public consultations in their regular processes. However, that is often circumvented through urgent procedures. Regarding public participation in the adoption of laws, NGO responses to the questionnaire provided the following results: during 2014-2016 there were only 2 cases of relevant public consultations at the State level, 18 cases at the Entity level, 4 cases at the cantonal level and 6 cases at the municipal level. Of these 30 cases, in 12 cases (40%) it was reported that the majority of general public comments were accepted. The governmental web site eKonsultacije.gov.ba is a best practice example in terms of public participation in the adoption of State-level laws. This platform collects and publishes information on current legislation, but it also provides the public with opportunities to submit ideas and proposals. Unfortunately, its scope is still limited to central institutions where a small number of environmental issues are decided.

Additionally, applicants reported cases of circumventing EIA procedures. This especially refers to building hydroelectric plants on rivers in BiH, which has lately become a very contentious environmental issue. According to the law, only electric plants over 5 MW of installed power require EIA. In order to avoid that, investors have a goal to build a large number of small electric plants whose accumulated capacity exceeds limits, but as an individual plant do not fall under EIA. Even worse, investors sometimes file an application for electric plants under the limitations of installed power, and when they receive the necessary permits, they apply for an increase of installed power. Often, the authorities give approval without a new EIA, relying on previous documentation.

One should note that, in 2009, Bosnia and Herzegovina acceded to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention). Also, Strategic Environmental Assessment Protocol (SEA Protocol) was signed in 2003. The Protocol was ratified. The Decision of the BiH Parliamentary Assembly on Approval of Ratification of SEA Protocol was published in the Official Gazette of BiH – International Agreements, No. 7/2016, dated 29 December 2016. Practice shows that not only are EIA procedures often neglected and/or objections of the public ignored, but also SEA procedures remain weak and rare, and most SEAs are conducted only for the documentation of urban planning.

An analysis of mechanisms of listening to the public was conducted at a local level by CE and it showed that they were, in most cases, in accordance with minimum requirements set by the Aarhus Convention and domestic legislation. The situation is more complicated when it comes to the implementation of EU legislation, such as the Directive concerning integrated pollution prevention and control. Even if in most cases the local administration strives to inform the public through various channels (internet, newspapers, official bulletin boards, etc.), the practical efficiency of such attempts remains low. The official internet addresses of local administrative bodies mostly do not promote information on public debates in an adequate and user-friendly way. Instead, the information is hidden under various subsections.

Even when all the formal requirements of public participation are met, too often the important aspect of public participation is left out, which undermines the comprehensive goal of public participation in environmental decision-making, as defined by the Aarhus Convention.
XVIII. Website addresses relevant to the implementation of Article 6

List relevant website addresses, if any:

The same as referred to in the answer to the same question related to Article 3 of the Convention.

XIX. 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, pursuant to Article 7.

The relevant definitions in Article 2 and the non-discrimination requirement in Article 3, Paragraph 9, were listed in the answer regarding Article 4.

Relevant regulations are as follows:

- Rules of Procedure of the House of Representatives of the FBiH Parliament (“Official Gazette of FBiH”, No 69/07);
- Rules of Procedure of the Republika Srpska National Assembly (“Official Gazette of the Republika Srpska”, No 31/11 and 34/17));
- Law on Protection of Environment of FBiH (“Official Gazette of FBiH”, No 33/03, 38/09) (LoPE FBiH);
- Law on Protection of Environment of RS (“Official Gazette of RS”, No 71/12, 79/15) (LoPE RS);
- Law on Protection of Environment of BD (“Official Gazette of BD”, No 24/04, 1/05, 19/07, 9/09) (LoPE BD)
- Law on Waters of FBiH (“Official Gazette of FBiH”, No 70/06) (LoW FBiH);
- Law on Waters of RS (“Official Gazette of RS”, No 50/06, 92/09, 121/12, 74/17) (LoW RS);
- Law on Protection of Waters of BD (“Official Gazette of BD”, No 25/04, 1/05, 19/07) (LoPW BD);
- Law on Spatial Planning and Land Use of FBiH (“Official Gazette of FBiH”, No 2/06, 72/07, 32/08, 4/10, 13/10, 45/10) (LoSPLU FBiH);
- Law on Spatial Planning and Civil Engineering of RS (“Official Gazette of RS”, No 40/13, 106/15) (LoSPCE RS)
- Law on Spatial Planning and Civil Engineering of BD (“Official Gazette of BD”, No 29/08, 18/17) (LoSPCE BD)
- Law on Protection of Air of FBiH (“Official Gazette of FBiH”, No 33/03, 4/10) (LoPA FBiH);
- Law on Protection of Air of RS (“Official Gazette of RS”, No 124/11, 46/17);
- Law on Protection of Air of BD (“Official Gazette of BD”, No 25/04, 1/05, 19/07, 9/09) (LoPA BD);
- Law on Protection of Nature of FBiH (“Official Gazette of FBiH”, No 33/03, 66/13) (LoPN FBiH);
- Law on Protection of Nature of RS (“Official Gazette of RS”, No 20/14) (LoPN RS);
- Law on Protection of Nature of BD (“Official Gazette of BD”, No 24/04, 01/05, 19/07) (LoPN BD);
- Regulation on Content and Stakeholders of Unified Information System, Methodology of Collection and Processing of Data, and Unified Filing Forms (“Official Gazette of FBiH”, No 33/07)
- Regulation on Means of Public Participation in Water Management (“Official Gazette of RS”, No 35/07)

In accordance with Articles 48 and 49 of LoPE FBiH, proposals of the FBiH and cantonal environmental protection strategies must be available to the public for the purpose of provision of suggestions and comments. Comments shall be provided within three months, but the above-mentioned Articles do not prescribe an obligation to take into account the result of public debate, nor is the public included in the earliest phases of decision-making. In the Brčko District, LoPE does not prescribe the participation of the public at the time of adoption of the strategic plan. LoPE RS, in its
Article 55, prescribes that the body in charge of preparation of the plan and programme provides for public participation in the process of deliberation on the strategic assessment report before sending the report to the Ministry for an opinion, thus including the public in the early phase of decision-making. The body in charge of preparation of the plan and programme is obliged to properly inform the public on the manner and deadlines in which to gain insight into the content of the report and to provide an opinion, as well as on time and place of the public debate, in accordance with the regulation prescribing the process of drafting the plan and programme. The body in charge of preparation of the plan and programme prepares the report on the participation of interested bodies, organisations and members of the public, which contains a statement on all the accepted or unacceptable stances no later than 30 days from the date of the public debate. Article 55 of LoPE RS is fully harmonised with Article 7 of the Aarhus Convention.

Article 25 of LoW FBiH/ Article 26 of LoW RS/Article 14 of LoW BD prescribes that the Water Management Plan contains, among other things, a report covering the results of public participation in the plan drafting process. Also, documents used for the preparation of management plans are made publicly available. The draft plan can be objected to by the natural persons and legal entities. Pursuant to Article 41 of LoW FBiH, public participation is also provided by detailed water management plans and programmes. Article 23 of the LoUP FBiH prescribes an obligation of holding a public debate when drafting urban planning documents. LoSPCE RS was somewhat more detailed in terms of obligation to include the public. Thus, it was envisaged in Article 46 that the urban planning development stakeholder deliberates on comments, opinions and suggestions on the pre-draft and includes the accepted solutions into the draft urban planning document with which the public debate starts. Members of the public are not included into the development of the pre-draft (only the professional community is involved), thus violating the provision of the Aarhus Convention on the involvement of the public from the earliest phases. The deadline for comments is 30 days. Article 37 of LoSPCE BD provides detailed instructions on the involvement of the public regarding the draft urban planning document. This Article is fully harmonised with Article 7 of the Aarhus Convention, since the public shall be included at the earliest stage of decision-making, there is a reasonable deadline for comments and an obligation to take into account the comments of the public.

Relevant are Article 1 of LoPA FBiH/Article 3 of LoPA BD, in accordance with which the public is participating in determining and making plans and programmes for the protection of air. In the RS, this regulation was annulled after a new Law came into effect.

Laws on the protection of nature also foresee the provisions on public participation in decision-making. Articles 4, 6, 146, 15, 200 and 201 are only some of the articles of the LoPN FBiH which prescribe the obligation for public participation in decision-making during the development of regulations and acts on declaring natural preserves, urban planning documents, protected areas management plans and natural preserves utilisation plans, as well as universally applicable and legally binding regulations and documents in the area of environment protection. In the RS, relevant Articles are 14(a) and 33(b) of the LoPN RS.

In accordance with Article 45 of LoPE FBiH, the environmental planning system encompasses the adoption of the following programmatic documents:

- Inter-Entity Plan of Environment Protection;
- FBiH Environment Protection Strategy and Action Plan, and
- Cantonal Plan of Environment Protection.

Pursuant to Article 48 of LoPE, the FBiH Ministry of Environment and Tourism prepares a proposal of the FBiH Environment Protection Strategy. Integral parts of the FBiH Environment Protection Strategy are: the FBiH Water Protection Strategy, the FBiH Nature Protection Strategy, the FBiH Air Protection Strategy, and FBiH Waste Management Strategy. The proposal of the FBiH Environment Protection Strategy is delivered to cantonal ministries and to the Advisory Council to provide their opinions and it also must be available to the public for suggestions and comments. The proposal of the FBiH Environment Protection Strategy is also sent to the Inter-Entity Body for Environment and to the Government of the Republika Srpska to provide their opinions. The comments and suggestions regarding the proposal of the FBiH Environment Protection Strategy shall be delivered no later than three months after the receipt of the proposal. In accordance with provisions of LoSPLU FBiH and with the Directive on the Content and
Stakeholders of a Unified IT System, for the methodology of data collection and processing, and for unified record forms, one needs, among other things, information on threats to the environment (illegal construction, pollution of soil, water, air, etc.), and information on areas in which the danger stemming from consequences of natural and man-made disasters and war-related activities is especially prominent, for the purpose of preparation for the development of plans. The stakeholder of the preparation of the planning document is obliged to provide the document developer with all the available documentation relevant for plan development, and especially with the documentation of the plan of the wider area, water management and forestry resources, environment protection strategy, development plans for economy, agriculture, transport, and information about the geological basis, mineral resources, etc. The stakeholder of the preparation of the planning document is obliged to ensure co-operation and harmonisation of stances with all real estate owners, space users and relevant construction stakeholders, especially with: the relevant administrative bodies, legal persons in charge of water management, forestry, agriculture, transport, energy, mining, tourism, healthcare, education, culture, protection of cultural, historical and natural heritage, protection of environment, defence authorities, the Chamber of Commerce, utilities companies, representatives of religious communities, and to obtain opinions and approvals of relevant bodies and organisations, under the law.

The Draft 2017-2025 Cantonal Environmental Action Plan (CEAP) of the Zenica-Doboj Canton (ZDC) was discussed at the 34th Session of the Zenica-Doboj Canton Assembly, held on 30 November 2016. The Zenica-Doboj Canton Assembly accepted the Draft CEAP and forwarded it to the City of Zenica and to all the municipalities of the Zenica-Doboj Canton for public debate. The project manager and expert teams, in co-operation with the CEAP drafting stakeholder, analysed all the opinions, comments and suggestions to the Draft CEAP ZDC, provided at the session of the ZDC Assembly and during the public debates, on the basis of which they wrote the Report on Action Upon Comments and Suggestions on the Draft 2017-2025 CEAP ZDC.

The Public Consultation Plan in the process of adoption of the 2016-2021 Sava River Basin Water Management Plan was defined primarily on the basis of LoW FBiH. In accordance with that, SRBA, as the stakeholder of the Management Plan development, conducted the following public participation activities:

a. The Draft Plan with auxiliary documents was published on 01 March 2016 at the web site of SRBA (www.voda.ba), inviting all the interested parties to gain direct insight into the proposed Draft Plan and its auxiliary documents, and to provide their comments/suggestions by 01 September 2016;

b. An official letter was sent to key actors/participants to get involved in the Plan development process, primarily by delivering comments on the Draft Plan, and if they are interested, by setting up a link to the web site of SRBA, at which the Draft Plan was presented;

c. Invitation to the general public to comment on the Draft Plan was published in daily newspapers in FBiH;

d. An official letter was sent to the media in FBiH with information that the Draft Plan was finalised in order for the media to get involved in informing the public more widely;

e. The Draft Plan was discussed at public debates held in:

a. Odžak on 15 March 2016;

b. Travnik on 23 March 2016;

c. Sarajevo on 29 March 2016.

f. A concise report was prepared on all the comments provided on the Draft Plan with explanations per individual comments.

The 2016-2021 Strategic Environmental Impact Assessment of the Plan was adopted in 2017, which contains the plan and programme of transposition of EU environmental regulations, and it is available to the public.

SRBA conducted the following activities with the aim of public participation in the strategic assessment process:
a. The Draft Strategic Assessment was published on 07 October 2016 at the web site of SRBA (http://www.voda.ba/nacrt-strateske-studije-o-utjecaju-plana-upravljanja-vodama-za-vodno-podruce-rijeke-save) inviting all the interested parties to gain direct insight into the proposed Draft, and to provide their comments/suggestions by 20 October 2016;

b. An official letter was sent to more than one hundred key actors/participants to get involved in the Strategic Assessment development process, by delivering comments on the draft document, by setting up a link to the web site of SRBA, to which the document was uploaded;

c. Invitation to the general public to comment on the draft document was published in daily newspapers in FBiH;

d. An official letter was sent to the media in FBiH with information that the Draft Strategic Assessment was prepared in order for the media to get involved in informing the public more widely;

SRBA organised two public debates on the 2016-2021 Sava River Basin Water Management Plan:

- On 13 October 2016 in Sarajevo, and
- On 14 October 2016 in Goražde.


BiH HROI received a complaint regarding the practical application in the preparation of environmental plans and programmes from a community claiming that they were not informed about plans or procedures to build a mini hydroelectric plant. BiH HROI investigation of the matter is still ongoing. They also note that public consultation plans in which the public is informed about various plans and strategies (urban, spatial, etc.) are ongoing and that some of them attracted public attention and wide-ranging participation, but are of the opinion that training sessions should be held, or at least a public information programme. For various reasons, interested members of the public are often insufficiently informed about all the procedures, impacts and effects of certain changes, which brings into question the manner in which they can present their interests and protect their rights as equally as investors who can engage a wide spectrum of experts and organisations.

XX. Opportunities for public participation in the preparation of policies relating to the environment, provided pursuant to Article 7 of the Aarhus Convention

- Rules of Procedure of the House of Representatives of the FBiH Parliament (“Official Gazette of FBiH”, No 69/07);
- Rules of Procedure of the Republika Srpska National Assembly (“Official Gazette of the Republika Srpska”, No 31/11 and 34/17));
- Law on Protection of Air of FBiH (“Official Gazette of FBiH”, No 33/03, 4/10) (LoPA FBiH);
- Law on Protection of Air of RS (“Official Gazette of RS”, No 124/11, 46/17);
- Law on Protection of Air of BD (“Official Gazette of BD”, No 25/04, 1/05, 19/07, 9/09) (LoPA BD);
- Law on Waste Management of FBiH (“Official Gazette of FBiH”, No 33/03, 72/09) (LoWM FBiH);
- Law on Waste Management of RS (“Official Gazette of the Republika Srpska”, 111/13, 106/15 and 16/18) (LoWM RS);
- Law on Waste Management of BD (“Official Gazette of BD”, No 25/05, 1/05, 19/07, 20/8, 2/09) (LoWM BD)

Assembly concerning the plans, programs and other acts decided by the Assemblies/Parliament, relevant Rules of Procedure are to be implemented concerning public participation during the adoption of laws, unless this is determined differently (see XXIV). The public participates in the preparation and development of the Water Strategy (Article 24, Paragraph (4) of LoWF FBiH), which defines the water management policy. Also, advisory councils for river basins, in which NGO representatives take part, participate in the preparation of plans and strategies pursuant to Article 165 of LoWF FBiH/Article 185 of LoW RS. Similar function is also envisaged for the advisory environment councils in BiH.

The associations for environment protection participate in the development of the Strategy for Waste Management/Strategy for Managing Solid Waste (Article 8(3) and (4) of LoWM FBiH/Article 17(9) of LoWM RS/Article 8(1) and (2) of LoWM BD), the cantonal plan for waste management (Article 9(5) of LoWM FBiH) and municipal plan for waste management/local plan for managing solid waste (Article 10 (3) of LoWM FBiH/Article 20 (2) of LoWM RS).

In RS, public participation during the development of the Waste Management Strategy is provided through the implementation of Article 206 of the Rules of Procedure of the Republika Srpska National Assembly (“Official Gazette of the Republika Srpska”, No 31/11 and 34/17) and the Guidelines for Action of RS Administrative Bodies Concerning Public participation and Consultation in Drafting Laws (“Official Gazette of the Republika Srpska”, No 123/08 and 73/12).

Public participation during the development of the RS Waste Management Plan is provided through the implementation of the Guidelines for Action of RS Administrative Bodies Concerning Public participation and Consultation in Drafting Laws (“Official Gazette of the Republika Srpska”, No 123/08 and 73/12).

Pursuant to Article 1 of LoPA FBiH/Article 3 of LOPA BD, the public participates in process of determining the policies of air protection.

XXI. Obstacles encountered in implementation of Article 7 of the Aarhus Convention

Describe any obstacles encountered in the implementation of Article 7.

Representatives of the NGOs have made considerable objections to the lack of transparency in selecting NGOs into advisory councils. Also, there is a problem with the small number of seats for the NGO representatives in these councils.

XXII. Further information on the practical application of provisions of Article 7 of the Aarhus Convention

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in Article 7.

Pursuant to Article 48 of LoPE, the FBiH Ministry of Environment and Tourism prepares a proposal of the FBiH Environment Protection Strategy, which envisages public participation, but does not clearly prescribe the manner in which the public participates. Often the adoption of very important documents is almost unnoticed by the general public due to inadequate information (e.g. uploading to the web site).

ASRBA conducted a public consultation process for the purpose of developing the Draft FBiH Adriatic Sea River Basin Water Management Plan (FASRBWMP). During the public consultation process, all the interested parties were invited to download the Draft Plan from the web site of ASRBA and to send comments and proposals, as well as to participate in workshops and events. The call was published in daily newspapers. As part of the public presentations of the characterisation report and of NFASRBWMP, the public and the interested parties had the opportunity to learn about the project and to ask questions.

As a result, significant issues for ground waters and subterranean waters were identified for Adriatic Sea river basin in FBiH. All the received comments, questions and suggestions were discussed and included into the Plan, together with the official response.
Based on the written instructions by the FBiH Ministry of Environment and Tourism, ASRBA also conducted public consultations during the process of adoption of the Strategic Impact Assessment of FASRBWMP. The Strategic Study was uploaded onto the web site of ASRBA for public comments and questions. The media published information on the development of FASRBWMP and of the Strategic Environmental Impact Assessment Study, inviting all the interested parties to attend the public presentation and to send their comments between June and September 2016, including for the Strategic Study. The public presentation was held on 15 July 2016 in Mostar, and participants were representatives of governmental institutions, water users, water pollutants, scientific institutions, professional institutions and the media. The Draft FASRBWMP and the main results of the Strategic Study and the Mud Management Plan were briefly presented, followed by a discussion, but there were no important objections to the Strategic Study. Also uploaded onto the web site was the presentation of SPUO. During the public debate there were no comments or objections to the Strategic Study.

XXIII. Website addressed relevant to the implementation of Article 7 of the Aarhus Convention

The same addresses listed in response to the question regarding Article 3 of the Convention.

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to Article 8 of the Aarhus Convention

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, pursuant to Article 8. To the extent appropriate, describe the transposition of the relevant definitions in Article 2 and the non-discrimination requirement in Article 3, Paragraph 9.

The relevant definitions in Article 2 and the non-discrimination requirement in Article 3, Paragraph 9, were listed in the answer regarding Article 4.

☐ Rules of Procedure of the House of Representatives of the FBiH Parliament (“Official Gazette of FBiH”, No 69/07);

☐ Rules of Procedure of the Republika Srpska National Assembly (“Official Gazette of the Republika Srpska”, No 31/11 and 34/17));


☐ Rules and Procedures in Drafting Laws and Other Regulations of FBiH (“Official Gazette of FBiH”, No 71/14).

Article 204 of the Rules of Procedure of the Republika Srpska National Assembly/Article 173 of the Rules of Procedure of the House of Representatives of the FBiH Parliament /Article 129 of the Rules of Procedure of the BD Assembly define that, following the completed consideration of a draft law, the representative body may decide to hold a public hearing on the proposed draft law, in case the respective piece of legislation regulates issues of special public interest. The public provide specific proposals, suggestions, and comments either at public hearings or submit them by e-mail or often by postal service. Inclusion of public opinion in the final act is not binding; however reasons for non-inclusion have to be stated. The public is entitled to institute an administrative dispute in case its opinion is not accepted. Also, the environmental protection associations take part in the activities of the Environmental Advisory Council, thus contributing to the preparation of generally accepted and legally binding rules. Public participation in the preparation of regulations and other legally binding rules is promoted, inter alia, through calls to participate in public debates. The Guidelines for Action of RS Administrative Bodies Concerning Public Participation and Consultation in Drafting Laws (“Official Gazette of the Republika Srpska”, No 123/08 and 73/12), define that the regulations identified as being of public interest, should be posted on the website, for the purpose of submitting comments and suggestions by the public. In 2014, the FBiH Ministry of Environment and Tourism held four public debates on the Draft Law on Environment Protection, in Sarajevo, Mostar, Bihać and Tuzla, thus providing for public participation and for the interested parties to provide their comments and proposals of amendments to the Draft Law. The public debates were very well attended, totalling 211 participants in all four public debates. Also, any interested individual could provide their comments on a specified form. The public debates were attended by representatives of relevant FBiH, cantonal and municipal ministries and institutions, non-governmental organisations, international organisations, academic community, companies, the media, as well as citizens who provided concrete comments,
proposals and suggestions. The technical support in organising the public debates was provided by Strengthening Governing Institutions and Processes Project in BiH (SGIP), financed by USAID, in co-operation with the Aarhus Centre in BiH.


During the development of legislation and other regulations from the areas of forestry and hunting, one acts in accordance with the FBiH Rules and Procedures for the Development of Legislation and Other Regulations.

The FBiH Government, at its 110th Session held on 07 July 2017, discussed the Draft Law on Forests developed by FMAWMF, endorsed it as the Proposal of Law on Forests and sent it into parliamentary procedure where it still finds itself at this moment. Consultations with interested parties were conducted during the development of the Pre-Draft and Draft Law on Forests, in accordance with the above-mentioned FBiH Rules and Procedures for the Development of Legislation and Other Regulations. FMAWMF invited all the interested parties to send comments, proposals and suggestions on the text of the Pre-Draft and Draft Law on Forests within a particular deadline. Also, public debates on the Draft Law on Forests were held in all the ten cantons, as well as a joint public debate with all the interested parties in Sarajevo. Throughout the consultation process, the text of the Pre-Draft and Draft Law on Forests was posted on the web site of FMAWMF, hence all the other interested parties who could not attend the public debates could send their comments, proposals and suggestions, with the aim of improving the text of the law. Following the public debates and meetings, and on the basis of comments presented not only during the debates, but also in writing, amendments were made to the text of the Draft Law on Forests, and explanations were provided for those comments which were not accepted.

In February 2016, FMAWMF prepared a new working-level text of the Law on Amendments to the Law on Waters. There were two rounds of prescribed public consultations held in 2016. The first round of consultations, as part of which the draft was posted on the web site of the Ministry, was held in February 2016. Due to additional comments coming from the Agency and FI, in 2017 there was another round of public consultations. All the received comments and proposals which were accepted were included into the working material, while for those which were rejected, following the discussion, reasons for rejection were explained.

XXV. Obstacles encountered in the implementation of Article 8 of the Aarhus Convention

Describe any obstacles encountered in the implementation of Article 8.

The representatives of NGOs believe that, in certain cases, draft laws are not available on the Internet.

In the Republika Srpska, Draft Law is posted on the internet site of the relevant body, and if there is a public debate, that notification is also posted.

XXVI. Additional information on the practical application of the provisions of Article 8 of the Aarhus Convention

The Aarhus Centre Sarajevo experienced two types of situations. During 2014, the FBiH Ministry of Environment and Tourism organised four public debates regarding the adoption of the new Law on Environment Protection. At that time, the FBiH Ministry of Environment and Tourism included the Aarhus Centre Sarajevo into the public debate organising process, as well as in working groups during the discussion of comments provided by the public. The entire process was conducted transparently, in accordance with the Aarhus Convention but, unfortunately, the law has not been adopted. On the other hand, in 2016 the FBiH Ministry of Environment and Tourism severely violated the Aarhus Convention by adopting the FBiH Rulebook on Cessation of the Rulebook on Packaging and Packaging Waste, without public participation. The Aarhus Centre Sarajevo reacted promptly and pointed to the Ministry’s failure.

In February 2016, the BiH PA House of Peoples put on the agenda the Proposal of Law on Amendments to the BiH Law on Animal Protection and Welfare, under urgent procedure. The “BiH No Fur Coalition”, an informal group of citizens organised with the aim to prevent extension of the deadline for the prohibition of fur animal husbandry,
approached the Aarhus Centre Sarajevo, which reacted promptly by warning both Houses of BiH PA about the violation of the Aarhus Convention. The contentious Proposal was rejected.

In April 2017, the BiH PA House of Representatives again put on the agenda Proposal of Law on Amendments to the BiH Law on Animal Protection and Welfare, under urgent procedure. The “BiH No Fur Coalition” again approached the Aarhus Centre Sarajevo, to seek reaction regarding the violation of Articles 4 and 8 of Aarhus Convention. In this case, the Aarhus Convention directly refers to insufficient environmental infrastructure in the area of animal waste management throughout BiH and, in general to the pollution of soil, air and water, including the danger to the environment and biodiversity of BiH, due to the fact that the American mink, which is bred for fur, is an invasive species in Europe. The Aarhus Centre Sarajevo, as well as BiH HROI, reacted by warning BiH PA.

As a result, the Constitutional and Legal Committee of the BiH PA House of Peoples held a public debate on 05 September 2017. Thanks to that public debate, for the first time in its history, BiH PA discussed an environmental topic and learned about the relevant BiH obligations towards the European Union.

The contentious Proposal of the Law is still in parliamentary procedure. However, the general effects of the public debate are as follows:

1. The FBiH Ministry of Environment and Tourism was informed about the existence of fur animal farms, and it came to light that they did not have environmental permits, as prescribed by LoPE FBiH.

2. An expert seminar was held on the topic of Environmental Impact of Fur Animal Farming, at the Youth Centre Grbavica, on 19 October 2017, attended by 20 participants from the public and non-governmental sectors.

3. Thanks to media attention, the general public in BiH was informed about the Aarhus Convention and about the potential environmental problems in BiH if the deadline for the prohibition of fur animal husbandry is extended.

4. Also, all the relevant institutions in BiH were informed about the environmental impact of fur animal farming: MOFTER BiH, FMAWMF, cantonal inspectorates, cantonal ministries of urban planning, municipal authorities, public utility companies, etc.

5. Animal waste management must be urgently regulated throughout BiH.

6. For the first time in the history of BiH, an environmental topic was discussed at the State level, having in mind that it is not included in the BiH Constitution, and that this authority belongs to the Entity and BD.

XXVII. Website addresses relevant to the implementation of Article 8 of the Aarhus Convention

The same as referred to in the answer to the same question related to Article 3 of the Convention.

Bulgaria

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Subpoint (a):

According to article 92, paragraph 1 of EPA Environmental Impact Assessment (EIA) shall mandatory be conducted of any development (investment) proposals for execution of construction, activities and technologies listed in Annex 1 hereto (compliance with Annex I of the Convention).

Article 93, paragraph 1 of the EPA envisages the need of conduct of EIA shall be evaluated for:

1. any development proposals according to Annex 2 hereto;

2. any extension or modification of development proposals according to Annex 2 hereto, which have already been approved or are in the process of being approved, have been executed or are in the process of being executed, provided any such extension or modification may cause a significant adverse impact on the environment;
3. any extension or modification of development proposals according to Annex 1 hereto and Appendix I to Article 2 of the Convention on Environmental Impact Assessment in a Transboundary Context, which have already been approved or are in the process of being approved, have been executed or are in the process of being executed, provided any such extension and/or modification may cause a significant adverse impact on the environment;

4. any development proposals according to Annex 1 hereto, which are developed exclusively or mainly for development and testing of new methods or products and whose period of operation will not exceed two years.

The Minister of Environment and Water (MoEW) shall be a competent authority for the purposes of making a decision on EIA for any development proposals, extensions or modifications:

- affecting any reserves, national parks and managed reserves constituting protected areas according to the procedure established by the Protected Areas Act;
- affecting an area covered by two or more Regional Inspectorates on Environment and Water (RIEWs);
- in respect of any development proposals for construction, activities or technologies in the territory of Bulgaria, which are likely to have a significant impact on the environment in the territory of another State or States;
- which have been designated works of national importance by an act of the Council of Ministers;
- for drilling for exploration and production of unconventional hydrocarbons, including shale gas.

The Director of RIEW is the competent authority in all other cases.

Pursuant to the requirements of article 122a, paragraph 5 of EPA and article 7, paragraph 2 of the Regulation on the Conditions and Terms for issuing integrated permits (integrated pollution prevention and control permit – IPPC permit), EEA and the municipality in which is situated the installation for which an application for an IPPC permit is submitted, announce and provide for one month equal access of stakeholders to the application. In accordance with article 7, paragraph 3 of the Regulation the announcement for the procedure of IPPC permit issuance and the conditions for access to the application for IPPC permit are published in a national daily newspaper, one local newspaper and on the website of the EEA. The announcement shall contain the following information: 1. the fact that the decision is subject to consultation with other Member States, where applicable; 2. the operator of the installation; 3. the type of the possible decision – for construction and/or operation of the installation or for amendment of a permit; 4. activities carried out or will be carried out in the installation; 5. competent authority for decision making 6. authorities which obtain information and the time and place where it could be received; 7. authorities to which may be submitted comments, clarifications and objections by interested parties and the deadline and place for submission; 8. indication of the time and place, or means by which the information will be provided.

In accordance with article 123b, paragraph 1, point 2 of the EPA in the technical assessment to the IPPC permit shall be included the results of consultations with stakeholders conducted before the decision making, and explanations of how they have been taken into account.

According to the requirements of article 115, paragraphs 1 and 2 and article 116b, paragraph 2 of the EPA and article 1, paragraph 4 of the Ordinance to prevent major accidents involving dangerous substances and limit their consequences, EEA and the municipality in which the upper tier (with high risk potential for major accidents involving dangerous substances) enterprise/facility for which an application for issuance of decision for approving the safety report under article 116, paragraph 1 of the EPA/updated safety report under article 116g, paragraph 4 of the EPA disclose and provide for one month at a level playing field public access for interested parties to the application and the documents under article 112, paragraph 3, points 1 – 3 of the EPA. In appendix № 6 to article 16, paragraph 2 and article 17, paragraph 2 of the Ordinance to prevent major accidents involving dangerous substances and limit their consequences is determined the content of the notice for open public access (Form № 1 for EEA and Form № 2 for the municipality). Within one month public access under article 115, paragraphs 1 and 2 of the EPA representatives of the public concerned may submit written opinions, comments and suggestions on the dossier. The mayor of the municipality shall send in official way to the Executive Director of the EEA the results of the public access, including information on how it was provided. When preparing the decision under article 116 of the EPA, the Executive Director of the EEA shall into account the opinions on documentation obtained from the public access in accordance with article 115, paragraph 7 of the EPA. In accordance with article 116b, paragraph 2 of the EPA, the Executive Director
of the EEA disclose any decision under article 116, paragraph 1 of the EPA within 14 days of its issuance by the central mass media, the website of the Agency and/or other appropriate means.

In accordance with article 116e, paragraph 1 of the EPA, the operators of lower and upper tier enterprises and/or facilities and the mayors of the affected municipalities shall regularly provide the public concerned with clear and understandable information on emergency planning for these enterprises/facilities and the necessary measures and behavior in case of a major accident. The scope, content and manner to provide information under article 116e, paragraph 1 and 2 of the EPA are defined in articles 20 and 21 of the Ordinance to prevent major accidents involving dangerous substances and limit their consequences.

According to article 111, paragraph 1, point 6 of the EPA, the Minister of Environment and Water or an authorized officer shall keep a public electronic register of lower and upper tier enterprises and facilities. The form and content of the register are laid down in article 15 of the Ordinance to prevent major accidents involving dangerous substances and limit their consequences. According to § 4 of the transitional and final provisions of the Ordinance, to the creation and introduction of the registry, the information in it is maintained as a database on the websites of MoEW and RIEW. (Note: the registry is currently in preparation and it is expected to be released by mid-2017).

**Subpoints (b) – (g):**

Article 6, paragraph 2 - 7 of the Convention was implemented through the provisions of:

1. Articles 95, 97 and 98 of the EPA.

The initiator shall undertake consultations with the competent authorities or officials empowered thereby, with other specialized institutions and the public concerned for the purpose of the making of an EIA decision. The consultations shall be undertaken with regard to:

1. the specific characteristics of the proposed construction, activities or technologies, level of development of the design solution and its inter-relation with existing or other planned construction, activities or technologies;
2. the characteristics of the existing environment and all environmental media thereof;
3. the significance of the eventual impacts;
4. the terms of reference for the scope and content of the EIA;
5. the scope of study connected to the EIA;
6. the alternative development proposals;
7. the affected population's interests and opinions;
8. the sources of information;
9. the forecasting methods used to assess the effects on the environment;
10. measures for mitigation of the eventual adverse impacts on the environment.

The initiator shall organize, jointly with the municipalities, mayoralties and boroughs concerned as specified by the competent authority (MoEW/RIEW) or an official empowered thereby, public discussions on the EIA statement.

To organize the public discussions, the initiator shall submit a written request to the authorities specified by the competent authority (MoEW/RIEW), proposing a venue, a date and an hour of the meeting/meetings for public discussions, the place for public access to the documentation and for expression of observations, with the date of the first meeting being not later than sixty days from the date of submission of the request. One copy of the EIA statement with all annexes thereto for each one of the authorities shall be attached to the written proposal. The authorities shall confirm in writing the proposal within seven days after submission of the request or shall make an alternative proposal for the same sixty-day time limit, and upon failure of the authorities to pronounce within the seven-day time limit, the proposal of the initiator shall be presumed to have been accepted.

All natural and legal persons concerned may participate in the discussions, including representatives of the authority competent to make an EIA decision, the local executive administration, public organizations and citizens.
The initiator of the proposal shall give the persons notice through the media of mass communication or in another appropriate manner of the venue and date of the discussion not later than thirty calendar days before the public discussion meeting.

The initiator of the proposal and the competent authorities shall ensure public access to the EIA documentation for a period of thirty calendar days prior to commencement of the discussions.

Representatives of the public shall submit their opinions in writing at the public discussion meeting or shall send the said opinions to the authority competent to make an EIA decision not later than seven calendar days after the discussion.

Art. Art. 2. Articles 4, 6, 9, 10, 16 and 17 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessments (EIA).

The initiator is obliged to inform in writing the competent authorities - MoEW/RIEW, at the earliest stage of their investment proposal by submitting notice. Simultaneously, the initiator shall inform the affected population through the media and/or other appropriate means. The information about the proposal obligatory shall include:

1. Contact information of the initiator
2. Resume of the proposal - description of the main processes and the capacity; area used; shall be notified: a new investment proposal and/or extension, or change in production process; auxiliary or supporting activities, etc.
3. Relation to other existing and approved with a development or other plan activities within the scope of the impact of the object of the investment proposal; needs of other permissions/authorization, competent authorities thereof.
4. Location of the site.
5. Natural resources intended for use during construction and operation.
6. Air polluting emissions.
9. Chemicals (if relevant).

In order to be considered the need of EIA for investment proposal a written request shall be submitted by the initiator with attached information about the public interest to the investment proposal. For the clarification of the public interest, the initiator and the relevant municipality/district/mayorality shall provide public access to information about the proposal for at least 14 days, by publishing a message on its website (if such is available) and on publicly accessible location for access to information and expression of opinions from stakeholders. Within three days after the deadline, the results of the public access, including in the way of providing it (mandatory template is used) shall be sent to the relevant competent authority (MoEW/RIEW). The information should include:

1. Contact information of the initiator.
2. Characteristics of the investment proposal: summary; proof of the need for investment proposal; conjunction with other activities and cumulation with other proposals; considered alternatives; description of the main processes; supporting infrastructure; programme and methods of construction; natural resources intended for use during construction and operation; waste expected to be generated; measures to reduce the negative environmental impacts; need of other permits; pollution and discomfort of the environment; risk of accidents and incidents.
3. Location of the project.
4. Characteristics of the potential impact: environmental components affected and factors of influence; type and scope of impact; probability of occurrence, duration, frequency and reversibility; measures that need to be included in the investment proposal relating to the prevention, reduction or offset the significant negative impacts on the environment and human health; cross-border impacts.

According to the characteristics of the investment proposal the initiator shall determine which specialized authorities and members of the public affected to consult. Consultations can be arranged at any of the following ways:
- announcement in the media;
- sending messages to local authorities;
- preparation and distribution of a prospectus or brochure with brief information about the investment proposal;
- distribution of letters and questionnaires to interested organizations or individuals, living in close proximity, with a request for information and comments about the investment proposal;
- placing information boards and posters;
- organizing expert or public groups on the scope of the assessment;
- arranging meetings with the affected population.

Within consultations the initiator shall provide sufficient information to clarify its intentions and enough time for the specialized authorities and the affected public to comment.

The initiator must consult on the developed Terms of Reference of the EIA report with the competent environmental authority. The competent authority may recommend to the initiator to consult with other interested persons or bodies.

The initiator shall prepare a reference of the consultations carried out and the reasons for accepted and unaccepted comments and recommendations.

The competent authority or a person authorized by him shall determine and affected regions and/or municipalities with which the initiator shall organize public discussion of the EIA report and its annexes.

The competent authority or a person empowered by him shall provide public access to the EIA documentation for a period of 30 calendar days before the public discussion. When is presented a report assessing the degree of impact as an annex to the EIA report, which is evaluated positively, shall be provided also access to the report on the degree of impact through the website of the competent authority.

Public discussion of the EIA report shall be carried out in the following order:

1. The initiator shall provide a copy of the EIA report with all annexes to the designated authorities.
2. Affected regions and/or municipalities confirmed in writing the place, date and time for a meeting/meetings for public discussion, time and place of public access to the EIA report and the notes thereto, and the place for providing written opinions; the initiator shall announce them by the mass media and/or by other appropriate means at least 30 days before the meeting/meetings for public discussion; the notice is done following a template.
3. Affected regions/municipalities shall adequately inform the public about the upcoming public hearing, including by posting notice in public accessible place in the building of the region/municipality/city hall, for which shall be kept a record, copy of which shall be provided to the competent authority
4. The initiator shall notify the competent authority of the place, date and time for meeting/meetings for public discussion and shall provide evidence for the implementation of the obligations under p. 2 within at least 30 days before the meeting/meetings for public discussion.
5. At its discretion, the initiator may give written notice to other specialized persons, bodies and organizations for meeting/meetings for public discussion.
6. Meeting/meetings for public discussion is guided by the initiator or by a person authorized by him which have to briefly acquaint attendees with the investment proposal.
7. The initiators shall ensure the presence of the head and members of the team of independent experts on the meeting/meetings, which have to introduce briefly attendees with the results of the EIA, by using maps, charts and other visual materials.
8. A record/minutes is kept for the public discussion by an official appointed by the mayor (district, mayoralty) on whose territory the meeting takes place. The record shall be signed by the initiator and the recorder and shall be attached to it the written statements submitted in advance or during the discussion.
9. Within 10 days after the meeting/last meeting for the public discussion the initiator shall submit to the competent authority and the municipalities/districts/mayoralties written statement on the proposals, recommendations, opinions and objections resulting from the public discussion.
10. Respective municipalities/districts/mayoralties shall provide for a period of 7 days on its website and/or other appropriate means public access to the statement for the interested persons or organizations and the proposers of
the recommendations, opinions and objections as a result of the public consultation, for which shall inform the competen
titious public consultation, for which shall inform the competent authority.

Subpoint (h):

Article 6, paragraph 8 of the Convention has been transposed through the provisions of: 1. Article 99 of the EPA. The
competent authority shall make an EIA decision within 45 days after conduct of the public discussion, taking into
account the results thereof.
2. Article 18 of the Regulation on the Terms and Conditions for Carrying out Environmental Impact Assessments of
Investment Proposals for Construction, Activities and Technologies, in accordance with Annexes № 1 and 2 of EPA.

Subpoint (i):

Article 6, paragraph 9 of the Convention has been transposed through the provisions of article 99, paragraph 4, point
2 of the EPA, which states that

within seven days after delivery of the EIA decision, the competent authority shall make it public through the national
mass communication media, the Internet site thereof and/or another appropriate manner.

In accordance with the provisions of article 127, paragraph 1 of the EPA decision for granting, refusal, amendment,
update or cancellation of IPPC permit shall be announced through the media within 14 days from the date of issuance.

Subpoint (j):

Article 6, paragraph 10 of the Convention has been transposed through the provisions of article 93 of the EPA. The
rules and procedures for public participation, concerning EIA described above are applicable in cases of extension or
modification of investment proposals within the procedure for evaluation of the need of EIA.

Under EU legislation, public participation procedures for EIA are regulated by Directive 2011/92/EU on the
assessment of the effects of certain public and private projects on the environment. Provisions of this Directive
regarding public participation are completely, properly and correctly transposed into EPA and relevant regulations to
it. Evidence of this is that until now the European Commission did not put any questions to Bulgaria in this respect.

Subpoint (k):

Public participation in decisions concerning the deliberate release of genetically modified organisms (GMOs) is
regulated in detail the Act on Genetically Modified Organisms (GMO Act).

A GMO or a combination of GMOs shall be released into the environment after obtaining an authorization granted by
the Minister of Environment and Water. An authorization shall be granted for each particular case, acting on an application in writing from a person. The Advisory Commission on GMOs to the Minister of Environment and Water within 60 days after submission of an application shall prepare an opinion and shall submit the said opinion to the Minister of Environment and Water. After preparation of the opinion, the Ministry of Environment and Water shall organize a public consultation, which is to be carried out within 45 days after preparation of the opinion.

The summary of the technical dossier, the summary of the risk assessment and the opinion of the Commission shall
be presented in the public consultation. No information designated as confidential according to the procedure
established by GMO Act may be subject to consultation.

Not later than 30 days prior to the day of the consultation, the subject of public consultation and the place where the
necessary information is available to stakeholders shall be announced in one national daily newspaper, through the
local mass communication media, through posting notices in the relevant mayoralties in the area of the release of
GMOs into the environment, as well as on the Internet site of the Biosafety Clearing-House information system for
implementation of obligations under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity
and for exchange of scientific, technical, environmental and legal information regarding GMOs.. Any such notice
shall furthermore announce the date and venue of the public consultation.
Any person may provide an opinion on the subject of the consultation, whether in writing or in an electronic form. The applicant or representatives thereof and the members of the Commission shall likewise be invited to participate in the public consultation.

Minutes shall be taken at the public consultation and shall be attached to the documents on grant of the authorization.

Acting on the basis of the opinion given by the Commission, the economic analysis, the results of the public consultation, the comments from the rest of the Member States of the European Union, and after consultation with the Minister of Agriculture and Food, the Minister of Environment and Water shall prepare a draft of an authorization for the release of a GMO or a combination of GMOs into the environment within 14 days after the date of holding of the public consultation and shall present the said draft for approval by the Council of Ministers.

The following public registers are established and maintained in an electronic form at the Ministry of Environment and Water: a public register of the authorizations for release of GMOs into the environment as granted; a public register of the location and size of the areas wherein the release of GMOs is authorized.

XVII. Further information on the practical application of the provisions of article 6

There is no statistical information on public participation (such as number of representatives) in making decisions on specific activities.

XVIII. Website addresses relevant to the implementation of article 6

www.moew.government.bg/


XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

Definitions

The definition of “The public” has been transposed in item 24 of the Supplementary Provisions of the EPA. "The public" means one or more natural or legal persons and their associations, organizations or groups created in accordance with national legislation.

The definition of “The public concerned” is fully transposed in item 25 of the Supplementary Provisions of the EPA. "Concerned public" is the public referred to in paragraph 24, which is affected or likely to be affected or has an interest in the procedures for approval of plans, programmes and investment proposals and decisions on the issuance or updating of permits under under this act, or permit conditions, including environmental NGOs established in accordance with national legislation.

The definition of “Environmental information” is given in article 19 of the EPA and fully complies with the definition in the Convention., "Environmental information” means any information in written, visual, aural, electronic or other physical form regarding:

1. The state of environmental components as follows: air, atmosphere, water, soil, earth, landscape, landmarks, minerals, biodiversity and their sub-components and their interaction;

2. Factors, in accordance with article 5 of the EPA, and the activities and / or measures, including administrative measures, international agreements, policies, legislation and reports on implementation of legislation, plans and programmes which have or are able to affect components of the environment;
3. The state of human health and safety of people as they are or may be affected by the state of environmental components or those components of the factors, activities or measures referred to in paragraph 2;

4. Cultural and historical heritage sites, buildings and installations, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in paragraph 2;

5. Cost-benefit and other economic analysis and assumptions used within the measures and activities referred to in paragraph 2;

6. Emissions, discharges and other harmful environmental impacts.

The Bulgarian legislation does not provide a legal definition of "State authority".

According to article 4, paragraph 1 of the APIA, every citizen of the Republic of Bulgaria is entitled to access to public information on the terms and conditions set out in this Act, unless another law provides for a special procedure to seek, receive and disseminate such information. Foreign nationals and stateless persons in Bulgaria shall enjoy rights under paragraph 1. All legal entities enjoy the rights under paragraph 1.

According to article 17 of the EPA everyone has access to the available information related to the environment without having to demonstrate a specific interest.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

According to article 87, paragraph 1, point 2 and paragraph 2 of the EPA, within the procedure of environmental impact assessment of plans and programmes (EAPP), the developer of the plan or programme organizes public consultations with the concerned public and stakeholders affected by the plan or programme; the results of public consultation are reflected in the environmental report and taken into account in the decision of the Ministry of Environment and Water (MoEW) or the specific Regional Inspectorate for Environment and Water (RIEW). Who is the competent authority (MoEW/RIEW) to take the decision depends on who is the public body responsible for the approval of the plan or programme – central or regional/local administration.

The procedure is regulated with articles 19, 19a, 20, 21 and 22 of the Regulation on the Conditions and Terms for Carrying Out Environmental Assessments of Plans and Programmes, as follows:

The developer shall organize consultations/discussions with the public, interested authorities and third parties who are likely to be affected by the plan or program in various stages of preparation of the plan or program, respectively the Environmental Assessment of Plans and Programmes (EAPP). Consultations shall take place under a scheme developed by the developer, which includes information on how to combine the planning and milestones of EAPP, including the interaction of the teams developing the draft plan/program, the report of the assessment of the degree of impact, when this is required by the competent authority and the EAPP report. Scheme shall be consulted with the competent authority (MoEW/RIEW).

The experts who were asked to prepare a report on the EAPP, elaborate Terms of Reference for determining the scope of assessment, for which consultation with the public shall be carried out according to the scheme.

Consultations on the EAPP report include publishing a notice for convening the consultations and provision of:

access and sufficient technical capability for becoming acquainted with the materials of the EAPP report, the draft plan/programme and visual aids for each of the alternatives;

expert or a person with appropriate qualifications from the planning team responsible to provide additional oral explanations on the spot;

adoption of the opinions expressed before the deadline.
According to article 21, paragraph 1 of the Regulation on the Conditions and Terms for Carrying Out Environmental Assessments of Plans and Programmes public discussion on the EAPP report is mandatory in cases where:

it is required for the draft plan or programme under a special law;

more than two negative opinions or suggestions for alternatives, reflected in the EAPP report or within the consultations are received.

There are minimum requirements for organizing and conducting of the public discussion:

The developer shall notify the competent authority and the authorities, participated in the consultations, about the existence of the circumstances under article 21, paragraph 1 (see above), defining the location, date and time for holding the meeting for public discussion and place for public access and the time for getting acquainted with the draft plan/programme, the EAPP report with all applications and materials to it.

The developer shall notify in writing the persons which have been submitted opinion/statement and may notify other persons, organizations and bodies for the meeting for public discussion.

Public discussion meeting is held after the completion of consultations on the EAPP report for and is managed by the developer or by an authorized official.

The developer shall ensure the presence on the meeting of representatives of the design team, the manager and the independent experts as they shall briefly introduce to the attendees the plan or program and the results of the environmental assessment.

For the public discussion shall be kept a record by the person designated by the developer, the record shall be signed by the representative of the developer and the record keeper, and to the record shall be attached written opinions submitted in advance or during the discussion.

The designated person shall provide the materials with the results of the public discussion to the developer within three days from the date of the meeting.

In accordance with articles 26 and 27 of the Regulation on the Conditions and Terms for Carrying Out Environmental Impact Assessments of Plans and Programmes the competent authority (MoEW/RIEW):

endorses the plan or programme if, among others, as a result of the consultations have not been received reasoned objections on lawfulness;

provide to the developer the decision on EAPP with the obligation to announce it within 3 days of receipt on the webside of the developer or by other appropriate means;

shall make the decision on EAPP public on its website and in the office.

XXII. Further information on the practical application of the provisions of article 7

Under article 7, paragraph 3 of the EPA in the process of development and public discussion of the National Environmental Strategy shall be included representatives of academia, environmental NGOs and industry organizations.

According to article 51, paragraph 2 of the Waste Management Act in drawing up the National Plan for Waste Management the Minister of Environment and Water shall organize consultations with the relevant interested parties, the public administration, the local authorities and the general public.

According to article 146p and article 168b of the Water Act shall be published and announced to the public, including to the water users, and for consultations and written comments for each basin management district:
a draft of a flood risk management plan, including the measures planned to be undertaken and the results expected of
the implementation of the said measures, as well as the results achieved and the proposals to modify and update the
measures and the plan;

draft of a river basin management plan.

The information shall be published on the website of the competent Basin Directorate and on the website of the
Ministry of Environment and Water.

Under articles 8 and 9 of the Climate Change Mitigation Act the National Action Plan on Climate Change and the
National Climate Change Adaptation Strategy shall be drawn up following consultation with the National Expert
Council on Climate Change, which includes representatives of environmental NGOs.

It has become common practice the drafts of strategies, action plans and programmes concerning the environment to
be published on the website of the MoEW and the Public Consultations Portal of the Council of Ministers for
comments and proposals of the memembers of the public. It is even obligatory for the strategic documents, adopted with
an normative act of the Council of Ministers in accordance with the Statutory Instruments (Normative Acts) Act – for
further details, please see Chapter XXIV. Public consultations in the form of conferences, round tables, workshops, etc. are carried out.

XXIII. Website addresses relevant to the implementation of article 7

www.moew.government.bg.

http://www.strategy.bg/


XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a
significant effect on the environment pursuant to article 8

According to Statutory Instruments (Normative Acts) Act (article 26) in the process of developing a draft statutory
instrument (legaly binding normative instrument/regulation/act), public consultations shall be held with citizens and
legal entities. Before the introduction of a draft statutory instrument for issuing or adoption by the competent authority,
the author of the draft shall post it on the website of the relevant institution together with the rationale, or report
respectively, and ex-ante impact assessment. When the author of the draft is a body that belongs to the executive
branch, the draft shall be posted on the Public Consultations Portal and when the author is a local government, the
draft shall be posted on the website of the relevant municipality and/or municipal council.

The period for submission of proposals and opinions on the drafts posted for public consultations pursuant to paragraph
3 above shall be no less than 30 days. In extraordinary situations and with an explicit description of the reasons in the
rationale, or the report respectively, the author of the draft may set a different period but no less than 14 days.

Upon completion of the public consultations and before the adoption or respectively the issuance of the statutory
instrument, the author of the draft shall post information about submitted proposals together with reasons for the
rejected ones on the website of the relevant institution. When the author of the draft is a body belonging to the
executive branch, the information shall also be posted simultaneously on the Public Consultations Portal.

According to the Regulation on the Structure and Functions of Council of Ministers and its Administration each
minister- importer of draft normative act, shall prepare a report summarizing the results of carried out public
consultation and this report is an integral part of the package of documents for the Council of Ministers and the
National Assembly.

XXVI. Further information on the practical application of the provisions of article 8
MoEW publishes on its website drafts of normative instruments to enable the public to express their recommendations, comments and suggestions.

XXVII. Website addresses relevant to the implementation of article 8
www.moew.government.bg.

Croatia

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Article 11 of the ARAI prescribes that state administration bodies, other state bodies, local and regional self-government units and legal persons with public authority are required to conduct public consultations prior to the adoption of acts and subordinate regulations, and in the adoption of general acts or other strategic or planning documents where these affect the interests of citizens and legal persons. The public authority is obliged to publish its annual plan for public consultations on its website no later than by the end of the current calendar year. The public authority is also obliged to inform the public in the same manner of any amendments to the public consultation plan. The consultation shall be carried out electronically, for the state administration bodies through the central state portal e-Consultations and for other parties through their websites or portals. Consultations are as a rule carried out in the duration of 30 days, except in cases when such consultations are conducted pursuant to regulations governing the procedure of assessment of the impact of regulations. Consultations include the publication of the draft regulation, act or other document, with a substantiation of the reasons and objectives to be achieved through adoption of the said regulation, act or other document, and the invitation to the public to submit their proposals and opinions. Upon the expiry of the deadline for the submission of opinions and proposals, the public authority has to draft and publish a report on the public consultation, which contains the received proposals and comments, and responses thereto, with the reasons for rejection of individual proposals and comments. This report then has to be submitted to the body that adopts the regulation, act or document.

The Act on Regulatory Impact Assessment (OG No. 90/11) and the Regulation on the implementation of the regulatory impact assessment (OG No. 66/12) prescribe the rules for consultations with stakeholders, consultation and public discussions/round tables, and a minimum deadline of 30 days. After the completed consultation and public discussion, including the public presentations, the expert responsible person shall consider all comments, proposals and opinions of the public and the public concerned as well as issue a notification of the accepted and rejected comments, proposals and opinions which shall be made available to the public and the public concerned on its website.

Relevant definitions from Art. 2 and non-discrimination requirements from Art. 3, para. 9 are mentioned in the answer related to Art. 4.

Directive 2003/35/EC of the European Parliament and of the Council providing for public participation in respect of the drawing of certain plans and programmes relating to the environment has been fully transposed into national legislation. The principle of public participation is thus defined under the EPA and the RIPPCEM, which regulates the manner of informing and participation of the public and the public concerned, if participation of such public is prescribed by law, in the following procedures: strategic assessment; adoption of plans and programmes which are not subject to strategic assessment; drafting of laws, implementing regulations and other generally applicable legally binding rules that could have a significant impact on the environment; environmental impact assessment and determination of integrated environmental requirements for company installation. The Regulation also prescribes the procedure for holding public discussions, public inspections and public presentations, as well as the related deadlines. It also specifies the plans and programmes related to environmental protection that are not subject to strategic assessment, in which case it prescribes the obligation of ensuring public participation in the process of drafting proposals of such plans and programmes, and specifies which public may participate in the mentioned process.

Article 39 of the WA (OG No. 153/09, 63/11, 130/11, 56/13 and 14/14) and Articles 8 and 9 of the Ordinance on the Manner of Public Consultation and Information regarding the Draft Water Management Strategy and River Basin
Management Plan (OG No. 48/14) prescribe public participation and information in the procedure of adopting the Water Management Strategy and River Basin Management Plan.

The Nature Protection Act (OG No. 80/13) prescribes public participation, i.e. the procedure for holding a public discussion, in articles referring to the ecological network; import, placing on the market and introduction of alien species into nature; reintroduction and repopulation of native species; and breeding of wild species.

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;

Answer:

Activities listed in Appendix I of the Convention correspond to the list of projects listed in the Annex I of the Regulation on the of environmental impact assessment (NN 61/14, hereinafter: UPUO) and in the list of activities in Annex I of the Regulation on the environmental permit (NN 8/14). The administrative procedure is conducted for environmental impact assessment for the approval of activities listed in Annex I of UPUO which precedes other approvals or permits. The process of getting environmental permit for new activities follows the procedure separately and after environmental impact assessment procedure. The process of the environmental permit does not serve to allow activities, but for the regulation of conditions of work for activities that have already been permitted. The process of the environmental permit should be implemented at the latest before the commissioning of the facility. Due to the formality of the process, the PUO follows the procedure in accordance to the regulation of GAPA. The process of environmental permits is conducted according to Regulation of environmental permit, NN 8/14, with a lower application of the GAPA when it comes to issues that are not covered by these regulations. During the procedure the public has a right of access to documents during public consultations, which includes public access to documents and public presentation on the project. (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;

Answer:

In the case of projects listed in Annexes II and III of the REIA, i.e. the projects or activities which are not covered by Annex I to the Convention, the assessment of the need for an environmental impact assessment is carried out, on the basis of which it is determined whether the proposed project could have significant impacts on the environment. In the procedure for obtaining approvals or permits for projects which are not subject to the assessment of the need for an EIA, public participation is not envisaged. However, pursuant to Art. 111 of the Physical Planning and Building Act (OG No. 76/07, 38/09, 55/11, 90/11, 50/12, 55/12, 80/13 and 78/15), in the procedure for obtaining a location permit, the parties (and only the parties) are allowed to inspect the conceptual design and in the procedure for issuing decisions concerning construction requirements and building permits, the parties are allowed to inspect the conceptual design, in accordance with Article 216 of the same Act.

(b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in paragraph 2;

Answer:

The RIPPPCEM prescribes that the competent authority shall be responsible for the accuracy, timeliness, comparability and availability of information provided in relation to environmental matters. Besides the requirement to publish information on its website, the competent authority may provide information using other methods which are perhaps more appropriate in that particular case considering the relevant local community or individual citizen, referring in particular to public announcements in the press, i.e. the official bulletin of the local or regional self-government unit, posting information on the notice boards in relevant towns, publishing information in other media, electronic media, on appropriate information boards and similar, or issuance of written materials.
Art. 8 of the REIA is also applied in this context. It prescribes that the competent authority shall inform the public and the public concerned of the developer’s request for EIA after it establishes that the request contains all the required information and evidence and that the study contains all the necessary chapters in accordance with Annex IV to this Regulation. Art. 8 of the RPEIER that obliges MEE to inform the public and the public concerned about any request for establishing integrated environmental requirements pursuant to the RIPPPCEM is also relevant.

Ordinance on the Appropriate Assessment for the Ecological Network (OG No. 146/14, hereinafter referred to as: OAAEN) and the Nature Protection Act (OG No. 80/13), as well as Articles 19, 35 and 38, para. 4 of the Act on Genetically Modified Organisms (OG No. 70/05, 137/09, 28/13 and 47/14, hereinafter referred to as: AGMO) are also applicable in this context.

With respect to the decisions concerning the ecological network, the OAAEN prescribes that the competent ministry or the competent administrative body in the relevant county has to inform the public about the request made by the project developer and the results of the procedure of Prior Assessment, the procedure of Main Assessment, or the procedure of establishing the overriding public interest and approval of the project with compensation conditions through its website.

Thus, in the procedure of Prior Assessment of the plan or programme subject to strategic assessment or assessment of the need for a strategic assessment, the public is informed of the results of the procedure through the publication of the adopted act on the website of the body responsible for adopting the relevant act. In the procedure of Main Assessment of the plan or programme (carried out as part of strategic environmental assessment), information and participation of the public and the pubic concerned are ensured through a public discussion on the strategic impact study and the draft proposal of the plan or programme.

The Prior Assessment procedure requires that the competent authority informs the public of the results of the procedure by publishing the adopted act on its website. The Main Assessment procedure requires that the public be informed of the project developer’s request, the implementation of public inspection and the results of the Main Assessment procedure.

In the process of establishing the overriding public interest and the compensation conditions concerning the project developer’s request, public information and participation is ensured for a period of 30 days, during which time the information on the submitted project developer’s request is published on the website and written public opinions, comments and proposals are collected. The public is informed of the results of the procedure through the publication of the adopted act on the website of the ministry responsible for carrying out the relevant procedure.

The procedure for designation of protected natural resources requires that the public be informed about the proposal for designation of a protected area in such a manner so as to allow a public inspection of the proposed act as well as the related expert background documents containing cartographic representations. The public inspection ensured in the procedure for designating national parks, nature parks, strict reserves and special reserves is organised and carried out by the competent ministry, while the public inspection for other protected areas (nature monuments, regional parks, significant landscapes, park forests and park architecture monuments) is organised and carried out by the county administrative body or the City of Zagreb. The public inspection must be ensured for a period of no less than 30 days.

The entity proposing the act on designation of a protected area has to issue a statement in response to the comments submitted during the public inspection, while the submitted comments and statements shall become integral parts of the documents that the proposal of the act is founded on.

(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3;

Answer:

The EPA prescribes a minimum time period of 30 days for public participation in the process of drafting acts and implementing regulations as well as other general binding rules that could have a significant environmental impact, as well as amendments to the same. This requirement is reiterated in the relevant legal and subordinate regulations.
The time limits are aligned with the Act on Regulatory Impact Assessment (OG No. 90/11) and the Regulation on the implementation of the regulatory impact assessment (OG No. 66/12) prescribing a minimum time limit of 30 days.

(d) With respect to paragraph 4, measures taken to ensure that there is early public participation;

Answer:

The EPA (Art. 163) prescribes that in the early phase of the procedure when all options are still open, public authorities shall through public notices, advertisements and other appropriate media, including electronic media, inform the public and the public concerned on draft strategic documents, regulations and special regulations being implemented pursuant to the EPA. This is also prescribed by the REIA and the RPEIER.

Early and efficient public participation concerns the process of obtaining development consent. In Croatia, obtaining development consent refers to the issuance of a building permit. The EIA procedure is thus required in the early project development phase (prior to submitting an application for a location permit), whereby early public participation is ensured. Furthermore, Croatian legislation prescribes a requirement that any project for which an EIA is carried out has to be planned under the valid physical planning documents. Pursuant to the regulations governing physical planning and construction, public inspection and discussion are mandatory and public participation must be ensured at all stages of the process of preparing physical plans of all levels.

(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;

Answer:

There are no incentive measures. However, in practice, the authorities inform the public most commonly by announcing the projects and the proposed activities which are being discussed or for which decisions will be issued through their websites, press, radio stations and in other ways.

(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;

Answer:

Art. 163 of the EPA, which regulates the informing of the public and the public concerned with regard to the right and manner of participating in procedures and the applicable deadlines, is applied in this context, together with Articles 5, 7, 9, 10 and 11 of the RIPPPCEM.

(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;

Answer:

Within the framework of the national portal e-Consultations the public can directly enter comments on the text for the duration of the consultations. There is an obligation to prepare a report on the carried out consultations and publish it within one month at the same portal. In the EIA and SEA procedures the public can for the duration of the consultation submit their comments in writing or in person during public discussion. Information on these procedures is made public on the website of the competent body, in the press and in radio programmes.

(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;

Answer:
In general, the EPA (Articles 162 – 166) prescribes the right and manner of participation of the public and the public concerned in the process of drafting implementing regulations and/or generally-applicable legally binding normative instruments, as well as strategies and programmes referring to the environment. The EPA also prescribes that the public proposals and opinions and the outcomes of transboundary consultations concerning draft proposals of strategies, plans and programmes have to be taken into consideration in the SEA and EIA procedures (Art. 73, Art. 89). Also relevant in this context are Art. 21 of the RIPPCEM and Art. 19 of the AGMO.

(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;

Answer:

The manner in which the public has to be informed of a decision adopted by a competent authority and the grounds which the relevant decision is based on, including the data concerning the procedure for participation of the public and the public concerned, is prescribed under a number of different laws and regulations (the EPA: Art. 73, Art. 91, Art. 162 – 166; the REIA: Art. 22, para. 2; the RPEIER: Art. 15, para. 2; the RPMAIDS: Art. 21, para. 2 and 3, and Art. 22, para. 4; the Ordinance on Measures for Environmental Damage Remediation and Remediation Programmes (OG No. 145/08): Art. 14; the RIPPCEM: Art. 5, para. 2, Art. 6, para. 2, Art. 7, Art. 8, para. 2 and Art. 9, para. 4; and the OAAEN: Art. 7, 10, 11, 17, 21, 22, 23, 27, 32, 38. Also relevant is Article 36, para. 3 of the AGMO.

MEE regularly uses the decisions of the Administrative Court (concerning violations of the rules governing public participation in environmental decision-making) for the purpose of improving the EIA and environmental permit procedure. Thus, the decisions concerning the assessment of acceptability of a particular project specify the public concerned that has provided comments, as well as the grounds for all comments that were not accepted (all decisions issued in the past three years are available on MEE’s website http://puo.mzoip.hr/hr/puo/novosti.html).

In decisions on environmental permit, the draft of the environmental permit must be publicly available before adoption, and the public feedback and comments must be taken into account. Only after the completion of access to the draft permits may be issued a decision on the environmental permit, which in the explanation must include responses to comments from the public debate and respond to comments on the draft permit, if any. Also, a decision on the environmental permit may provide additional environmental requirements that are determined on the basis of public participation, if their decision was justified.

(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;

Answer:

In the lists of projects provided in Annexes to the REIA, it is stated that the EIA procedure is carried out in the event of changes or reconstructions related to the listed projects as well. Since reconstruction and expansion are considered to be new projects, the standard procedures for the EIA or assessment of the need for EIA are carried out.

Art. 36 of the AGMO is also applied in this context.

(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:

The regulations applicable with respect to paragraph 11 include: Art. 47, para. 2, Art. 57, para. 1, subpara. 5 and Art. 60, para. 2 of the AGMO and Art. 5 of the Ordinance on the Form and Manner of Keeping the Unique Register of Genetically Modified Organisms and the Manner of Establishing Printout Costs (OG No. 125/07) and Annex I to the Ordinance on the content and scope of the risk assessment in relation to placing on the market of genetically modified organisms or products which contain and/or consist of or derive from genetically modified organisms, the
methodology for the preparation of assessment and requirements that have to be fulfilled by a legal person for the preparation of risk assessment (OG No. 39/08 and 31/13). Croatia has not ratified the GMO Amendment to the Aarhus Convention. However, the provisions of the Aarhus Convention regarding public access to information and public participation have been integrated into the AGMO.

XVI. Obstacles encountered in the implementation of article 6

Answer:

It has been observed in practice that in cases when the Committee requested amendments of the study, the amended text of the study was not made available to the public since there exists no obligation for its publication. Thereby, the public are not provided with access to the entire information. CSOs are of the opinion that the publication of amended impact studies should be made mandatory and that they should be published in the same places as the other documents so that the decisions adopted by competent bodies in the EIA procedure could be compared to the protection measures from the environmental impact study.

Also, the opinions of special bodies in the procedure, which can also be of great importance for participation in the EIA procedure, are not published. CSOs are of the opinion that the publication of opinions by bodies determined by special regulations should be made mandatory and that they should be published in the same places as the other documents related to the procedure so that the public could have access to the entire file and could participate in the consultation procedure in possession of a complete information.

It has been observed in practice that it is not sufficient to make the information in the EIA procedure public only on the website of the competent body and in the local newspapers, but that it should also be done in public places in the vicinity of the project (bus stations, church, frequently visited shops, libraries, etc.), as well as that the identified interested public should be informed individually at their home addresses.

According to the regulation in force, the REIA, decisions are published only on the website of the competent body which is not sufficient since a large proportion of the population has no access to Internet. Furthermore, the public that participated in the procedure by providing opinions has to be given a timely information on the decision so that it could have the opportunity to dispute it through complaints or civil action. Therefore, the public participating in the procedure should be informed through delivery of information to their doorsteps and the said Regulation should be amended so that it is aligned with the Aarhus Convention. For example, CSOs that participated in an EIA procedure have to for months, on a daily basis, search for the issued decision on the website of the competent body (since decisions are not delivered to the home or e-mail addresses of the interested public that participated in the procedure), since it is often not published on the same web page on which the documents related to EIA procedures have been published and where it would be most logical to look for it. In addition, decisions are usually made available without the indicated date of publication so that it is impossible to ascertain the date on which the deadline for complaints or civil action starts.

Maastricht recommendations on promoting effective public participation in decision-making in environmental matters (ECE/MP.PP/2014/8) should be taken into account with regard to the requirements under Article 6, paragraph 9 of the Convention on the obligation of «prompt and efficient» public information. To this end, decisions in EIA procedures have to be delivered to the home or e-mail addresses of the public that participated in the procedure so that they could be provided with an opportunity to dispute the said decision at a higher instance or in court. Also, in accordance with item 143 of the Recommendations, information about the possibilities to appeal the decision should be provided to the public together with the decision.

With regard to offshore projects (gas and oil installations), to date the legislator did not give special treatment to the right of interested public/public concerned to participate in the procedure. Instead of there being an obligation of public presentation and publication of information in the territory under the greatest direct impact of proposed projects, presentations are usually held in Zagreb, which is in contravention to the Aarhus Convention since it prevents and makes participation of the concerned or interested public in the procedure more difficult.
It has been observed in practice that all comments made by the public, regardless of the argumentation, are mostly rejected. Thus, distrust was created in the public with regard to procedures of adoption of spatial plans or EIA procedures. SEA documents frequently only superficially describe alternatives to the proposed projects.

The Report of the Information Commissioner states that in particular failures to adopt the plan for public consultations, to observe deadlines for the implementation of consultations, as well as to inform the public in a timely manner of the completed consultations through publication of a report have been observed. The failure to hold consultations in some cases can be attributed to the expedited adoption of a regulation.

New EIA and SEA Regulations are currently being drafted in order to improve the procedures.

XVII. Further information on the practical application of the provisions of article 6

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XVIII. Website addresses relevant to the implementation of article 6

http://puo.mzoip.hr/
http://aarhus.zelena-istra.hr/

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

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, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

Relevant definitions from Art. 2 and non-discrimination requirements from Art. 3, para. 9 are mentioned in the answer to Art. 4.

Art. 7, para. 5, Art. 9, para. 1, Art. 15 and Art. 19, para. 3 and 4 of the Regulation on the strategic environmental assessment of plans and programmes (OG No. 64/08, hereinafter referred to as: RSEAPP), and Art. 10 of the APA are relevant in this context. Also applicable are the NPA: Art. 5 and 125; the WA: Art. 5, para. 8 and Art. 39; and the NMO: Art. 27.

The SEA procedure envisages a public discussion on determining the content of the strategic impact study and informing the public of the same. The purpose is to discuss with the public, at the earliest possible stage, the issues relevant for the strategic assessment procedure.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:

Articles 17, 164 and 165 of the EPA, and the RIPPPCEM are applied in this respect. The public has the right to express its opinion, comments and suggestions concerning draft strategies and proposals of plans and programmes related to the environment for which the EPA does not prescribe mandatory strategic assessment.
Public authorities form working groups for the preparation of certain strategic and planning documents as well as advisory bodies for the purpose of obtaining opinions regarding such documents. It is common practice that such bodies include the representatives of both the business and the civil sector, as well as representatives from scientific institutions. Government Office for Cooperation with NGOs, through its website, keeps a database of advisory bodies in which a search can be conducted of state institution advisory bodies by person or by institution/organisation to which they belong. The database is available at the following link: https://savjetovanja.gov.hr/baza-savjetodavnih-tijela/1118.

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

Bodies in local and regional self-government units often evade preparation of SEA for plans, programmes and strategies and their amendments. Therefore, in 2015 during the discussion regarding amendments to the EPA the legal experts from the Faculty of Law of the University of Zagreb warned of its shortcomings with regard to the prescribing of mandatory SEA for spatial plans. They wanted to draw attention to the practical issue of the target amendments to spatial plans which each separately might not represent significant amendments but when viewed as a whole could have significant impacts on the environment. MEE did not adopt the proposal to amend the EPA and thus in practice the avoidance of preparation of SEA continues for multiple concurrent amendments to spatial plans.

XXII. Further information on the practical application of the provisions of article 7

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Answer:

The City of Zagreb regularly publishes information on the initiated SEA and EIA procedures and submitted requests for determining integrated environmental requirements falling under its competence on its official website, on the notice board in the lobby of the City Administration building and the notice board of the city district in which the proposed project is located within the Official Journal of the City of Zagreb, in the daily newspapers at least 8 days before the public discussion and public inspection commence.

Public presentations are regularly held in the territory of the city district in which the proposed project is planned to be executed. Written invitations to the presentations are sent to representatives of the project developer, authorised person who has prepared the documents, Council of the city district in which the proposed project is planned to be executed and other city offices and services, depending on the specifications of the proposed project. Public presentations are organised in afternoon and evening hours. The public and the public concerned have an opportunity to express their opinions, proposals and comments during the public discussion in the manner described in the published notice of the public discussion (by phone, fax or e-mail).

In early 2014 the Government Office for Cooperation with NGOs announced the scheme for allocation of IPA 2012 grants entitled Building Local Partnerships for Open Governance and Fight against Corruption in Responsible Management of Natural Resources, and granted a total of 1,855,129.50 EUR for 11 CSO projects. The overall objective of the Call for Proposals was to ensure open governance and transparency in managing public goods and natural resources in the Republic of Croatia, through affirmation of civil society organisations as equal partners in ensuring open governance and transparency in managing public goods and natural resources (https://udruge.gov.hr/ipa-2012/324). Projects cover activities for raising public participation in decision-making and the fight against corruption at the local level: analysis of public opinion regarding the level of transparency of the process of environmental decision-making, education for local authorities and CSOs on public participation in spatial planning, the procedure for granting concessions and Directive on environmental liability, on corruption and anti-corruption mechanisms in managing utility services and spatial planning, free legal assistance to citizens regarding access to information and public participation in environmental decision-making in the fight against corruption at the
local level, public campaign for raising public participation in environmental decision-making, social audit activities for management of natural resources, etc.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

http://puo.mzoip.hr/
www.zagreb.hr
https://udruge.gov.hr/ipa-2012/324

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

It was already described in Article 6 of this report how Article 11 of the ARAI prescribes that state administration bodies, other state bodies, local and regional self-government units and legal persons with public authority are required to conduct public consultations prior to the adoption of acts and subordinate regulations, and in the adoption of general acts or other strategic or planning documents where these affect the interests of citizens and legal persons.

Pursuant to Article 24 of the Act on Regulatory Impact Assessment (OG No. 90/11) and Articles 18 and 19 of the Regulation on the Implementation of the Regulatory Impact Assessment Process (OG No. 66/12), during the preparation of any national legislative act, it is required to include consultations with stakeholders, public consultations and public discussions.

Relevant definitions from Art. 2 and non-discrimination requirements from Art. 3, para. 9 are mentioned in the answer provided for Article 4.

The opinions, comments and proposals can be submitted by all citizens, without exceptions, in accordance with the principle of equality of citizens from Art. 14 of the Constitution of the Republic of Croatia. The Amendments to the Rules of Procedure of the Government of the Republic of Croatia (OG No. 121/12), Art. 30, para. 4, prescribes that the draft proposal of the regulation must be subject to the mandatory consultation procedure (in accordance with the Code of Practice on Consultations with the Interested Public) as well as the mandatory delivery of the report on consultations with draft proposals of acts and other regulations.

Annual reports on the implementation of the Code of Practice on Consultations with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts show significant progress in the number of consultations that were carried out as well as the interest expressed by the representatives of the interested public. In 2015, the number of consultations rose by 12% as compared to 2014, by 62% as compared to 2013 and by 323% as compared to 2012.

One of the reasons for this is the fact that the capacities of the Government Office for Cooperation with NGOs have been strengthened and additional education has been provided to coordinators of the consultations with the interested public (a consultation coordinator education programme has been prepared, several training seminars and consultations have been carried out, A Guide to Consultation has been developed and the practice of regular meetings of consultation coordinators has been established). The normative framework for the implementation of consultations has also been completed, and the need and value of consultations have been integrated in the measures for the implementation of the action plan of the global initiative called Open Government Partnerships. In addition, through the launch of the central consultations portal entitled e-Consultations on 27 April 2015, a step forward was made with regard to availability of information on opened consultations to the general public, to the simplicity of commenting draft regulations, but also with regard to the efficiency of proceeding by state administration bodies. The advantages of the portal are ease of access to all opened consultations in one place, easier commenting of the provisions of draft regulations, more efficient analysis of received comments by state authorities, less complicated publication of reports on the results of consultations, greater public control over the quality of responses by state authorities and in general a contribution to a better quality communication between state authorities on the one hand and citizens and all interested
social groups on the other in the process of shaping public policies. At the same time, the Government Office for Cooperation with NGOs carries out regular education of all users of the e-Consultations portal in state administration bodies and organises periodic meetings with system administrators in state administration bodies with the aim of further standardisation of work and improvement of the consultation process.

XXV. Obstacles encountered in the implementation of article 8

Obstacles: there were cases in which certain public discussions lasted less than the prescribed 30 days; the comments are in most cases disregarded; while long lasting discussions have resulted in the adoption of regulations that differ substantially from the draft proposals considered during the public discussion.

An example of the disregard of public opinion is the process of participation in public discussion on the amendments to the Environmental Protection Act (May 2015).

According to the Report on the carried out public discussion on the amendments to the Environmental Protection Act from 2015, on behalf of the Chair of Administrative Law of the Faculty of Law of the University of Zagreb comments were submitted by 4 Doctors of Law. All their proposals, objections and comments were rejected. Comments were, besides the mentioned legal experts, also submitted by other members of the interested public - the Report on the carried out public discussion is 88 pages long. All comments were rejected except the following two, which were adopted: “replace the term marine with the term coastal” and “there is a round bracket missing at the end of the paragraph”.

The results of the study on the implementation of the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts carried out at the level of local public authorities show a constant increase in the number of comments and an increase in the comments made by the interested public which are adopted. Furthermore, by the amendments to the ARAI, the Office of the Information Commissioner was given greater powers for monitoring the consultation process, as well as powers for inspectional supervision.

XXVI. Further information on the practical application of the provisions of article 8

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

Answer: /

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

https://savjetovanja.gov.hr/
https://udruge.gov.hr/
http://civilnodrastvo.hr/frontpage

Cyprus

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Decisions on whether to permit specific activities are subject to the provisions of the Law on the Assessment of the Impacts on the Environment from Certain Projects (N. 140(I)/2005). According to the Law, projects listed in Annex I (in line with Annex I of the Aarhus Convention), are subject to an environmental impact assessment. Projects listed in Annex II are subject to a preliminary environmental impact assessment to decide whether to permit the project or whether a full study is required prior to taking a decision. Law 140(I)/2005 implements the provisions of Article 6 of the Convention regarding public participation in decisions on whether to permit specific activities. According to the Law "public" is defined as one or more natural or legal persons.
In light of the new Directive 2014/52/EU and following an assessment of the problems and shortcomings of current assessment procedures, a new legislation has been prepared that will replace Law 140(I)/2005. It is envisaged that this will be adopted by the House of Representatives by May 2017.

Paragraph 1: Activities falling under Article 6

Law 140(I)/2005 applies to the projects listed in Annex I or Annex II and which are expected to have significant impacts on the environment, including on the use of natural resources. Projects listed in Annex I are those which are expected to have significant impacts on the environment and are subject to a full environmental impact assessment study. Projects listed in Annex II are smaller in scale and are subject to a preliminary environmental impact assessment to determine whether a full environmental impact assessment is needed or whether the project may be authorized subject to the terms and measures proposed by the Environmental Authority to minimize or eliminate impacts.

For other projects outside the scope of Law 140(I)/2005, the planning authority may require the opinion of the Environmental Authority as part of the consultation process carried out with all the competent departments prior to the authorization of a project. In such cases, the Environmental Authority suggests terms to be included in the planning permit to avoid any adverse environmental impacts during the construction and operation of the project.

Projects or plans within a Natura 2000 site, which are not directly related to the management of the site but are likely to have a significant effect thereon, are subject to an appropriate assessment of their impacts in view of the site’s conservation objectives. The appropriate assessment report is examined by an ad-hoc committee composed of departments with environmental competencies and NGOs. The EIA process follows after completion of the appropriate assessment procedure, and takes in due account its results. The new EIA legislation will introduce joint procedures in the case of projects which are also subject to an Appropriate Assessment.

Public participation as part of the EIA process is carried out prior to the planning decision, or in the case of projects not subject to planning permission, prior to the final environmental permit. Similar provisions are applicable for the SEA of plans and programmes, as well as for the preparation of other plans, programmes and integrated permits which are provided for under the applicable environmental legislation, such as the Waste Law and the Integrated Emissions Directive. Public participation, although not obligatory, forms part of the process for the preparation of legally binding instruments.

Paragraph 2: Notification of the public concerned

According to Article 21 of Law 140(I)/2005, every person or public authority submitting an EIA report has to issue, at the same time, a public notice in at least two daily newspapers of the Republic, announcing the following:

1. The submission of the application for a planning permit.
2. That the project is subject to an environmental impact assessment procedure.
3. The date of submission and the name of the person or public authority submitting the report.
4. The nature of the possible decisions or the decision plan.
5. The nature of the proposed project and the area where it will be executed.
6. That the report can be examined during working days and hours at the offices of the Environmental Authority, the relevant local authority and the competent town planning authority or, where a public project is concerned, the offices of the public authority which has submitted it.
7. That any person may submit comments and opinions to the Environmental Authority regarding the content of the report or the possible environmental impacts that could result from the project.

The examination of the EIA report by the Environmental Authority does not begin until the public notice has been issued. Within 30 days from the date of the notification, any person may submit to the Environmental Authority comments or opinions regarding the content of the report or the possible environmental impacts that could result from
the project. These will be taken into account by the EIA Committee (established under the EIA law for the assessment of the EIA reports submitted) when evaluating the study and subsequently by the Environmental Authority when preparing its opinion.

Article 22 of the Law provides that once a decision is taken by the competent authority on whether to authorize the project, it informs the Environmental Authority on:

1. the content of the decision and any terms that accompany it,
2. the way in which the concerns and opinions expressed by the public were taken into account in the decision-making process, the main reasons and assessments on which the decision was based, including the provision of information regarding the public participation process, and
3. where necessary, a description of the main measures necessary to avoid, reduce and, if possible, compensate major adverse impacts.

The Environmental Authority then informs the members of the EIA Committee and the public of the decision (through a public notice on the Internet, also specifying that the relevant information is kept in the EIA Register, together with the time and place where it can be obtained).

According to Article 23, the Environmental Authority maintains an EIA Register in which the following information is listed:

1. All the environmental impact assessment reports and preliminary environmental impact reports submitted,
2. Any document submitted by another state in the case of transboundary impacts,
3. All the opinions submitted by the environmental authority to planning or other public authority responsible for the project,
4. The opinions submitted by any organization, body or person to the Environmental Authority,
5. The decision of the planning or other public authority responsible for the project,
6. The minutes of the meetings of the EIA Committee, and
7. Information on any projects which were exempted from the provisions of the Law.

The EIA Register is available to the public and can be inspected during working days and hours. The Environmental Authority issues a public notice on the internet with respect to the following:

1. The submission of an Environmental Impact Assessment report
2. The submission of any document by another state in the case of transboundary consultations
3. Its opinion to the planning or other public authority responsible for the project, following the assessment process
4. The opinions submitted by any organization, body or person during the assessment process.

“Public” is defined by the Law to include one or more natural or legal persons. Although no definition is provided for the public concerned since the participation process is open to all members of the public, the new law which has been prepared to replace Law 140(1)/2005 and transpose the provisions of Directive 2014/52/EU defines the “public concerned” as the public affected or likely to be affected by or having an interest in the environmental decision-making procedures, whereby for the purposes of this definition, non-governmental organizations promoting environmental protection are deemed to have an interest. The definition has been added for the purposes of access to justice.

The new EIA law foresees strengthened provisions for public participation during the assessment process. Public participation will become obligatory during the assessment process and preparation of the EIA report and the
developer will be obliged to carry out a public consultation and at least one public hearing prior to the completion of the report, which will have to include the results of the consultation and how the opinions expressed were taken into account. Furthermore, the new law will allow the Environmental Authority to determine whether to carry out another public hearing for Annex I projects depending on the characteristics of the project and the possible impacts, and sets outs practical provisions for the hearing process.

Paragraphs 3 and 4: Sufficient timeframes and effective public participation

Any person or public authority submitting an environmental impact assessment report has to issue, at the same time, a public notice, notifying the public of the practical arrangements for obtaining the relevant information and submitting opinions. Any person may submit opinions to the Environmental Authority within 30 days from the date of the notification, which are taken into account by the EIA Committee examining the report and subsequently by the Environmental Authority when preparing its opinion. The EIA process, including public participation, takes place prior to development consent when all options are still open with respect to the characteristics, siting and final approval of the project, whereby appropriate measures may be imposed to avoid or minimize adverse environmental impacts, whilst also taking into account public opinion. Furthermore, the EIA report must include an analysis of the main alternatives considered by the developer and an indication of the main reasons for selecting the chosen option with respect to the resulting environmental impacts, which are accessible to the public to comment on.

With respect to public hearings, the new law will provide a timeframe of 15 days for notifying the public and an additional 7 days, following the hearing, for the submission of additional written comments.

Paragraph 5: Encouraging prospective applicants to enhance public participation

According to Decree N. 420/2008 on the preparation and contents of an EIA report, issued under Law 140(I)/2005, during the assessment process the opinions of all local authorities affected by the proposed project, affected members of the public, NGOs and competent public authorities must be obtained and seriously taken into account by the consultants during the assessment process. The opinions submitted must be included in the EIA report, together with the conclusions and recommendations made with respect to these opinions and how they were taken into account. In the case of public projects, the preliminary results of the EIA report must be presented in public hearings.

The new EIA legislation will oblige the developer (consultants) to carry out a public consultation and at least one public hearing prior to the completion of the report, which will have to include the results of the consultation and how the opinions expressed were taken into account.

Paragraph 6: Ensuring access to information relevant to decision-making

As mentioned above, once the EIA report is submitted, the public is notified of the submission and of the times and place where the study can be examined. According to Law 140(I)/2005, the report must contain the following information:

1. A description of the project and in particular:
   - a description of the physical characteristics of the project and its land use requirements during the construction and operational phases,
   - a description of the main characteristics of the production processes,
   - an estimate of the type and quantity of expected residues and emissions resulting from the operation of the proposed project.

2. An outline of the main alternatives studied by the developer and an indication of the main reasons for the chosen option, taking into account environmental impacts.

3. A description of the aspects of the environment likely to be significantly affected by the proposed project and its alternatives, including in particular, population, fauna, flora, soil, water, air, climate, material assets, including the architectural and archaeological heritage, landscape, and the interrelationship between these factors.
4. A description of the possible significant impacts of the proposed project on the environment resulting from the siting, construction and operation of the project, the use of natural resources, the emission of pollutants, creation of nuisances and disposal of waste, and a description of the forecasting methods used to assess the impacts on the environment.

5. A description of the measures proposed to prevent, reduce and, where possible, mitigate, or compensate for, any significant adverse impacts on the environment.

6. A non-technical summary of the information listed above, including a visual presentation with maps, drawings, diagrams, tables, photographs, etc., where necessary.

7. A description of the prediction methods used to assess impacts on the environment and the basic assumptions and hypothesis that have been adopted, as well as the data and measurements used, the models, and the calculations followed. An indication of any difficulties encountered in compiling the required information.

8. Where relevant, a detailed monitoring and management programme, particularly addressing the serious or long-term environmental and social impacts that will be identified.

This information must be covered by the EIA report, which is publicly accessible.

So far there have not been any cases where a complete set of EIA documentation was classified on the basis of commercial confidentiality or intellectual property rights. In some cases part of the documentation was classified as confidential and only part of the information was made publicly available.

Paragraph 7: Public comments

Within 30 days from the date of the notification of the submission of the EIA report, any person may submit comments and opinions to the Environmental Authority regarding the content of the EIA report or the possible environmental impacts that could result from the project. These will be taken into account by the EIA Committee when evaluating the study and the Environmental Authority when preparing its opinion.

Paragraph 8: Taking due account of the results of public participation

According to Law 140(I)/2005, the comments and opinions expressed by the public during the consultation period are taken into account by the EIA Committee when evaluating the EIA report and subsequently by the Environmental Authority when preparing its opinion. Moreover, the opinions expressed by the local communities where the project will be executed and the Federation of Environmental Organizations, as the representative of environmental NGOs in the EIA Committee, are taken into account by the Environmental Authority and have an important weight in the decision-making process.

The new EIA legislation will include provisions for public hearings to be held by the Environmental Authority in cases when it is deemed useful or appropriate given the characteristics of a project, the magnitude of its potential environmental impacts and the extent of the public interest shown for the project. The public hearing will allow the public to present their opinions and concerns, and an exchange of views. The opinions expressed will be recorded, summarized and forwarded to the developer, allowing his consultants to respond to the issues raised. The results of the public hearing will be taken into account during the decision-making.

Any opinions submitted are kept in the EIA register which is accessible to the public. The new EIA legislation to be adopted provides for the creation of an online register, where all the information relevant to the EIA process will be kept, including any comments and opinions submitted during the public consultation period. The comments will be uploaded once received by the Environmental Authority and will be publicly accessible. The online information (register) will be available through the EIA platform which will be launched in 2017.

Paragraph 9: Information about the decision

The opinion prepared by the Environmental Authority is made available to the public through the internet. The opinion outlines the main reasons and assessments on which it was based, including information on the public participation
process. The final decision taken by the planning authority is kept in the EIA Register which is accessible to the public and includes the terms accompanying the decision and the main reasons and assessments on which the decision was based, including information on the public participation process.

The new EIA legislation that will be adopted provides that the opinion of the Environmental Authority will be accompanied by a summary about the way and the degree to which the results of the public participation were taken into account and the relevant information that was received as a result of the participation process. The final decision must include the opinion of the Environmental Authority, together with a description of the measures taken to minimize impacts, the main reasons and assessments on which the decision was based, and the way in which the summary accompanying the environmental opinion was taken into account.

Paragraph 10: Public participation in reconsidering or updating the decision

Any change to or extension of projects listed in Annex I, where such a change or extension in itself meets the thresholds set out in the Annex is subject to an EIA and the provisions outlined above regarding public participation will apply. Furthermore, any change or extension of projects listed in Annex I or Annex II, already authorized, executed or in the process of being executed, which may have significant adverse effects on the environment (change or extension not included in Annex I) is subject to a preliminary assessment to determine whether a full EIA is required.

The provision of information and the public participation procedures will be significantly strengthened through the new EIA legislation and the EIA platform that will be launched in 2017.

Paragraph 11: Public participation with respect to decisions over GMOs

Projects involving installations where genetically modified organisms are produced or used, or are planned to be produced or used, are included in Annex I of Law 140(I)/2005 and are therefore subject to an EIA and the provisions outlined above regarding public participation. Where the project will involve the storage or use of genetically modified organisms the EIA report must include a scientific description of the organisms and an assessment of their origin and the necessary means and measures for their containment.

An amendment to the Aarhus Convention was adopted in 2009 which provides that the notification introduced to obtain an authorization for the deliberate release into the environment or the placing on the market of a GMO on its territory, as well as the assessment report where available and in accordance with its national biosafety framework must be available to the public in an adequate, timely and effective manner. It furthermore provides that all the relevant information relating to the decision making process must be made available, including the nature of the possible decision, and the practical arrangements for participation. Account must be taken in the final decision making of the outcome of the public participation procedure and the decision must be made available to the public, together with the reasons and considerations on which it was based.

The Law on the deliberate release of GMOs into the environment (N. 160(I)2003) also includes provisions on public participation, according to which the Scientific Committee evaluating applications submitted for the deliberate release of GMOs must inform the public, including through the internet, of the application and the possibility of issuing a permit. The applicant must notify the public through at least two daily newspapers of the application, inviting the public to submit comments within 30 days from the date of the notification. Furthermore, the Scientific Committee must ensure that the public is appropriately informed through a public hearing process. A register is maintained which includes the applications submitted for the deliberate release of GMOs, the opinions of the Scientific Committee, any permits issued and all additional information submitted in relation to an application or permit.

XVI. Obstacles encountered in the implementation of article 6

Answer:

XVII. Further information on the practical application of the provisions of article 6

Answer:

XVIII. Website addresses relevant to the implementation of article 6
XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

The Law on the Assessment of the Impacts on the Environment from Certain Plans and Programmes (N. 102(I)/2005) introduces environmental considerations in the preparation and approval of plans and programmes, ensuring the assessment of the impacts on the environment from those plans and programmes which could potentially result in significant adverse impacts on the environment. According to the Law, an assessment of the impacts on the environment is required for every plan and programme:

- prepared in the fields of agriculture and animal husbandry, forestry, fishing, mining and quarrying, energy, industry, transport, waste management, water resource management, telecommunications, tourism, land planning and land use; or

- which results in impacts in specially protected areas.

The Law ensures public participation in the decision-making process, whereby "public" is defined as one or more natural or legal persons, as well as their associations, organizations or groups.

As with the EIA Law, it ensures the participation of NGOs active in the field of environmental protection, as the Federation of Environmental Organizations of Cyprus is a permanent member of the SEA Committee, which examines the SEA reports submitted and advises the Environmental Authority in preparing its opinion on a proposed plan or project. Regarding public participation, according to Article 13 of the Law, when a competent authority submits an SEA report for a proposed plan or programme, it has to issue, at the same time, a public notice in the Official Gazette of the Republic, two daily newspapers and through the Internet with which to announce:

- the submission date of the study and the name of the competent authority which has submitted it,

- the nature of the proposed plan or programme and the area it concerns,

- that the report can be examined during the working days and hours at the offices of the Environmental Authority and the authority competent for the plan/project,

- that any person may submit comments or opinions to the Environmental Authority regarding the content of the report or the environmental impacts likely to result from the approval of the plan or programme, within 35 days from the date of the notification.

During the evaluation of the report, consultations are carried out with the public. The public with which the Environmental Authority carries out consultations includes the public that is affected or likely to be affected, or whose interests are at stake from the decision-making process regarding a plan or programme and includes NGOs promoting environmental protection.

During the evaluation of the study by the Committee the opinions and representations submitted to the Environmental Authority by any person, or the information and comments submitted during a public hearing procedure, if one was carried out, are taken into account by the SEA Committee in its evaluation of the SEA report and subsequently by the Environmental Authority when preparing its opinion.

The opinion of the Environmental Authority is filed in the Register kept in accordance with Article 23 of the Law and made available to the public through the internet. Before taking a decision regarding a proposed plan or programme, the competent authority must take into account the opinion of the Environmental authority and the results of the public consultation. Once the decision is taken by the competent authority, the Environmental authority informs the public of the decision by issuing a public notice through the Internet, and that the following information is available, specifying the time and place where it can be obtained:
i) A description of the plan or programme as this has been approved,

ii) A summary statement regarding:
- the way in which the environmental parameters were incorporated in the plan or programme,
- the way in which the SEA report and the opinion of the Environmental Authority were taken into account,
- any opinions expressed by the public,
- the reasons why the particular plan or programme was chosen taking into account other alternative possibilities examined,

iii) A description of the major adverse environmental impacts that will arise as a result of the plan or programme, and

iv) A description of the measures to monitor and control the adverse impacts that may result from the implementation of the plan or programme.

The Environmental Authority keeps a Register of the following information:
- all the studies submitted,
- the opinions and comments expressed by the public,
- the opinions of the environmental authority,
- the information mentioned above, and
- the results from the monitoring of the environmental impacts that may result from the approval of the plan and/or programme.

The Register is available to the public and can be examined during working days and hours.

All the relevant documentation is also made available through the internet and will be incorporated in the EIA platform that will come into operation by the end of 2017.

Participation under the Law on the Control of Water and Soil Pollution

The provisions on access to information and public participation under the Law on the Control of Water and Soil Pollution (No. 106(I)/2002 as amended by Law No. 160(I)/2005) ensure that early and effective opportunities are given to the public concerned to participate in the following procedures:

a) The preparation and modification or review of the plans or programmes, concerning the protection of waters against the pollution caused by nitrates from agriculture sources,

b) The granting of a Waste Discharge Permit.

In the above cases, the competent authority must inform the public through notifications in the Gazette, two widely circulated newspapers and on the internet, about:

a) Any proposal for such plans or programmes or for their modification or review

b) Any application for a permit,

c) Details regarding either the proposal for a plan or program, or the application for a permit,

d) Details of the competent authority responsible for taking the decision, from which relevant information can be obtained and to which comments or questions may be submitted,
e) An indication that the relevant information is available at the offices of competent authority during working hours,
f) An indication that any opinions or comments from the public concerned may be submitted within 35 days from the date of the notification.

The competent authority takes into account the comments and opinions expressed by the public before the final decision and makes available to the public, including through the internet, the following information:

a) The content of the decision, including a copy of the permit,
b) The reasons on which the decision was based,
c) The results of the public consultation and how these were taken into account in the decision.

Access to information and participation under the Industrial Emissions Law

The provisions for access to information and public participation under the Industrial Emissions Law (N. 184(I)/2013) ensure that early and effective opportunities are given to the public concerned to participate in the following procedures:

a) The granting of a permit for new installations,
b) The granting of a permit for any substantial changes to existing installations,
c) The granting or updating of a permit for an installation where a derogation on emission limit values may apply,
d) The updating of a permit or permit conditions for an installation, when the pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new values must be included in the permit.

In the above cases, the competent authorities inform the public through a notification in the Official Gazette, in two widely circulated newspapers and on the internet, at the beginning of the decision making process or at the latest as soon as the information can reasonably be provided, about:

a) The application for a permit or, as the case may be, the proposal for the review of a permit or permit conditions, including a description of the elements contained,
b) Where applicable, the fact that a decision is subject to a national or transboundary EIA or to consultations between Member States,
c) Details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions may be submitted, and details of the time schedule for transmitting comments or questions,
d) The nature of the possible decision or, where available, the draft decision,
e) Where applicable, the details relating to a proposal for the review of a permit or permit conditions,
f) An indication that the relevant information is available at the offices of the competent authorities during working hours,
g) An indication that any opinions or representations from the public concerned may be submitted within 35 days from the date of the notification,
h) Details of the practical arrangements for public participation and consultation, focusing mainly on the following: date and place of the public hearing, the deadline for submitting written views and positions, issues identified as essential by the competent authorities, etc.
The main reports and advice issued by or submitted to the competent authorities at the time when the public concerned is informed,

Other information relevant to the decision, which only becomes available after the time the public concerned was informed.

The competent authorities evaluate and take into account the results of the public participation when making a decision. When a decision has been taken, the competent authorities make available to the public, including through the internet, the following information:

a) The content of the decision, including a copy of the permit and any subsequent updates,

b) The reasons on which the decision was based,

c) The results of the consultations and an explanation of how they were taken into account in the final decision,

d) The title of the Best Available Techniques (BAT) reference documents relevant to the installation or activity concerned,

e) How the permit conditions, including the emission limit values, were determined in relation to the best available techniques and emission levels associated with the best available techniques,

f) Where derogation is granted, the specific reasons for that derogation, based on the criteria laid down in Article 15(4) of the Industrial Emissions Directive,

a) Where applicable, relevant information on the measures taken by the operator regarding the cessation of activities,

b) Where applicable, the emission monitoring results, if required under the permit conditions.

Participation under the Waste Management Laws

The provisions on access to information and public participation, under the Waste Law, No. 185(I)/2011, ensure that early and effective opportunities are given to the public concerned to participate in preparation and modification or review of the plans and/or programmes. According to Article 38 of the Waste Law of 2011 (185(I)/2011), the Environmental Authority ensures that stakeholders, the competent authorities and the general public have the opportunity to participate in the elaboration, amendment or review of waste management plans and waste prevention programmes. Specifically, the public is informed through a notification published in the Official Gazette, two widely circulated daily newspapers and the internet, about:

(a) Any proposal for waste management plan or waste prevention programme or for their modification or review,

(b) That details regarding the proposed plan or program can be examined during the working days and hours at the offices of the Environmental Authority,

(c) That any person may submit comments or opinions to the Environmental Authority regarding the content of the proposal, within 35 days from the date of the notification.

The Environmental Authority informs the public through the internet of any proposals for plans or programmes or for their modification or review, as well as of any opinions and comments submitted by the public during the consultation period. During the evaluation of proposals, consultations are carried out with the public, including public hearings. The public with which the Environmental Authority carries out consultations includes the public that is affected or likely to be affected, or whose interests are at stake from the decision-making regarding a plan or programme and includes NGOs promoting environmental protection. The results of the public participation and consultation are taking account of a decision.
The approval of the plan and/or programme, by the Council of Ministers is published through a notification in the Official Gazette of the Republic, two daily newspapers and through the Internet. The Environmental Authority keeps a Register of the following information:

- All the proposals submitted,
- The opinions and comments expressed by the public,
- Information on how the various opinions and suggestions were taken into consideration by the Council of Ministers in the final decision and the reasoning on which it was based.

The Register is available to the public and can be examined during working days and hours.

Participation under the Packaging and Packaging Waste Law

In accordance with Article 16A of the packaging and packaging waste law (Law 159(I)/2005), the Environmental Authority must ensure that the relevant stakeholders, competent authorities and the general public have the opportunity to participate in the elaboration of plans and programmes for the management of packaging and packaging waste. The public must be informed through a notification published in the Official Gazette of the Republic, two widely circulated daily newspapers and the internet about:

- The proposed waste management plan or waste prevention programme,
- The fact that the proposed plan or programme may be examined by the public during the working days and hours at the offices of the Environmental Authority,
- That any person can submit comments or opinions to the Environmental Authority regarding the content of the plans/programmes from the approval of the plan and/or programme, within 35 days from the date of the notification.

Participation under the Law on the Management of Waste from the Extractive Industries

The provisions for access to information and public participation under the management of waste from extractive industries Law, ensure that early and effective opportunities are given to the public concerned to participate in the following procedures:

(a) The granting of a mining waste management permit,
(b) The granting of a permit for any substantial changes,
(c) The review of a mining waste management permit,
(d) The granting of an approval for a mining waste management plan
(e) The granting of an approval for any substantial changes to the management plan
(f) The review of a mining waste management plan

In these cases, the competent authorities must inform the public through a notification published in the Official Gazette, two widely circulated newspapers and the internet, at the beginning of the decision-making process or, at the latest, as soon as the information can reasonably be provided, about:

(a) The application for a permit or, as the case may be, the proposal for the review of a permit or permit conditions, including the description of the elements contained,
(b) Where applicable, the fact that a decision is subject to a national or transboundary EIA or to consultations between Member States,
(c) Details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions may be submitted, and details of the time schedule for transmitting comments or questions,

(d) The nature of the possible decisions or, where there is one, the draft decision,

(e) Where applicable, the details relating to a proposal for the review of a permit or permit conditions,

(f) An indication that the relevant information is available at the offices of competent authorities during working hours,

(g) An indication that any opinions or representations may be submitted within 35 days from the date of the notification,

(h) Details of the arrangements for public participation and consultation, and particularly on the date and place of the public consultation, the deadline for submitting written views and positions, the issues identified as essential by the competent authorities, etc.

(i) The main reports and advice issued to the competent authorities at the time when the public concerned are informed,

(j) Other information relevant to the decision, which only becomes available after the time the public concerned was informed.

The competent authorities evaluate and take into account the results of the public participation and consultation in reaching a decision. When a decision is taken, the competent authority must make available to the public, including through the Internet, the following information:

(a) The content of the decision, including a copy of the permit and any subsequent reviews,

(b) The reasons on which the decision was based,

(c) The results of the consultations and an explanation of how they were taken into account in the decision-making,

Furthermore, in accordance with Article 16 of the law, for facilities in Category A, the competent authority must draw up an external emergency plan specifying the measures to be taken off-site in the event of an accident. The emergency external plan is intended to reduce the potential impacts of major accidents on health and the environment and ensure the restoration of the environment following an accident. The competent authority must provide for the participation of the public in the decision-making process. It must inform a public through a notice in the Official Gazette of the Republic, two widely circulated daily newspapers and through the Internet on:

- The proposed external emergency plans,

- That the proposals may be examined during the working days and hours at the offices of the Environmental Authority,

- That any person may submit comments or opinions to the Environmental Authority regarding the content of the plans from the approval of the plans, within 35 days from the date of the notification.

The Competent Authority keeps a Register of the following information:

- All the external emergency plans and their revisions,

- The opinions and comments expressed by the public,

- The final external emergency plans.
The Register is available to the public and can be examined during the working days and hours. The competent authority must also ensure that the public is effectively informed about all the measures taken in the case of an accident.

Participation under the Nature Protection Laws

According to Article 9(4) of the Law for the Protection and Management of Nature and Wildlife (N. 153(I)/2003), the Environmental Authority maintains a publicly accessible database on Special Areas of Conservation, Sites of Community Importance, Special Protected Areas and areas that include priority habitats and species. Furthermore, according to Article 15(3), before the adoption of a Decree on the management and protection of a Special Area of Conservation, the public must be informed through a notification in the daily press of the proposed Decree and that comments may be submitted within 30 days from the date of the notification.

Participation under the Environmental Noise Law

According to Article 9 of the Law on Environmental Noise, the Environmental Authority must ensure that the public is consulted on any proposals for the adoption of action plans and given early and effective opportunities to participate in their preparation and review. The results of the participation must be taken into account and the public informed of final decisions.

According to Article 10 of the Law, the competent authority must ensure that the strategic noise maps and action plans adopted are made available and disseminated to the public. The information must be clear, comprehensible and accessible.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Answer:

XXI. Obstacles encountered in the implementation of article 7

Answer:

XXII. Further information on the practical application of the provisions of article 7

The provisions relating to Articles 6 and 7 of the Convention have introduced uniform procedures for public participation in the decision-making process over plans, programmes and projects relating to the environment. The practical arrangements which are now in place have provided the public with the opportunity to be informed in a timely manner regarding a possible decision and have enabled concerned citizens to participate in the decision-making process more effectively. Through these arrangements, all information relevant to a proposed decision is now accessible and the public, including NGOs and other stakeholders, can express opinions which must then be taken into account when the final decision is taken. This has also enabled public authorities to evaluate and take into consideration public opinion on a specific project, plan or programme at a stage when it is still possible to introduce changes and measures to minimize any potential impacts. As a result, the decision-making process has become more efficient, the decisions taken meet the needs and concerns of the public concerned, and are more transparent and with added validity. In many instances, public participation has also increased public awareness on specific issues, such as waste management and energy production.

The major advantage is the involvement of the public from an early stage in the decision-making process. This allows the public the opportunity to express their opinions and concerns regarding a possible decision, and the public authority to assess those opinions at a stage when it is still possible to change the parameters of a project, plan or programme to reduce impacts and increase public acceptance. Additionally, implementation has ensured a uniform approach to public participation by incorporating procedures already found in other legislation (EIA and SEA Laws) in the decision-making process.
Differences between plans, programmes and policies according to national legislation: According to the SEA legislation, plans and programmes include those subject to preparation and / or adoption by an authority at national, regional or local level or which are prepared by a competent authority for adoption through the legislative procedure, or which are required by any legislative provisions, including environmental and community legislation. Policies are not within the scope of the SEA legislation.

XXIII. Website addresses relevant to the implementation of article 7

www.moa.gov.cy/environment

http://infoeia-sea.environment.moa.gov.cy/

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

In 2009 the Ministry of Finance, in cooperation with the Legal Service, published a Consultation Guide for public authorities providing guidance over the public participation procedures to be followed during the preparation of legislative and regulatory acts. The Guide forms part of the Impact Assessment Questionnaire that must accompany a draft bill when submitted to the Legal Service for legal vetting and, following this, the Council of Ministers and the House of Representatives for adoption. One of the central aspects of the questionnaire is the public dialogue conducted with interested parties, and the Guide provides assistance to public authorities in this respect. The Guide covers the types of consultations that need to be carried out when preparing a new legislative act or amending an existing one, ways to identify and engage interested stakeholders in the participation process, the preparation of the information necessary for the participation process, and ways of evaluating the contributions made, while setting timeframes for the participation process.

The Guide covers two types of participation procedures which may be followed, informal and formal participation. During the informal procedure there is a preliminary exchange of opinions with affected parties and an initial evaluation of responses to the proposed legislation. Based on this it is then decided whether it is necessary to conduct a formal participation procedure, which involves the notification of information material to interested parties, the submission of written comments and, where necessary, public hearings, meetings campaigns, public enquiries and expert committees. Stakeholders are informed as to how their opinions have been utilised.

An informal participation procedure must be concluded within a 4 week period. In the case of formal participation procedures, the consultation period must take at least 4 weeks and be concluded at a maximum of 8 weeks. The precise timeframes for informing stakeholders and the public and for the submission of opinions is determined by the competent body preparing the legislation and depends on the precise methods chosen for participation. Invitations to participate in public consultations must be sent to interested parties at least 2 weeks prior to the onset of the consultation period. To ease access to relevant information, consultation documents must be made available through the Internet.

The participation procedure is carried out at the initial stages of the legislative procedure, when a draft legislative proposal is prepared, allowing for a first exchange of views between interested parties and a first evaluation of responses to the proposed legislation. The contributions received and the analyses made must be made available through the internet within 2 weeks after the consultation period. The results of the public consultation are submitted as part of the Impact Assessment Questionnaire which accompanies the proposed legislation.

XXV. Obstacles encountered in the implementation of article 8

Answer:

XXVI. Further information on the practical application of the provisions of article 8

Answer:

XXVII. Website addresses relevant to the implementation of article 8
Czech Republic

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

A basic type of decision-making connected with the implementation of article 6 in the Czech Republic is an administrative procedure held under the Administrative Procedure Code, which is preceded by an EIA process concluded with an opinion used as an expert basis for issuing a decision under special regulations (typically a planning decision under the Building Act). General public including foreigners have a right of full participation in the EIA process: they have an opportunity to express their opinion either in the form of written comments or orally during public discussion. In the Czech Republic, participation in decision-making on particular activities (e.g. positioning and permitting intended structures, issuing integrated permits for certain industrial activities) may be divided into 2 types, the latter of which also includes an opportunity to appeal against a decision and challenge a decision at a court.

The so-called sui juris participation includes extensive procedural authorisations, which far exceed the requirements resulting from the Convention, and which are connected with the so-called sui juris participation in the procedures. The sui juris participation of the entities (individuals, communities, "unorganised public") is generally governed by section 27 of the code of administrative procedure; the participant is the person who submitted the request or if the procedures are instituted ex officio, those to whom the decision is to establish, amend or revoke a right or obligation, or to declare that they have a right or obligation, or who claim this, until proven otherwise. Furthermore, the Act defines that the participants are also other persons, if they may be directly affected by a decision in their rights or obligations. The participant of the procedures is also the one to whom this position is conferred by a special law (§ 27 para. 3 of the administrative code). This provision is important for NGOs, which become participants of the procedures, in particular, on the basis of special laws, for example on the basis of section 70 of the Act 114/1992 Coll., on nature and landscape protection or section 9c, paragraph 1. 3 the Act on EIA. In procedures pursuant to the Building Act (planning and building procedures often meet the definition of "environmental decision-making"), the administrative code does not apply for the terms of participation. Sui juris participation implies but is not limited to the authorisation to be informed of the initiation of procedures; to request from a competent authority a reasonable instruction; to propose evidence in the procedures; to make proposals throughout the whole procedures; to express opinion; to ask for information about the procedures; to make an opinion before the resolution is made regarding its background materials; view the files; to take part in the oral procedures; to deliver documents into their own hands; to file an appeal; to file a claim against the resolution.

“Consultative” participation:

It applies without any further restriction to any natural persons and legal entities. The public is notified of the intent to perform a certain activity and is provided with relevant information at the same time. Anyone may submit comments to the proposed activity either in writing or orally (town and country planning including a planning procedure, EIA process, safety programmes and emergency plans, permits for various forms of GMO management), the competent authority has to attend to the comments and take them into account or give plausible reasons why a given comment cannot be accepted.

A typical application of the consultative participation of the public, which gives the possibility to consider the form of the intended project before starting the actual permitting procedure, is the EIA process and also the subsequent procedures. In the Czech Republic this process is separate; it is not integrated in processes, in which decisions are made about the approval of the intent, but precedes them.

The EIA process itself consists of several consecutive phases and all the documents, based on which a opinion will be issued in the end, are published. Anyone has the opportunity to comment on them within a specified period by sending a written representation; or during the participation at the public hearing. At the public hearing, the public can express their comments orally and in cases where it is needed, it could be an effective tool facilitating communication between investors, representatives of the administrative authority and the public. The settlement of the comments made by the
public is one of the mandatory requirements of the opinion of the EIA. The result of the EIA process is the so-called binding opinion of the EIA containing the assessment of an environmental impact of the intent and conditions under which it is possible to permit the implementation of the intent in subsequent procedures. The public comments received in the EIA process must therefore be taken into account also by the administrative authority that is deciding in the subsequent procedures.

The EIA process is followed by one or more subsequent procedures. The subsequent procedures are then just those procedures, in which it is decided on the issues of the realisation of the intent, hence its location and implementation, and in which the opinion of the EIA is used as the basis for such decision-making. The requirement of the Convention that the outcome of public participation is duly taken into account, is fulfilled in two ways. The first of these is the right of the public to make comments on the intent in these procedures. The second way is the sui juris participation of associations in these procedures, which implies substantial rights, especially the right to make comments in the course of procedures, the right to propose evidence, the right to view files, and the right to file an appeal against the issued decision. The only condition of participation is that the association, which meets the conditions laid down by law (environmental associations that were established at least 3 years ago or that prove a signature document with at least 200 signatures), applied to the administrative authority, which holds the subsequent procedures, within 30 days of the publication of the information referred to in the preceding paragraph. For both these ways of public involvement it is necessary that all the necessary information is provided to it.

The law provides that the administrative authorities holding the subsequent procedures, have the obligation to publish information necessary for effective involvement of the public; the public has the right to apply comments in these procedures on the intent and societies can become a sui juris participants in these procedures.

Public, as defined by the Act on the assessment of environmental impacts, e.g. any natural or legal person may submit its comments to administrative authority. Comments must be submitted within 30 days from the publication of information on subsequent proceedings. The administrative authority is obliged to refer to the settlement of the comments from the public in the grounds of its decision.

At the stage of town and country planning which determines the future use of various plots of land – sets out e.g. possible locations of roads, residential houses, parks and other undeveloped areas, anyone may also submit their comments that have to be subsequently attended to by the owner of plan. The development plan is issued in the form of a measure of a general nature. It cannot be challenged by an appeal but does not exclude the use of another supervision instrument, namely assessment of compliance of the issued measure of a general nature in a review procedure (hereinafter referred to as “PŘ”) under the Administrative Procedure Code. A petition for initiation of a PŘ may be filed basically by anyone. If there is any doubt about compliance of a measure of a general nature with legal regulations, a superior authority reviews it in a PŘ and may subsequently change or cancel the measure. A development plan may also be opposed by filing an action with an administrative court.

In the course of planning procedures — in the end of which a fundamental decision is issued in terms of environmental protection – the planning decision, in which a specific building/structure is placed in a specific territory.

In the course of a planning procedure, anyone may submit comments. On top of that, associations, societies and owners of adjacent real estates hold the position of participants in the procedure – they have a right to appeal against the decision or to contest the decision by filing an action with a court.

a) regarding article 6 paragraph 1

The parties are obliged to apply the provisions of article 6 with respect to the decisions on whether to permit proposed activities listed in annex I and also in relation to other decisions on proposed activities not listed in annex I, but with possible significant effects on the environment. The range of activities listed in annex I to the Convention overlaps with the field of activities, which are compulsory according to the Czech legislation within the process of the environmental impact assessment (EIA process). The EIA process itself cannot be regarded as sufficient to fulfil the provisions of the Convention, but it is just the legislative provision of the EIA process and the subsequent procedures (see above) that provide extensive rights in the Czech Republic to the public and to the public concerned, which may
be applied not only in the framework of the EIA process, but in the procedures that follow after the EIA process, and in which it is decided on the location and implementation of intents assessed in the EIA process.

b) Regarding article 6, paragraph 2

Information about the EIA process is published on the official notice board of the competent authority and on its website to the extent required by the Convention.

Participants in administrative procedures are informed about initiation of such procedures.

Moreover, NGOs may request to be kept informed about all intended actions and initiated administrative procedures in which nature and landscape protection interests may be affected. A request to be kept informed is valid for one year and must be specified in term of the matter and location (section 70, paragraph 2 of the Act on Nature and Landscape Protection). In addition, there are numerous specific regulations, e.g. as for a planning procedure, the public is informed through a public notice and the information is also available right at the place of the planned structure.

The procedures following the EIA process (e.g., planning/building procedure), in relation to the public and the public concerned, are newly initiated only by posting on the official notice board. The request for information pursuant to section 70 of the Act on nature and landscape protection does not apply to these procedures.

c) Regarding article 6, paragraph 3

Time limits for the preparation for individual stages of decision-making are set out precisely in Acts and last less than ten weeks.

d) Regarding article 6, paragraph 4

Public participation is ensured by the EIA process at an early stage of the intent preparation when all options are still open. This also consistently fulfils the principle of prevention.

e) Regarding article 6, paragraph 5

Under section 15 of the Act on EIA (preliminary examination) the competent authority and the administrative authorities concerned are obliged, if the notifier or the submitter requests before submitting the notification or the notification of the concept, to discuss the considered intent with the notifier or the submitter, including potential alternatives of the solution of the intent or concept and recommend a preliminary examination with other relevant administrative authorities, territorial authorities concerned, where appropriate, with other bodies.

The practical experience with the process of assessing the impacts of the intents on the environment and public health, clearly implies that the notifier of the intent plays one of the key roles. Therefore, the MoE has prepared a guidance document called EIA Notifier’s Handle (2011).

) Regarding article 6, paragraph 6

Access to information is given according to this paragraph in the EIA process and subsequently under the Building Act and Administrative Procedure Code.

g) Regarding article 6, paragraph 7

Submission of oral and written comments of the public, as required by this paragraph, is allowed within the scope of the EIA process and town and country planning including the planning procedure.

h-i ) Regarding article 6, paragraph 8

The ŠR, SZ, EIAZ and the Act on Public Health Protection (ZOVZ) set out that when making decisions, the output of the public participation has to be taken into account and the public shall be informed about decisions through the official notice board in a manner allowing remote access. Written notices are sent only to applicants and “full-right”
participants. Decisions and other documents related to the procedure are available at request under the Acts regulating access to information. They are delivered to the participants in the administrative procedure by mail intended for the addressee only. If they cannot be delivered otherwise, they shall be delivered through the official notice board. Information about ongoing EIA processes is also published on the website of the MoE.

From the 1st April, 2015 there have been significant changes in some of the rules that have applied in the EIA process until now (see also the description of the implementation in introduction to article 6). Amendments to the Act provided that the final opinion of the EIA is mandatory. This means that in the subsequent procedures, the authorities will have to abide by this opinion in their decision-making. At the same time it is possible to ask for its review in the appeal procedure, the subject of which is the decision issued in any of the subsequent procedures.

j) Regarding article 6, paragraph 10

In the Czech system of law this provision concerns particularly a change of an issued decision in a procedure; the former procedure participants may participate in such procedure with all rights as were their rights applicable to the former decision-making.

Newly the Act on EIA introduced the so-called verification of a binding opinion. This verification, or validation of the changes in the intent (the so-called coherence stamp), takes place in the subsequent procedures and the competent authority, which issued the opinion of the EIA, must check that there has been no change in the intent that could have a significant negative impact on the environment. If the authority finds that the potential change could have such a negative effect, this change would be the subject of the screening procedure, in which the competent authority would establish, whether this change requires the implementation of the EIA process. This verification opinion is issued whenever the subsequent procedures are the building procedures or procedures on the change of construction before its completion.

After 1st April 2015, when the amendment to the Act No. 100/2001 Coll., came into force, the compliance of the already issued EIA opinion with the legal regulations, which implement the EIA Directive (that is, the law on EIA), must also be verified. This verification is necessary for all the opinions of the EIA issued before 1st April 2015 to intents, where the EIA process has been completed, but the intents have not yet undergone all subsequent procedures. This verification can be connected with the verification described in the previous paragraph.

k) Regarding article 6, paragraph 11

Act No. 78/2004 Coll., on the Management of Genetically Modified Organisms and Genetic Products makes it possible for the public to participate in decision-making on permits to release GMO into the environment.

XVI. Obstacles encountered in the implementation of article 6

On 25 April 2013, the European Commission instituted infringement procedure against the Czech Republic due to the incorrect transposition of the EIA Directive (Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment). The fifth session of the Meeting of the Parties (MOP 5, 30 June – 1 July 2014 in Maastricht, the Netherlands) adopted the Decision V/9f concerning the Czech Republic. MOP endorses findings concerning the Czech Republic and stated, that Czech Republic is not in compliance with articles 6, paragraph 3 and 8, 7 and 9 paragraph 2,3 and 4 of the Convention; Some of the concerns raised by the Aarhus Convention Compliance Committee to national legislation are essentially the same as the Commission’s objections. Following a detailed analysis, it has been decided to make conceptual changes and in 2015, the EIA Act amendment was adopted by the government; all existing requirements of the European Commission, and thus the requirements/recommendation made by the Meeting of the Parties to the Aarhus Convention V/9f, were satisfied, as described in relevant parts of this report.

XVII. Further information on the practical application of the provisions of article 6

Answer:

XVIII. Website addresses relevant to the implementation of article 6
XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

A special regime applies to town and country planning documentations and territorial development policies, in respect of which the Building Act stipulates a special procedure for public participation in their preparation. According to the amended Building Act, the public may submit comments as early as at the first stage of preparation of town and country planning documentation. From the public’s point of view, the most important document is usually the development plan of the municipality that is binding for the issue of individual planning decisions in the given location.

The development plan constitutes a conception that determines the future use of various plots of land in the municipality – it sets out e.g. possible locations of roads, residential houses, parks and other undeveloped areas. In the course of preparation or changes of the development plan, anyone may submit their comments that have to be subsequently attended to by the owner of the plan. An issued development plan cannot be challenged by an appeal but an action may be filed with a court together with a petition for a review of the plan.

In the Czech Republic the public does not always participate in the process of preparation of strategic plans but is allowed to enter in the process of assessment of the environmental impact of these plans and programs. In the Czech law, the requirement of the Convention is transposed into Act No. 100/2001 Coll., on Environmental Impact Assessment, in the regulation of the SEA process (transposition of Directive 2001/42/EC). The Act defines local government units concerned and administrative authorities concerned that are engaged in individual stages of the environmental impact assessment process. The SEA process may be participated by the general public, including foreign public and all important documents are published. The result of the SEA process is an opinion on the impact of the implementation of the concept on environment and public health (opinion of the EIA), which serves as the technical basis for the administrative authority which approves the concept.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

The public has access to the preparation of policies within the scope of the environmental impact assessment process under Act No. 100/2001 Coll., on Environmental Impact Assessment. The Act requires publishing a notice of conception (policies of various sorts are examples of a typical conception) that contains information about the conception under assessment and about the expected environmental impacts. At the following stage of the process of assessment of the conception’s environmental impact, a draft conception and its environmental impact assessment have to be published, according to the Act, on official notice boards of the self-government units concerned; these documents shall also be published in the Information System SEA at http://portal.cenia.cz/eiasea/view/SEA100_koncepce. The Act also stipulates the obligation to hold a public hearing that may be attended by anyone. The legal regulation does not prevent a proactive approach of the conception submitter and assessor.

XXI. Obstacles encountered in the implementation of article 7

NGOs point out that non-existence of a definition of the public concerned (within the meaning of article 2, paragraph 5 of the Convention) in the Czech system of law complicates direct addressing of the public concerned during preparation or assessment of conceptual documents (such as policies and development plans). Since the SEA process is open to general public, all public is addressed across the board instead of addressing only its particular segments (concerned).
According to the MŽP, general public, not only public concerned, may participate in the SEA process so the circle of participants is even broader that required; however, this may hardly be regarded as an obstacle or shortcoming.

XXII. Further information on the practical application of the provisions of article 7

The government of the Czech Republic adopted a Conception of Support for Local Agenda 21 (LA21) until 2020. Within the scope of a systemic approach to MA21 great emphasis is put on engagement of the public in planning and decision-making. The support is coordinated by the MoE that closely cooperates with the association Národní síť Zdravých měst ČR (National Network of Healthy Cities of the Czech Republic). Municipalities have been increasingly interested in implementation of LA21 and its quality has also been rising.

The public has been increasingly interested in the form of development plans these days – e.g. in the fourth largest Czech town a local referendum on its change was called in 2013, and it is not an isolated case.

XXIII. Website addresses relevant to the implementation of article 7

http://portal.cenia.cz/eiasea/view/SEA100_koncepce
http://ma21.cenia.cz
www.zdravamesta.cz
www.zelenykruh.cz

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

The draft legislation issued by the executive (proposals for substantive intents of laws, bills, regulations of the government proposals and draft decrees) are, according to the Legislative rules of the Government, mandatorily published on the portal of the Government of o/dok. All subjects required to submit comments, including the public, have a basic time limit of 15 work days (or 20 work days for bills) for submitting their comments. The submitter of a draft legal regulation may extend the time limit. Article 7, paragraph 4 of the Legislative rules of the Government regulates the manner of attending to the commenced submitted by the public. Comments of a relevant nature that were not accepted have to be stated in a submission report for the draft legal regulation with the reasons why they were not accepted. The submission report shall contain general evaluation of comments submitted by the public if they clearly relate to the submitted draft. Submitters are not obliged to discuss comments with the public but may do so voluntarily.

MoE publishes legislation prepared in various stages of the legislative process also on its website, i.e. proposals, which were sent out to be questioned (on each proposal there is information about the termination date of the questioning procedure and the e-mail address to which comments can be sent); provisions in respect of which questioning procedure ended and where the wording is being modified on the basis of comments; proposals that have been submitted for consideration to the Government (the bills and government regulations), or working committees of the Legislative Council of the Government (draft regulations); Government bills, approved by the Government and subsequently sent to the Chamber of Deputies, including the number of the House or Senate Press, which will allow to find the regulation on the website of the Chamber of Deputies (Senate) and keep track of the discussions in the Parliament of the CR.

Generally binding legal regulations issued by regions and municipalities are discussed at meetings of local authorities open to the public.

XXV. Obstacles encountered in the implementation of article 8

Article 8 has not been implemented into the Czech system of law so far. As it follows from the response to the previous question, the law does not require discussing draft legal regulations with the public although the Legislative rules of the Government are binding for all public administration bodies. Public administration authorities sometimes voluntarily engage the public beyond the scope of the Legislative rules of the Government but are not obliged to do
so. The substance of representative democracy is delegating the legislative power to the elected representatives of the public. The public will is expressed through such elected representatives. Therefore, requirements for other (from this point of view duplicate) discussion of legal regulations with general public lead to a change of the state form to a direct democracy which has no tradition in the Czech Republic and for which, inter alia, the system of constitutional authorities is not adapted.

XXVI. Further information on the practical application of the provisions of article 8

The preparation of legal regulations is regulated on the governmental level (Legislative Rules of the Government), on the parliamentary level (Standing Order of the Chamber of Deputies and the Senate), and on the level of self-government. However, NGOs draw attention to hardly any willingness of some public administration authorities to engage the public in the preparation of regulations. The current legal regulation does not grant the public an enforceable right to participate in the preparation or to become only acquainted with the contents of the documents under preparation at a sufficiently early stage of their preparation.

XXVII. Website addresses relevant to the implementation of article 8


http://eklep.vlada.cz/eklep/page.jsf

Denmark

XV Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

(a)

(i)

A great many of the annex activities of the Convention are regulated by the regulations in the Danish Planning Act on EIA, or by special EIA regulations on off-shore activities. A new Environmental Assessment Act (act. No. 425 of 18. May 2016) is entered into force 16. May 2017. This new act gathers and replaces the Danish Planning Act and most of the special EIA regulation. The Danish EIA regulations contain regulations on procedures that are in accordance with the regulations in the Convention.

The rest of the annex activities are regulated by chapter 5 of the Environmental Protection Act on listed enterprises, including in particular the special system with advance public participation that was introduced by Act no. 369 of 2 June 1999 in connection with implementation of the IPPC Directive. In 2000 a couple of small adjustments were made to the existing law, including in particular in connection with public participation in connection with reassessments of certain types of heavily polluting enterprises. The text was further adjusted in 2012 as a transposition of Directive 2010/75/EU. As regards activities covered by the annex number 15, these requirements are incorporated into the Approval of Livestock Holdings Act part 3.

(ii)

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

(b-i)
The provisions in article 6, paragraphs 2-9 have been implemented in Danish law in a large number of provisions.

The Danish Minister for the Environment and Food can decide that information regarding public participation only shall be made available digital by announcements on the ministry’s website.

(j)

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

The Minister for the Environment and Food has access to stipulate regulations on public participation in connection with decisions on whether there should be an extraordinary revision of the conditions in an environmental approval.

(k)

The Danish regulations on releases of GMOs into the environment are in the Act on the Environment and Gene Technology. The Act contains provisions according to which affected authorities and organisations must be heard in matters of approvals of genetically modified organisms for release.

There are provisions on the procedure for hearing and information for the public in connection with approvals for trial releases and marketing of GMOs, including:

- hearings must be announced on the EPAs website.
- the EPA must set up a register of approvals for trial releases and marketing of GMOs. The register must include information on the name and address of the applicant, a description of the GMO, the objective and location of the release, a summary of the risk assessment, the Minister for the Environment's assessment of the case, as well as the approval terms.
- A great deal of information such as changes to an approval and results of monitoring of GMOs approved for marketing is made public on the EPAs website.

In practice, the hearing takes place by parts of the application, (the Summary Notification Information Format and an overview of the full application), being sent for hearing to about 50 parties, including environmental and consumer organisations. There are announcements on the EPAs website that the public may comment on new applications for trial releases or marketing of GMOs. The full application, except confidential information, can be supplied on request.

The hearing replies received by the EPA are incorporated in a memo to the Minister, and this forms the basis for the Minister's decision. The memo is subsequently made public on the EPAs website.

Under the MEFD, the Statutory Order on the cultivation of GMOs stipulates rules on the duty to provide information on cultivation of genetically modified crops.

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

The precise scope of the regulations in the Convention on public participation in the authorities' planning etc. under article 7 is difficult to establish, in that the Convention does not define the concept "the environment area". It would seem relevant to seek guidance in the Convention's definition of environmental information. In connection with the implementation of the Aarhus Convention, it was deemed in the 2000 Act Amending Certain Environmental Acts (Implementation of the Aarhus Convention, etc.) that the requirements of article 7 were in general being met.

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

Planning and environmental legislation contains a number of regulations on planning and prior public participation in accordance with article 7 of the Convention. In addition to this, there is a great deal of planning that does not arise directly from legislation. The public is also very much involved in practice with this type of planning.

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The Ministry’s own planning always involves prior public participation.

Rules have been laid down on public involvement in water planning in Act on Water Planning from 2013 and in NATURA 2000 planning.

Danish environmental legislation contains a number of provisions on public participation in statutory plans and programmes.

The Danish Environmental Protection Act contains a provision which gives the Minister for the Environment and Food the authority to stipulate regulations regarding public participation in the preparation and amendment of plans and programmes within the scope of the Act. Within this framework, it is also possible for the minister to lay down requirements for public participation in the preparation of any future national plans and programmes as well as to ensure that any later Community law requirements concerning public participation in plans and programmes can be implemented in Danish legislation.

This authority has been exploited in the Statutory Order on public involvement in preparation of certain plans and programmes in the environment field, which includes rules on public involvement in connection with preparation by the EPA of a national waste plan, a national waste prevention plan. With regard to the agricultural area, legislation on the giant hogweed has been issued. According to this legislation, municipal councils must hold public hearings on draft action plans.

MEFD places priority on public participation in connection with establishing policies, plans and programmes related to the environment. In establishing policies and strategies, preliminary idea meetings and workshops are extensively utilised where the public has an opportunity to have a say in the decision-making process.

With regard to the legislation on environmental assessment of plans and programmes, the former Nature and Environmental Protection Board of Appeal1 has issued a thematic supplement in the journal “NK-Orienterer” and NOMO about initial experience with the legislation. On the basis of a large amount of cases, various themes are reviewed, including the threshold for execution of environmental assessment.

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

The most important rule is that the public is involved prior to the introduction of a bill or the issuance of a new statutory order etc. The procedure is that a draft of the general regulations is sent for hearing by a wide range of organisations and authorities addressed directly by email and put up on the web portal for public hearings. Memorandums are prepared of the incoming hearing replies, and the need for amendments as a result of the remarks is considered in each case. In normal circumstances, this practice is never diverted from.

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

All hearing material is collated on a common public hearing portal (www.hoeringsportalen.dk).

Estonia

XV Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

The specific activities provided for in article 6 of the Convention have been regulated in national legislation through the issuing of authorizations and EIAs. The objective of EIAs is to provide information to the issuer of the authorisation on the planned activity and the environmental impact arising from its actual alternative opportunities, and for choosing the best suitable solution for the planned activity for avoiding or decreasing adverse effect on the environment and promoting sustainable development. The necessity of performing an EIA to the planned activity is determined in the process of issuing the authorisation. The Environmental Impact Assessment and Environmental Management System Act sets forth the activities for which it is necessary to initiate impact assessment, and the activities for which an ex ante assessment has to be performed to establish whether conducting an EIA process is necessary or not. The Act establishes thresholds for most of the activities; these thresholds determine when it is
obligatory to perform EIA upon crossing the limits and when it is necessary to consider the necessity of EIA, or perform an ex ante assessment of the possible impacts.

Authorizations upon the issuing of which environmental impacts are assessed are, inter alia:

- Building permits or permits for the use of construction works (procedure based on the Building Code);
- Integrated environmental permits (based on the Industrial Emissions Act) or environmental permits within the meaning of the General Part of the Environmental Code Act (permit for a special use of water – based on the Water Act; ambient air pollution permit – based on the Ambient Air Protection Act; waste permit and hazardous waste handling licence – based on the Waste Act; or the radiation practice licence – based on the Radiation Act) or design specifications;
- Permits for geological research and permits for general geological research (on the basis of the Earth’s Crust Act);
- Any other document permitting to carry out activities that are likely to have a significant environmental impact.

According to section 3 of the Environmental Impact Assessment and Environmental Management System Act, an assessment of environmental impacts is mandatory if:

- upon application for or application for amendment of a development consent if the proposed activity which is the basis for application for or amendment of the development consent potentially results in significant environmental impact;
- the planned activity can result, based on objective information, either individually or in combination with other activities in a significant adverse impact on the protection objective of the Natura 2000 network area and is not directly related to the organisation of protection or is not directly necessary for it.

Environmental impact is significant if it is expected to exceed the environmental capacity of a site, cause irreversible changes to the environment, or endanger human health and well-being, cultural heritage, or property.

In August 2008 an amendment to § 16 of the Environmental Impact Assessment and Environmental Management Act was enforced. Pursuant to this notification of the public display of a KMH (Environmental Impact Assessment) programme must be made to Ametlikud Teadaanded (Official Notices) and a newspaper and in at least one public building or place of the site of the proposed activities (e.g. shop, library, school, bus stop).

Upon the issuing of permits, the provisions on open proceedings provided for in the Administrative Procedure Act are applied. These open proceedings mean that, as a rule, public participation in the procedures have been foreseen and are obligatory.

Public participation in decisions on the intentional release of genetically modified organisms (GMOs) into the environment is regulated by the Release of Genetically Modified Organisms into the Environment Act (adopted in April 2004). The Act determines that GMOs may be released into the environment only with the written authorisation of the Minister of the Environment. For this purpose, a relevant application is submitted to the Ministry of the Environment, and pursuant to section 10 of the Act the Ministry of the Environment notifies about open proceedings of issuing a permit and subsequent granting of permit in the official publication Ametlikud Teadaanded (Official Notice) and at least in one national newspaper within seven days from the receipt of the application and the issuing of the permit. Regarding release of genetically modified organisms (GMOs) into the environment and granting marketing permits open procedure provisions shall be applied.

Pursuant to section 28 of the General Part of the Environment Code Act, it is provided expressly that everyone has the right to participate in procedure of granting permit for activity with significant environmental impact and in planning an activity with significant environmental impact. In case of the decision-making procedure related to significant
environmental impact, public shall be informed with efficiency that does not cause unreasonable expenses, but ensures that the information shall reach those persons, who have significant connection to the affected environment. Pursuant to the same section public has to be involved in decision-making processes of significant environmental impact effectively and in early phase, before the final solutions have been chosen. In case of public involvement the procedural time-limit must be such that having regard to scope and complexity of the case, it should allow public to participate effectively, including possibility for sufficient preparation time. Pursuant to section 28 the important materials regarding to a case must be easily accessible for public in Internet or in other manner.

The General Part of the Environment Code Act also regulates in detail the procedure of open proceeding regarding the review of environmental permit application.

XVI Obstacles encountered in the implementation of article 6

The public’s proposals and objections are sometimes based on the emotional reaction that the activity should not be carried out in anyone’s “back yard” may very well be caused by lack of knowledge. NGOs consider that the state should make efforts to educate the public concerned with regard to participation in the decision-making process. The objections and proposals prepared by NGOs are better worded and reasoned. However, in this field the following problems were indicated:

- In case of environmental permits the information does not often reach affected persons – also the Estonian National (Supreme) Court has indicated that an administrative body has to guarantee efficient informing, even if this would require more intense measures than those foreseen by the law;
- Although the deadlines for public participation foreseen by the law are usually sufficient it may still not be enough in case of more complicated cases;
- Sometimes the participation of the public may be formal and does not take into account the internal objectives of the participation;
- NGOs claim that there have been cases where the public is not engaged in the decision-making process in a sufficiently early stage and the form of engagement is not efficient enough, which is rather the case at the level of local governments;
- In real life the content of notices is not always inspiring but rather technical and formal and therefore in case of newspaper announcements the appropriate persons may not become aware of the importance of the issue;
- Electronic means could be more applied for the engagement of the public in the future (besides already existing means). E. g. automated electronic message system would be suitable for more efficient notification. The system would allow for the registration of the participants and to notify what are the activities and/or locations of the activities they would like to receive information;
- Currently no efficient regulation exists that would require environmental impact assessment of logging. In addition, obligation for environmental impact assessment does not seem to work for building permits; in addition, the proceeding process of building permits does not include general involvement (the state register of construction works does not allow publishing notes of initiating or failure to initiate environmental impact assessments, although publishing of such information should be operated through the register of construction works).

In a response provided in 2016, one NGO pointed out that compared to 2013, involvement has gained greater appreciation in the society, which has also resulted in a somewhat more efficient and reasoned involvement in environmental issues. As substantial changes took place in the legal framework in 2015 (new Planning Act and Building Code entered into force, thorough amendments were introduced to the rules for environmental impact assessment), there might be some changes in the practice of involvement. Presumably, these will be primarily positive. At the same time, considering the Aarhus Convention, the provisions that establish a maximum deadline, thereat a very short one (up to ten days), for submitting the positions implemented in the processes of design criteria and
building permits. One of the specific challenges continues to be scheduling engagement processes to holiday periods and setting rather short deadlines for them. Problems occur also in justifying the choice of considering or disregarding the opinions presented within the process of engagement.

One NGO emphasised in 2016 that it is often unclear in multi-stage decision-making processes which issues are decided in which decision-making process and by which institution, which decision-making processes are open for participation, and which decisions can be contested. In addition, the NGO considers the availability of data problematic, which may considerably hinder participation in the process. The NGO brought an example where the activities of the Ministry of Economic Affairs and Communications were not, in their opinion, in compliance with article 6 (6) of the Aarhus Convention and subsection 28 (5) of the General Part of the Environmental Code Act, which reflects this provision in the Estonian law. The NGO also pointed out that the quality of the EIS content is poor. For example, the Supreme Court has established an incorrect practice of state institutions in setting up wind generators in terms of assessing both the noise created by the generators and assessment of their impact on the nearby Natura areas. If the impact of certain activities are assessed as lower than the actual impact, it is difficult for the public to participate in the process of issuing permits to them.

XVII Further information on the practical application of the provisions of article 6

Regarding EIA and issuing permits, the disclosure requirements determined under the law have been performed. Environmental Impact Assessment and Environmental Management Act obligates notify in public of the decision to initiate or not initiate environmental impact assessments, disclose a programme or a report – through the official publication Ametlikud Teadaanded and newspapers, also the appropriate agencies and persons etc. must be notified in writing. The public display of the impact assessment programme (both the environmental impact assessment and the strategic evaluation of environmental impact) shall take place at least for 14 days, the public display of the report at least for 21 days, and in the case of a report of strategic assessment of environmental impact, at least for 21 days (excl. plans). In the Planning Act, which entered into force on 1 July 2015, the planning procedure and the strategic evaluation of environmental impact have been integrated into one single process. Pursuant to the Planning Act, the duration of the public display of the report on planning and strategic evaluation of environmental impact is 30 days. In general, these terms are reasonable, while often the large volume of documentation and the complicated nature of the planned activity is not taken into account while assessing environmental impact – regardless of the volume of the report a tendency is to set the limits according to the minimum term allowed by law. During the process of the assessment of the impact, all persons can examine the materials, submit proposals and objections regarding the programme and the report on the basis of which the programme and the report are improved, if possible. The persons submitting proposals must receive feedback on whether the proposals were taken into account or not. During the processing of the plans, the engagement of the public takes place already at the initiative stage of the plan and later at the stage of disclosing the plan.

In 2016, it is still found that involvement of the public and interested parties has remarkably improved and in general this can be considered as efficient and sufficient – it is possible to take part in the decision-making process for those who so wish. In the Ministry of the Environment participation in early phase has improved remarkably. More and more stakeholders are included already before completion of a draft document. However, often there is less interest for participation in early phases. Most of the information is available electronically, new initiatives are announced through the mass media and local advertisements and by ordinary mail. The deadlines are usually met, the participation is not limited and the results of participation (remarks, proposals) are taken into account.

XVIII Website addresses relevant to the implementation of article 6

XIX-XX Legislative and other measures implementing the public to participate during the preparation of politics, plans and programmes relating to the environment pursuant to article 7 of the Convention.

Section 31 of the new EIA and Environmental Management System Act defines the term of strategic planning document. Strategic planning document is a national, county, comprehensive or detailed plan, or a national or local government designated spatial plan within the meaning of the Planning Act, a development plan of an area within the meaning of the State Budget Act, and a plan, programme or strategy the requirement for which arises from the law or
from other legislative act provided based on a provision delegating authority established in the law, and which shall be prepared or adopted by an administrative authority or which shall be prepared by an administrative authority and adopted by the Riigikogu, the Government of the Republic or other administrative authority. Pursuant to the law, the open procedure provisions of the Administrative Procedure Act apply to public participation in the preparation of these documents. On the basis of the applicable law, this has been done for instance in the strategic environmental assessment (SEA) of the “Sustainable Estonia 21” strategy, the Estonian National Development Plan for 2007–2013, and the revision of the Estonian environmental strategy. Public participation was also organized in the preparation of the Forestry Development Plan. The documents are accessible to the public for at least two weeks in the disclosure and SEA process, after which, an open meeting is organized for asking questions and expressing opinions; proposals are expected in writing. The large number of participants has sometimes been a problem, and at the same time the interests of the various interest groups are different and often contradictory, which has made taking the proposals into consideration very difficult.

The waste management plans of local governments prepared on the basis of the Waste Act are public documents, and a disclosure process must be completed upon the preparation thereof. The public is informed of the initiative and public display of the national waste management plan, as well as of the relevant public sessions, through notices published in the Ametlikud Teadaanded, on the Ministry’s homepage and in a national newspaper (county plans are not prepared any more). Practice has shown so far that people are very interested in this kind of disclosure process and take an active part in it. The opinions of the public differ – there are hasty and poorly considered conclusions but also constructive proposals are often made that can be taken into account while preparing the waste management plan. Generally speaking, public participation in the process has a positive effect and helps to reduce the occurrence of problems and errors at the later stages.

The public is informed of the submission of applications for a waste permit and hazardous waste handling licence issued on the basis of the Waste Act in the Ametlikud Teadaanded. The data contained in the notice such as the business name of the applicant, registry code and location, the planned location of Activity, short description of the location of activity and information regarding how and when the application for the waste permit and the draft waste permit can be examined and proposals and comments submitted. Depending on the planned activity, public interest in this process has generally been very passive.

Public participation in the preparation of plans is regulated by the Planning Act, pursuant to which different means of notification are established to different types of planning. The ministry, county governor or local government administering the preparation of the plan provide the main characteristics and time frame of the process. The completed plans are put on public display either in the local government or county centre.

Everyone has the right to present proposals and objections concerning a plan during the duration of public display. The local government or county governor administering the preparation of the plan must inform persons who have sent proposals and objections by post or electronic mail during the time the plan is on display of their opinion on such proposals and objections, and specify the time and place of the public discussion within two weeks from the end of the public display of the plan. On the basis of the outcome of the public display and discussion, the local government or county governor make the necessary amendments to the plan.

XXI Obstacles encountered in the implementation of article 7

NGOs have pointed out a problem that the deadline for disclosure of plans – two weeks – may be too short. The new Planning Act and the amendment to the Environmental Impact Assessment and Environmental Management System Act, which entered into force on 1 July 2015 and which change the period of public display, are expected to change that. The public display period for most plan types is 30 days; only the period of public display for detailed plans concerning comprehensive plans is 14 days (presuming that a strategic environmental impact assessment is not performed). The responses received in 2016 did not reflect the situations, where NGOs did not receive any feedback on proposals and objections submitted by them in respect of national and local strategies and action plans.

The impact of public participation is usually valued as positive, necessary and informative by both the public and authorities. However, often the limitation of resources may also limit the effect of public participation (in the case of
voluminous documents, there is not enough capacity for adequate elaboration) and all proposals made in respect of documents cannot be taken into account (it is not possible in every case also due to conflicting interests, but often the participation pursuant to the responses received from the State authorities and taking into account the submitted proposals are considered as synonyms). Some shortcomings have been indicated in justifying rejected proposals. NGOs have also noted that the disclosure process is often formal, not substantial. Disclosure meets the requirements set out in law, but no efforts are made to ensure that the information reaches stakeholders. The notice regarding public discussion may be published in a national newspaper and the web page of the municipality, but in case these sources are not constantly followed, no information is received.

XXII Further information on the practical application of the provisions of article 7

By 2016 the involvement of the public in the development of strategic documents has remarkably increased and the public participation phase is foreseen for all more important documents prepared by state and local authorities.

The legal basis of involvement is the regulation No 180 “Regulation for good legislative drafting and standard techniques” of the Government of the Republic of 22 December 2010; pursuant to § 1 (5) of this regulation, the involvement of interest groups and public in draft preparation intention, concept and draft act preparation and coordination shall be done on the basis of rules and regulations of the Government of the Republic in a manner of good practice. In the case of post assessment of act impacts, interest groups are involved in a manner of good practice.

Pursuant to § 4 (2) of the regulation No 10 from 13 January 2011 “Rules and regulations of the Government of the Republic” by the Government of the Republic relevant interest groups shall be involved in preparation of a draft or other matter accordingly to good practice of involvement, which shall be approved by the Government of the Republic. A good practice of involvement shall be published on the website of the Government of the Republic.

The Government of the Republic approved at the sitting of 29 December 2010 “Good practice of involvement” i.e. principles, which have to be followed by all authorities of public sector. The objective of good practice of involvement is to provide more clear instructions for involvement planning and arrangement and harmonise the involvement practice quality of governmental institutions. Further objective of involvement is to increase the transparency of decision-making processes and increase the reliability of the governmental sector in relations with the public.

In the document, the instructions for notifying the interest groups and organising a public consulting are described. In relation to the latter, the ministry has to involve interest groups in the preparation of a decision, submit a draft for expressing their opinion and providing feedback regarding the consideration of collected opinions.

A good practice of involvement shall be implemented in course of policy initiatives preparation, which can be legislation draft preparation of Riigikogu, government and minister, also a development plan preparation, and other type of political initiative, in which consulting with NGOs is important despite of the fact whether the decision shall be made in the form of legal concept or not.

The basis for the preparation of good practice are the rules and regulations of the government and the action programme of the government. The requirement to involve interest groups in the preparation of a draft act stated in the development trends of legal policy until 2018 by Riigikogu has been taken into account. Once a year the Government Office submits a review to the government regarding the implementation of involvement good practice.

State Forest Management Centre (hereinafter referred to as RMK) involves the public in the preparation of different plans, of which the most important one for RMK is definitely the RMK development plan. Involvement of the public in the preparation of User Management Plans for nature protection is considered a good practice. A good practice is the involvement of the public in the preparation of user management plans for nature preservation, in the preparation of long-term forest management plans of a forest district and in preparation of more important strategies e.g. strategy of logging in spring and summer and in the preparation of economic strategy of drainage systems.

In 2016, the Ministry of Economic Affairs and Communications pointed out the long-term development plan of the energy sector until 2030 as a good example of involvement. The influence of involvement is considered positive – the overview obtained in the current preparatory phase about the data and possibilities for conducting analyses available in Estonia for establishing a development plan of energy management is much better than before. A negative side of
involvement is the fact that the process has become rather long (4 years since the commencement of developing the plan).

In the area of government of the Ministry of Interior environmental associations are involved into decision-making bodies through the Estonian Council of Environmental NGOs represented by the Estonian Ornithological Society. Under the management of the Minister of Interior, the joint committee of the implementation of activity plans of the Estonian Civil Society Development Concept and assessment of completion of the activity plans and improvement of state cooperation meets, consisting of the representatives of the Government of the Republic and citizen associations to which relevant representative belongs. Further information is available on the address https://www.siseministeerium.ee/ekak.

Among the documents developed by the Ministry of Rural Affairs, the main strategic document related to the environment has been “Estonian Rural Development Plan 2014–2020” (hereinafter referred to as ERDP). From 2004, the representatives of all related stakeholder groups – agricultural producers, environmental organisations (incl. the Association of Estonian Environmental Organisations), representatives of other undertakings and stakeholders – have been engaged in the preparation of ERDP. Besides, there have been such organisations related to environment among our partner organisations whose direct aim is not protection of environment as such but development of environmentally friendly agricultural production (Centre of Ecological Technologies, Cooperation Group of Organic Farming, Estonian Association of Organic Farmers, and Estonian Foundation of Organic Farming). In the opinion of the Ministry of Rural Affairs, the impact of the engagement has been productive and positive. During the cooperation with the environmental NGOs the measures of the 2nd axis of the Rural Development Plan are mainly developed, several proposals submitted by them have been integrated in the conditions of the measures.

The number of organisations engaged in the working group for preparing ERDP was 29, but in the expert groups of the measure, there were 50–60 organisations. The proposals submitted within the collaboration with environmental NGOs have been integrated into several conditions of the measure. Considering that different interest groups have different interests, inevitably some compromises had to be made. Nevertheless, the Ministry of Rural Affairs has done their best to have the good involvement practices in mind, and it is considered that the influence of involvement has been productive and positive.

At the same time, one NGO pointed out in their response that, in their opinion, environmental organisations have been under-represented in the working groups or commissions led by the Ministry of Rural Affairs, as the representatives of agricultural producers tend to prevail in those bodies.

The Ministry of the Environment has engaged NGOs in developing various strategic documents. With the help of NGOs, drafts for two important strategic documents have been prepared: “General Principles of Estonian Climate Policy until 2050” and “Development Plan for Adaption to Climate Change until 2030”. For example, a wide involvement process was conducted in order to prepare the draft for the “General Principles of Estonian Climate Policy until 2050”. From March 2015 until March 2016, input was collected from interest groups from five sectoral involvement working groups: energetics and industry, transport, agriculture, forestry, and waste management. Even a separate involvement expert was hired for engaging interest groups. Involvement groups met dozens of times within this period and also exchanged thoughts electronically. Approximately 80 interest groups (incl. experts, unions, enterprises, researchers) participated in the work.

The working group that was active at the preparation of the adaption development plan included also the members of the Association of the Municipalities of Estonia, Association of Estonia Cities, the sustainable development specialist of the Estonian Fund for Nature as the representative of the Network of Estonian Non-Profit Organisations. The development plan was also added to the Participation Web (www.osale.ee).

Tallinn Environmental Board pointed out the processes of preparing the Tallinn Environmental Strategy until 2030 and the Tallinn Environmental Protection Action Plan for 2013–2018 prepared based on the former, Tallinn Greenery Action Plan for 2013–2025, and Tallinn Waste Management Plan as good examples of involvement. Based on the estimation of the Tallinn Environmental Board, the influence of involvement has been constructive and has broadened horizons.
Based on the information received from NGOs, they have been engaged in the process of preparation of almost all strategies, national development plans and also some draft acts in the area of administration of the Ministry of the Environment. The proposals submitted by NGOs have been analysed and used for the improvement of documents. As a result of involvement, the needs of (protection of) the environment have gained increased reflection in the development plans in some cases. In response to the 2016 questionnaire, one NGO marked that they have been involved in the development of environment related plans, programmes, and strategies and their proposals have been analysed and used for improving documents. However, there are still cases where their viewpoints have not been taken into consideration.

XXIII Website addresses relevant to the implementation of article 7

XXIV Efforts made to promote public participation in the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

In accordance with § 28 clauses 15)–17) of the Public Information Act, the following documents must be disclosed:

- Draft Acts prepared by ministries and draft Government regulations, together with explanatory memoranda, when such drafts are sent for approval or presentation to the Government;
- Draft regulations of ministers and local governments together with explanatory memoranda before such drafts are presented for adoption;
- Draft concepts, development plans, programmes and other projects of general importance before such drafts are presented to the competent bodies for approval, and the corresponding approved or adopted documents.

For approval, draft decisions of the Riigikogu, draft regulations of the Government and draft regulations of ministers together with all annexes are made available in the draft legislative act approval information system managed by the Ministry of Justice. The ministries and the Government Office will post a link to the Internet location of the draft legislative act approval information system on their websites. The documents entered into the draft processing information system are public. The public has the possibility to submit proposals in regards to draft legal acts during the duration of the display.

In accordance with the rules and regulations of the Government, drafts or other documents, except for draft acts, draft decisions of the Riigikogu and draft regulations forwarded to the Government by a ministry or the Government Office, can be classified as information intended for internal use either by the minister or the State Chancellor, respectively, on the grounds and in the order established in the Public Information Act, until the adoption of a decision by the Government or for another term prescribed by law. The Ministry and State Chancellor must not release or publish the drafts and documents annexed thereto submitted to the Government and classified as information intended for internal use until the adoption of a decision by the Government or until the end of another term of restriction on access.

During the preparation of draft legal acts for the Ministry of the Environment, drafts are also sent to relevant NGOs and professional unions and other interested persons. The Ministry’s internal procedure for preparing legal acts have been brought into conformity with the rules of engagement of the public and the good involvement practice. Proposals submitted in regard to legal acts are taken into account to the extent possible.

Pursuant to the good involvement practice, involvement is implemented at the Ministry of the Environment for the development of all draft acts with significant impact. A separate involvement plan is prepared, which includes the process of involvement, involved interest groups, and preliminary schedule. A separate webpage is created, where the entire information is available to the public. All interest groups influenced by the draft are involved. Interest groups are given sufficient time for presenting proposals – 4 weeks is a good practice.

The Ministry of the Environment also organises a partner day at the beginning of each year for all of its partners to introduce the plans for the year and the priorities. In addition, they meet separately with environmental organisations few times a year.
Pursuant to section 29 of the General Part of the Environment Code Act, the Government Office and the ministries publish on their websites relevant information on which draft regulations and acts that have a significant impact on the environment they intend to draft, publishing the intent of drafting, timetable, research to be carried out in the course of drafting, persons responsible, possibilities of participating in drafting, the issues on which public opinions are expected, and the results of consultations. If it helps the public to follow the legislative drafting process and to involve the public more effectively, the information may be published on another website or in another manner, referring on its website to the source where the information is published.

XXV Obstacles encountered in the implementation of article 8

NGOs have pointed out in the implementation of article 8 that the involvement practice is unsystematic.

General principles for the involvement of the public have been adopted by several ministries and the Government Office, such principles are usually followed, in particular in the case of more important draft legal acts. The results of the involvement of the public are valued by drafters of acts as very positive, however, the representatives of the public and authors of amending proposals (in particular NGOs) are not so content with the process. The deficits in planning of the involvement process is being criticised (not enough resources, including time) also in 2016, in addition to reactions to proposals made and the low level of consideration thereof, and that despite of all the public is often excluded in the development of many legal acts (especially in the case of amending legal acts in force). NGOs consider that for effective involvement, the good practice requirements of the government should get more attention, particularly important should be consulting with the public already in the phase of establishing the intention to make a draft, also providing feedback. Statements of the involved persons should be considered more thoroughly. In the case of many drafts, no involvement plan is prepared and it remains unclear in the early stage, when and in which stage they can express their opinions. NGOs find that, generally, the ministries consult with NGOs on the same basis as with other ministries or institutions, not considering the fact that NGOs have significantly less resources for working through materials and developing an approach.

XXVI Further information on the practical application of the provisions of article 8

Based on the responses submitted in 2016, the state authorities still found that increased involvement causes an increase in administrative work load, but also an increase of awareness. In order to avoid subsequent misunderstandings, early involvement is always recommended and therefore the state authorities have been guided by this principle pursuant to their responses.

Competent parties from different fields shall be added to working groups preparing drafts of legislation and cooperation with relevant professional associations shall be done. Due to involvement, the information is more objective and the involvement is educating and allows getting new experiences and knowledge. Involvement ensures that the interests of all parties are taken into account as much as possible and compromise solutions satisfying parties are found. Involvement also guarantees information to users in early phase about which obligations they shall meet in future and they can start making preparations for implementation in the early phase.

In the field of chemicals, there are many directly applicable EL legislation, and based on the information of the Ministry of Social Affairs, many different interest groups (representatives of producers, consumers, etc.) are involved already at the EU level when the legislation is prepared.

XXVII Website addresses relevant to the implementation of article 8

**European Union**

**XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in Article 6**

As the EU institutions and bodies do not adopt decisions to permit proposed activities listed in Annex I to the Aarhus Convention, implementation of Article 6 is focused on the Member States.
The relevant definitions of Article 2 of the Aarhus Convention are to be found in Article 3(1) and 4(1)(b) of the Public Participation Directive 2003/35/EC.

Article 6, paragraph 1


The revised EIA Directive introduced certain changes compared to its predecessor with regard to Aarhus-related parts:

Article 6 sets a minimum time-frame of 30 days for consulting the public on the EIA report. Local and regional authorities can participate in the EIA consultation.

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Relevant information shall be electronically accessible to the public, through a central portal or easily accessible access points, at the appropriate administrative level.

Member States shall provide for reasonable time-frames for information and participation in decision-making.

The results of consultations must be taken into account in the development consent procedure. The decision to grant development consent must incorporate the reasoned conclusion of the competent authorities on the significant effects of the project, any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures. A decision to refuse development consent shall indicate the main reasons for the refusal.

The public and the regional and local authorities shall be promptly informed on the decision to grant or refuse development consent; information shall be available to the public and these authorities. A summary of the results of consultations and how they have been addressed, in particular comments from the affected Member State for trans-boundary projects, shall also be made available.

The Nuclear Safety Directive 2014/87/Euratom amending Directive 2009/71/Euratom, sets more specific requirements as to the type of information to be provided to the general public as well as to the opportunities to participate in the relevant phases of the decision-making process related to nuclear installations.

The Spent Fuel and Radioactive Waste Management Directive 2011/70/EURATOM regulates both public participation and access to information (Article 10).

The Offshore Safety Directive includes procedural obligations on public consultation for those cases where the SEA or IEA Directives do not apply, whenever "it is planned to allow" exploration operations.

The Regulation on guidelines for trans-European energy infrastructure 347/2013 contains provisions on public participation in permit granting and in the implementation of projects of common interest.

Workshops on implementation of the Aarhus Convention in the nuclear field aiming at ensuring a better knowledge-base were held with the participation of ANCCLI (Association Nationale des Comités et Commissions Locales d’Information).

Article 6, paragraph 2

The 'public concerned' is defined in Article 3(1) of the Public Participation Directive as the public "affected or likely to be affected, or having an interest in the environmental decision-making procedures". An NGO promoting environmental protection is expressly deemed to have such an interest.

Article 6, paragraph 3
Article 3(4) of the Public Participation Directive sets reasonable time-frames for effective public participation. The public is informed early in the environmental decision-making and, at the latest, as soon as information can reasonably be provided.

Article 6, paragraphs 4 to 10

Those provisions of the Aarhus Convention are implemented in Article 3(4) to (6) of the Public Participation Directive and the EIA Directive. Further details are given in the earlier EU Implementation Reports.

Article 6, paragraph 11

The amendment to the Aarhus Convention on genetically modified organisms (GMOs) was adopted in May 2005. It specifies the obligations of Parties with regard to public participation in decision-making processes concerning GMOs. Any Party whose regulatory framework is consistent with the GMO amendment is also in line with Article 6, paragraph 11, of the Convention. Reference is thus made to part XXXIII and following of the present report.

XVI. Obstacles encountered in the implementation of Article 6

Describe any obstacles encountered in the implementation of any of the paragraphs of Article 6.

Answer:

A pending compliance case against the EU concerning Article 6, ACCC/C/2014/121, is published on the UNECE website, see https://www.unece.org/env/pp/cc/com.html.

XVII. Further information on the practical application of the provisions of Article 6

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:

For data on the application of the EIA Directive, including the studies and the impact assessment report prepared prior to the Commission's proposal for a revised Directive, see: http://ec.europa.eu/environment/eia/index_en.htm.

XVIII. Website addresses relevant to the implementation of

Article 6

Give relevant website addresses, if available:

See the link above, under Section XVII.

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to Article 7

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, pursuant to Article 7. Describe the transposition of the relevant definitions in Article 2 and the non-discrimination requirement in Article 3, paragraph 9.

Answer:

Public participation concerning plans and programmes relating to the environment by Member States' authorities is ensured through the following legislation:

- the Public Participation Directive, see Article 2 in conjunction with Annex I;
- the Strategic Environmental Assessment Directive 2001/42/EC ("SEA-Directive");
XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to Article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to Article 7.

Answer:

A number of recent environmental instruments include requirements for public participation in drawing up environmental plans.

The Offshore Safety Directive 2013/30/EU includes procedural obligations on public consultation for those cases where the SEA or IEA Directives do not apply, whenever “it is planned to allow” exploration operations.

The Framework Directive for Maritime Spatial Planning 2014/89/EU aims at ensuring effective implementation of maritime spatial planning in EU waters and integrated coastal management in the coastal areas of Member States. There are references to Aarhus-related participation requirements in paragraph 22 of the Preamble. Article 2 of the Public Participation Directive is highlighted as a good example. Consultation is addressed in Article 9.

The Commission introduced the "partnership principle" in the legal basis of European Structural and Investment Funds (ESIF), under Article 5 of Regulation 1303/2013. Under this principle, the programming of legal documents (Partnership Agreements and Programmes) and their implementation are discussed at Member State, regional and local level with a wide range of stakeholders, including environmental NGOs.

The Commission also established the "European Network of Environmental Authorities - Managing Authorities for the Cohesion Policy" (ENEA-MA) which brings together experts from environmental administrations, authorities managing cohesion policy and other organizations (e.g. Regional Environmental Centre, Bankwatch). It contributes to the integration of environment and sustainable development within the Cohesion Policy programmes and projects, see http://ec.europa.eu/environment/integration/cohesion_policy_en.htm.

The Commission has set up a 'Structured Dialogue' with partners working in the field of the ESIF. It is a mutual trust-building mechanism in order to bring the ESIF closer to civil society, assist the Commission in the development of this policy in the different areas of expertise and to discuss ESIF implementation, see http://ec.europa.eu/regional_policy/en/policy/communication/structured-dialogue-with-partners/.

XXI. Obstacles encountered in the implementation of Article 7

Describe any obstacles encountered in the implementation of Article 7.

Answer:
Pending compliance cases against the EU in the ambit of Article 7 are published on the UNECE website.

XXII. Further information on the practical application of the provisions of Article 7

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in Article 7.

Answer:

The 2010 Report on the application of Article 2 of the Public Participation Directive takes into account information gained by Member States and the Commission. It concluded that "Article 2 of the Directive has had the effect of firmly establishing the right of the public to participate in the decision-making process on plans and programmes uniformly in the legislation of Member States."

Furthermore, the Commission prepares the second report on the application and effectiveness of the SEA Directive which is expected to be adopted in 2017 (to recall, this report covers developments until end 2016).

XXIII. Website addresses relevant to the implementation of Article 7

Give relevant website addresses, if available:


XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to 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, pursuant to Article 8. 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:

Reference is made to the previous EU implementation reports and, insofar as Article 8 of the Convention would cover the preparation of EU legislative acts, to the explanations on the Commission's impact assessment and Better Regulation schemes under Section XI.

XXV. Obstacles encountered in the implementation of Article 8

Describe any obstacles encountered in the implementation of Article 8.

Answer:

No indications.

XXVI. Further information on the practical application of the provisions of Article 8

Provide further information on the practical application of the provisions on public participation in the field covered by Article 8.
Answer:
There are no observations under this Section.

XXVII. Website addresses relevant to the implementation of Article 8

Give relevant website addresses, if available:

See the links provided in Section XI.

Finland

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

99. The provisions of paragraph 1 of the article have been taken into account in the Environmental Impact Assessment (EIA) Act (468/1994), the Environmental Protection Act and Decree (169/2000), the Land Use and Building Act and in certain other special legislation.

Article 6, paragraph 1 - measures taken to ensure that:

(a) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex 1 to the Convention:

100. The list of proposed activities has been implemented in Finland particularly by the EIA Act and Decree (713/2006) and the Environmental Protection Act and Decree. In addition to the environmental protection legislation, other statutes are also suitable for inclusion in the list of proposed activities. The provisions in Chapters 2, 3, 4, 8 and 15 of the Water Act cover part of the proposed activities listed in the annex 1 to the Aarhus Convention. Furthermore, there is a separate provision for the expropriation permits required by certain projects with environmental impacts in a separate Act (768/2004).

(b) The provisions of article 6 are applied to decisions on proposed activities not listed in annex 1 which may have a significant effect on the environment:

101. The Finnish legislation also makes it possible for the public to participate in proposed activities not listed in annex 1 to the Aarhus Convention. For example, the list of proposed activities in the Environmental Protection Decree is more extensive than the list in annex 1 to the Convention. The environmental impact assessment procedure can also be applied at discretion to activities smaller than those listed.

Article 6, paragraph 2 - measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in paragraph 2:

102. Section 37 of the Environmental Protection Act and Section 16 of the Environmental Protection Decree correspond to the provisions of paragraph 2 in the article. It is required by the permit and decision-making procedure relating to the environment that before matter is decided, an opportunity is reserved for the parties involved and other persons to submit their statement regarding the application documents. Section 38 of the Environmental Protection Act, Chapter 11, Section 10 of the Water Act and section 40 of the Mining Act (621/2011) include more detailed provisions on publicising a permit application and on how the publicising shall take place. Furthermore, Section 8a of the Act on Environmental Impact Assessment Procedure provides for public participation in an environmental impact assessment programme.

Article 6, paragraph 3 - Measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3:

Article 6, paragraph 4 - Measures taken to ensure that there is early public participation:
Article 6, 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:

103. The provisions in paragraphs 3 – 5 have been taken into account in the EIA Act, the Environmental Protection Act and Decree, the Land Use and Building Act and in certain other special legislation. In EIA and environmental permit processes an applicant/person responsible for the project gives his or her estimate of the area in which the impact is felt. The permit applications shall contain information on the parties concerned.

Article 6, paragraph 6 - measures taken to ensure that:

(a) 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;

(b) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

Article 6, 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;

Answer, paragraphs 6 and 7

104. This paragraph has been revised: Based on Section 34 of the Administrative Procedure Act (434/2003) and special legislation, the concerned party must be allowed an opportunity to express their opinion and offer their explanation on the requirements and explanations that might affect the decision before the decision is made. At least the amount of time specified by law must be allowed for the expression of opinions. In addition, according to Section 41 of the Administrative Procedure Act, if the decision on a matter might have a significant effect on another party’s living environment, work or other conditions, the authority must allow these persons an opportunity to receive information concerning the grounds for the consideration of the matter and its objectives and to express their views on the matter.

Article 6, paragraph 8 - measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

Article 6, paragraph 9 - measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

Article 6, 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;

Answer, paragraphs 8 to 10

105. For legislation on environmental protection, Sections 41, 54 and 58 of the Environmental Protection Act correspond to the provisions of paragraphs 2 – 9 in the article. Furthermore, said paragraphs in the article do not otherwise require legislative measures, even though the provisions on the possibility of an authority to reconsider the prerequisites for continuing activity subject to licence are not very extensive, except in the Environmental Protection Act and the Water Act.

Article 6, 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:

106. The provisions on hearing the public are incorporated into the Gene Technology Act (377/1995). Pursuant to Section 36b of the Gene Technology Act, the Board for Gene Technology must consult the public on research and development experiments and field experiments. If GMO products are placed on the market, the European Commission is responsible for consulting the public in accordance with the Directive for release of GMOs into the environment (2001/18/EC) or the Community Regulation relating to genetically modified food and feeds (EC No. 1829/2003).
107. The Finnish and EU legislation cover the amendments approved at the second meeting of the parties to the Aarhus Convention in 2005, specifying the public hearing procedure in deciding on the release of genetically modified organisms into the environment (Decision II/1). Finland approved the amendment to the Convention on June 10, 2008. It has not yet been internationally ratified.

XVI. Obstacles encountered in the implementation of article 6
108. No specific information under this heading.

XVII. Further information on the practical application of the provisions of article 6
109. No specific information under this heading.

XVIII. Website addresses relevant to the implementation of article 6
110. Further information on environmental impact assessment and unofficial translations of the Environmental Impact Assessment Act and Decree are available on the website of the environmental administration: http://www.ymparisto.fi/yva.


XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7
111. The Directive on the assessment of the effects of certain plans and programmes on the environment (2001/42/EC) regulates the environmental impact assessment of plans and programmes and also incorporates certain obligations relating to citizen participation. The directive has been incorporated into national legislation by several statutes, the most significant being the Act on the Assessment of the Impacts of the Authorities’ Plans, Programmes and Policies on the Environment (200/2005). This “SOVA” Act incorporates the provisions required in the Directive for the EIA of certain plans and programmes and the related consultation with the public.

112. Furthermore, the SOVA Act includes a general provision (Section 3), already previously included in the national legislation, for investigating and assessing the environmental impact of plans and programmes in the preparation of said plans and programmes. The general obligation for assessment in accordance with Section 3 of the SOVA Act applies broadly to various plans and programmes of the authorities. In accordance with this provision, the environmental impact must be investigated and assessed to a sufficient degree in preparing plans and programmes the implementation of which may have a significant environmental impact. The assessment shall be an integral part of the preparation of the plan or programme, and it involves the investigation of alternatives and their impact to a sufficient degree as well as co-operation and participation between the different parties. On the strength of said Section, the Ministry of the Environment has issued directions for the EIA of plans and programmes. The directions separately discuss how citizen participation can be organised as part of implementing an environmental impact assessment.

113. Public consultation as part of drawing up a plan or programme can also be required in other legislation. For example, the provisions of the Waste Act (646/2011) are observed in the preparation of the national waste plan. The basic statute for drawing up a national waste plan is laid out in Section 87 of the Waste Act. According to section 89 of the Waste Act, when a national waste plan or a separate plan concerning the reduction of the quantity and harmfulness of waste is prepared, the national associations and foundations referred to in section 134(2), and the authorities and parties whose sphere of operation or duties the national waste plan or separate plan may fundamentally affect, must be given an opportunity to review the draft plan and submit their opinions on it in writing. The draft must be available on an information network and sufficient time must be reserved for submitting opinions. Corresponding procedure shall be applied in the preparation of regional waste plans. Provisions regarding participation on the preparation of regional waste plans are also laid out in the Act on the Environmental Impact Assessment of Plans and Programmes by the Authorities (200/2005).

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant
to article 7

114. The state administration has used an Internet-based website “otakantaa.fi” for public participation in policies and strategies.

XXI. Obstacles encountered in the implementation of article 7

115. During its round of comments in 2013, WWF Finland took notice of the preparation of Finland’s national climate and energy strategy, which was completed in 2008. WWF Finland referred to a report published by the National Audit Office in December 2011. The report stated that municipalities and citizens were offered few opportunities to participate in the preparation of the strategy. According to the report, “the participation of interest groups in the preparation work was limited and emphasised large operators in the industrial and energy sectors”, and “the opportunities for public discussion of different options were limited”. The National Audit Office is an independent audit institution and operates in affiliation with parliament. It audits the state's finances, monitors and evaluates fiscal policy and oversees election and party funding.

116. In the course of the preparation of the national climate and energy strategy of 2013, the National Audit Office requested the Ministry of Employment and the Economy for a report concerning inter alia the transparency of the preparation of the strategy. In its reply, the Ministry of Employment and the Economy referred to a hearing carried out in the internet with a participation of over 1500 respondents out of which 90% declared themselves participating as private citizens. Among others, the Association of Finnish Local and Regional Authorities and the Finnish Climate Panel were consulted during the preparation of the strategy. Also, a seminar was held where representatives from a broad spectrum of different stakeholder groups were invited.

XXII. Further information on the practical application of the provisions of article 7

117. No specific information under this heading.

XXIII. Website addresses relevant to the implementation of article 7


XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

119. In August 2006, the working group appointed by Prime Minister Matti Vanhanen completed a “programme for better regulation”, comprising the statutory-political principles and strategies for developing the judicial system and the principles to be adhered to in the preparation process for legislation, taking special account of the competitiveness of enterprises and the safeguarding of citizens’ activities, as well as methods for the continuous assessment of the quality and functionality of current legislation. The principles are also applicable to the preparation of provisions of a lower order. The programme for better regulation requires, among other things, that the participation of interest groups and their possibility to influence the preparation of statutes are safeguarded. The programme also otherwise stresses careful law drafting and the assessment of alternatives and impacts.

120. The Government Programme of Prime Minister Jyrki Katainen’s administration has set the following objectives for better regulation:

• The programme for better regulation will continue in order to overcome the quality problems of the legislation preparation process
• The government’s operating methods for good legislation preparation process as outlined by the “For smoother preparation of legislation” programme will be implemented
• The resources that ministries use in preparation of legislation will be increased
• Regulation language will be developed
• Open interaction and the evaluation of regulation options and effectiveness will be enhanced
• A legislation plan containing the government’s main projects will be prepared; and
• Particular attention will be paid to cross-ministerial projects, the clarification of regulation and increasing alternative methods of regulation

121. In October 2011, the Finnish government confirmed the implementation plan of the Government Programme. The legislation projects included in the key projects of the implementation plan form a legislation plan in accordance with the Government Programme. These projects in particular will adhere to the operating methods of the good legislation preparation process.

122. The Ministry of Justice gave out instructions on the impact assessment of regulation proposals in 2007 (Ministry of Justice publication 2007:6). The instructions cover the assessment of any economic impact, the impact on the authorities, the environmental impact and other social impacts. Training on the instructions was organised for ministry experts in 2008 and 2009. Complementary material on impact assessment methods and information sources as well as examples of impact assessments have been collected on the Finnish government’s intranet.

123. In spring 2013, the Ministry of Justice published a legislation preparation process guide (http://lainvalmistelu.finlex.fi/en/), which details the progress, different phases and operators of legislation preparation. The process guide is based on provisions, regulations and instructions concerning the preparation of legislation, as well as operating procedures that adhere to good practices. The purpose of the guide is to help articulate the progress and different stages of legislation preparation and help choose appropriate operating procedures for each legislation preparation project. The training of law drafters has also been reformed and expanded in 2013. The training consists of four modules, one of which focuses on impact assessment, while another focuses on communication and cooperation skills in the preparation of statutes.

124. On February 4, 2010, the Council of State approved a decision in principle for promoting democracy in Finland (Ministry of Justice, reports and opinions 17/2010). The resolution sets out a national strategy for public authorities in relation to promoting citizens’ opportunities to participate and influence decisions. The resolution comprises 32 sets of measures, for the implementation of which a separate action plan has been worked out. Furthermore, on March 11, 2010, on the submission of the Ministry of Justice, the Council of State issued instructions on consultation in the preparation of statutes (Ministry of Justice, reports and instructions 18/2010).

125. The Finnish government is currently preparing a democracy policy report, which is due to be submitted to parliament in spring 2014. The report looks at both the effectiveness of representative democracy as well as the direct participation opportunities that citizens have between elections. The report evaluates the communication and interaction measures of the administration as well as hearing practices, meaning the opportunities that citizens have to monitor the activities of the administration and influence preparation. In addition, the report discusses the administration’s measures for supporting the operational principles of civil society as well as democracy education as part of the educational system and public education work. Development outlines are also presented for each theme.

126. The government has appointed an advisory board for civil society policy, which operates in affiliation with the Ministry of Justice. The advisory board includes representatives from ministries and NGOs. The advisory board promotes cooperation and interaction between civil society and the authorities. The advisory board aims to strengthen the operational principles of civil society in accordance with the government’s decision-in-principle on improving the preconditions of civil society (2007). During its second term (2012–2016), the advisory board will seek perseverance and options for funding civil engagement. The partnership between open administration and civil society will be strengthened and the advisory board will convey civil society’s views on democracy policy and municipal reform processes. To complement participation and influencing taking place in NGOs, the board has highlighted means by which the preconditions of different forms of civic activity could be strengthened.

XXV. Obstacles encountered in the implementation of article 8
France

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

86. - The principle of public participation has constitutional status (Article 7 of the Charter for the Environment) and is one of the major principles of environmental law (Article L. 110-1 II (5) of the Environmental Code).

87. - The chief legislative measures corresponding to the provisions of article 6 of the Convention appear in Book I, Title II of the Environmental Code, ‘Information and participation for citizens’, and are set out in Articles L. 120-1 et seq.

This part of the Code has recently been amended by Order No. 2016-1060 of 3 August 2016 and Implementing Decree No. 2017-626 of 25 April 2017. This reform follows the report of the National Council for Ecological Transition’s Special Commission on the Democratization of Dialogue on the Environment, entitled Environmental democracy: debate and decide. The Order provides inter alia for:

- definition of the objectives of public participation and of the rights of the public;
- greater use of consultation in advance of decision-making procedures;
- modernizing the later stages of public participation, notably through paperless procedures.

88. - Article L. 103-2 of the Planning Code provides for mandatory prior consultation in a number of situations.

89. - French law provides that projects subject to environmental impact assessment (‘EIA’) (see Article L. 122-1 of the Environmental Code) shall be subject to a public inquiry (see Article L. 123-1 of the Code); this covers projects mentioned in Annex I to the Convention. Even before the public inquiry and the application for development consent or before the preparation of a plan or programme, advance participation procedures may be set in motion (Article L. 121-1-A of the Code). The most significant spatial development or infrastructure projects shall be submitted to mandatory public debate or must be publicized (Article R. 121-2 of the Code).

90. - When it comes to the projects mentioned in article 6, paragraph 1 (b), a case-by-case prior examination procedure determines whether or not the environmental impacts of the project under consideration justify conducting an EIA and, in consequence, a public participation procedure. This prior examination procedure concerns inter alia the projects listed in Annex II to Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive).

91. - Other procedures may be organized on an exceptional basis, such as local referenda initiated by local authorities, provided for under paragraph 2 of Article 72-1 of the Constitution and regulated by Articles L. 1112-1 et seq. of the General Local Government Code.

In addition, Order No. 2016-488 of 21 April 2016 established a local consultation procedure for projects likely to have an impact on the environment (Articles L. 123-20 et seq. of the Environmental Code). The first local consultation of this type took place on 26 June 2016 with regard to the planned airport at Notre-Dame-des-Landes.

92. - Certain activities are exempt from public participation procedures because of the imperatives of maintaining secrecy in the national defence.
93. - National legislation does not define “the public concerned”; therefore anyone who is interested may participate in a public inquiry.

94. - At least fifteen days before the opening of a public inquiry and throughout its course, the public shall be formally notified of all the items listed in article 6, paragraph 2, by all appropriate means (see Articles L. 123-10, R. 123-9 and R. 123-11 of the Environmental Code).

95. - For projects that are subject to public debate, the developer must, in conjunction with the CNDP, compile a file intended for the general public, which presents the project, any alternatives and the decision-making procedure. The duration of the debate shall be up to four months for projects and up to six months for plans and programmes (Articles L. 121-8 and L. 121-11 of the Environmental Code).

The length of the inquiry must not be less than 30 days where the project is subject to EIA (Article L. 123-9 of the Code).

96. - Articles L. 121-1-A et seq. of the Environmental Code concern advance public participation during the preparation of plans and programmes that have an environmental impact. This advance participation may take two forms: public debate and prior consultation.

97. - For highly significant spatial development or infrastructure projects, the developer must request the CNDP to consider whether or not it is appropriate to organize a public debate. For significant projects, the developer must publicize the fundamental characteristics and the objectives of the project. Order No. 2016-1060 extended the right to refer such projects to the CNDP to 10,000 adult EU citizens who are resident in France (Article L. 121-8 of the Environmental Code).

The public debate organized by the CNDP, an independent administrative authority, must facilitate “debate of alternative solutions, including the non-implementation of a given project” (Article L. 121-1 of the Code).

98. - Prior consultation is a new procedure for projects, plans and programmes subject to environmental assessment, established by Order No. 2016-1060 (Article L. 121-15-1 of the Environmental Code). The public now has a citizen’s right to initiate a request that the State’s representative organize such a consultation (Articles L. 121-17-1 et seq. of the Code).

99. - The procedures provided for in Articles L. 121-1 and L. 122-1-2 of the Environmental Code, described above with regard to paragraph 4, meet the objectives set by paragraph 5.

100. - The public inquiry documentation file shall include the EIA and all documents and opinions issued on the project (Article R. 123-8 of the Environmental Code) and may be consulted inter alia on the Internet (Articles L. 123-12 and R. 123-9 to R. 123-11 of the Code).

For the purposes of public debate, the documents sent to the CNDP must describe the objectives and the main characteristics of the project (Article L. 121-8 of the Code).

101. - Order No. 2016-1060 of 3 August 2016 has modernized the public inquiry process through the partial introduction of paperless procedures. The public may as a matter of course submit their comments and proposals by email or by any other means specified in the formal notification of the opening of the inquiry (Article L. 123-13 of the Environmental Code).

102. - At the end of a public debate, the project developer or the public entity responsible for preparing the plan/programme must take a decision on the principle of continuing the project and on the conditions for continuation (Article L. 121-13 of the Environmental Code).

103. - At the end of a public inquiry, the inquiry commissioner publishes a report and the conclusions reached, with grounds for the latter (Article L. 123-15 of the Environmental Code).

104. - The project owner and the decision-making authority must take into account the public’s comments and proposals (Articles L. 122-1-1 and L. 123-1 of the Environmental Code).
105. - Finally, a local authority or a public institution for intermunicipal cooperation sponsoring a project that has led to unfavourable conclusions must give careful consideration to reasons for resubmitting the application for development consent or the request for the project to be declared of public interest (Article L.123-16 of the Environmental Code).

106. - Where a decision has been made to grant or refuse permission to a project that is subject to EIA, the competent authority must notify the public of the decision (Article L. 122-1-1 of the Environmental Code). The decision must be an explicit one (Article L. 123-2 II of the Code).

107. - A public interest declaration must include the reasons and considerations that substantiate the project’s general public importance, taking into account inter alia the result of the public consultation (Article L. 126-1 of the Environmental Code and Article L. 122-1 of the Compulsory Purchase Code).

108. - Changes or extensions to projects that are subject to environmental assessment under Article R. 122-2 of the Environmental Code are subject to public participation.

109. - Article L. 181-14 of the Environmental Code requires the operator to resubmit the application for development consent in the event of a significant change to the activities, installations, schemes or works covered by the environmental permit.

110. - There are two authorization procedures for the deliberate release of genetically modified organisms (GMOs) into the environment: authorizations for any purpose other than placement on the market (in particular, for field trials) (Article L.533-3 of the Environmental Code) and authorizations for placement on the market (Article L. 533-5 of the Code).

111. - The documents submitted to the competent administrative authority by an applicant for one of the above authorizations must include inter alia an assessment of the health and environmental effects and risks of the GMOs. The High Council for Biotechnologies (‘the HCB’), which includes an Economic, Ethics and Social Committee made up of civil society representatives, issues an opinion on every application for authorization.

The National Agency for Food, Environmental and Workplace Safety (ANSES) is also authorized to assess the safety of food that consists of or is produced from GMOs. The opinions of these bodies are published on their respective web sites.

112. - For every application for field trials, a public consultation procedure is initiated via the Internet. The application for authorization, the HCB opinion and a public information file are posted online for each trial.

113. - For every application for placement on the market, an EU-wide public consultation procedure is conducted via the Internet. Applications submitted under Regulation (EC) No. 1829/2003 on genetically modified food and feed are subject to consultation online at http://ec.europa.eu/food/plant/gmo/public_consultations_en.


XVI. Obstacles encountered in the implementation of article 6

115. - Criticisms from the public and organizations relate mainly to the nature of information made available to the public, which is sometimes too technical, to the effectiveness of measures for taking into account the outcome of the public participation procedure, to weak structural relationships between the projects concerned and the regulatory frameworks of the relevant plans and programmes, and to the failure to consider alternatives to a given project. However, ‘non-technical summaries’ are being systematically produced in order to promote the general public’s understanding. The environmental authorities are vigilant on this last point; moreover, it is their judgments that enable the public to identify the issues surrounding projects.

In addition, the CNDP is expanding the use of independent supplementary assessments in the context of public debate or consultation procedures (Article L. 121-1 of the Environmental Code).
In fact, Environmental democracy: debate and decide highlighted “the public’s paradoxical relative lack of interest in traditional forms of consultation” and noted several criticisms, in particular:

- insufficient public participation during the preparation of plans and programmes;
- failure to take full account of the provisions on prior consultation;
- lateness in putting the public inquiry procedure in motion, which blocks the issue of the desirability of the project being raised.

The reform introduced by Order No. 2016-1060 of 3 August 2016 responds to these criticisms.

Some organizations also consider that the lack of resources of decentralized administrative authorities restricts their capacities for monitoring, analysis and supervision.

Some organizations also consider that the issue of increasing the number of nuclear power stations in France suffers from lack of consultation. On this last point, Article 126 of Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth makes a nuclear operator’s proposals put forward in connection with the periodic re-examination of the operation of an electronuclear reactor beyond 35 years’ service henceforth subject to public inquiry and then to the Nuclear Safety Authority’s authorization procedure (Article L. 593-19 of the Environmental Code).

XVII. Further information on the practical application of the provisions of article 6

116. - Where no public inquiry is to take place, any project, plan or programme subject to environmental assessment shall be subject to public participation by electronic means (Article L. 123-19 of the Environmental Code), with the same documents made available as those in a public inquiry file.

In 2015, the CNDP organized six public debates and received referrals concerning nine new projects.

117. - 11 October 2016 saw the publication of a Public Participation Charter, which itself was drawn up using a participatory approach. Relying on voluntary implementation, it is intended as a tool to bring together the best practices in public participation, and sets out the values and principles that define the foundations of trustworthy participation procedures.

XVIII. Website addresses relevant to the implementation of article 6

118. - Site giving access to debates, consultations and forums across France: http://www.vie-publique.fr/forums/

‘Environmental Dialogue’ page on the website of the Ministry responsible for the environment (the Richard Report can be consulted here): http://www.ecologique-solidaire.gouv.fr/dialogue-environnemental#e2


XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7


120. - Following Order No. 2016-1060 of 3 August 2016, Article L. 121-8-1 of the Environmental Code now provides that it is mandatory to refer national plans or programmes subject to environmental assessment to the CNDP. The CNDP shall decide the most appropriate method of public participation (Article L. 121-9 of the Code).

A plan or programme which is not subject to public debate may be made subject to prior consultation under Article L. 121-15-1 of the Environmental Code.

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121. - The public is also invited to participate in the preparation of plans and programmes subject to environmental assessment through the public inquiry procedure (Article L. 123-1 of the Environmental Code) or through the electronic participation procedure (Article L. 123-19 of the Code).

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

122. - Article L. 121-10 of the Environmental Code allows the government to call on the CNDP to organize a national public debate on any planned reform which would have a significant effect on the environment or on spatial planning and development. In addition, Order No. 2016-1060 of 3 August 2016 enables 500,000 individuals to apply to the CNDP.

123. - More broadly, the public has the opportunity to participate in the preparation of policies relating to the environment by consulting the representatives of the public concerned within consultative bodies such as the National Council for Ecological Transition.

124. - Several articles of the Environmental Code have introduced public information and participation procedures with regard to marine environmental policy (inter alia Articles L. 219-2 and L. 219-3 of the Code).

XXI. Obstacles encountered in the implementation of article 7

125. - Environmental democracy: debate and decide put forward a proposal to establish advance participation on plans and programmes, and this was implemented by Order No. 2016-1060.

Some organizations consider that there are gaps in public participation relating to the development of multi-year energy planning (PPE), notably so far as concerns the nuclear aspect.

XXII. Further information on the practical application of the provisions of article 7

126. - In numerical terms, the application of the general provisions of article 7 of the Convention mostly concerns draft urban planning documents. There is genuine public involvement in these throughout their preparation, under the prior consultation procedure laid down by the Planning Code (Article L. 103-2).

XXIII. Website addresses relevant to the implementation of article 7


XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

128. - In order to give Article 7 of the Charter for the Environment its full effect and to allow a citizen to participate in a public decision-making process that may affect the environment, an Act of 27 December 2012, an Order of 5 August 2013 and the Order of 3 August 2016 reformed the inter-institutional mechanism for public participation.

129. - Since the implementation of Order No. 2016-1060, the conditions for public participation in the preparation of these decisions have been defined in Articles L. 123-19-1 et seq. of the Environmental Code and apply inter alia to regulatory decisions of all public authorities and legal entities governed by private law who are responsible for managing a public service, where they are acting under public authority powers.

130. - The right to participate in a public decision-making process is open to any natural person or legal entity without discrimination and without their having to demonstrate an interest.

131. - Arrangements shall be made for public participation to be achieved electronically, making the draft decision available with an accompanying Note.

A summary of public comments and proposals must be compiled, and final adoption of the draft decision cannot take place until they have been considered (Article L. 123-19-1 of the Environmental Code).
Obstacles encountered in the implementation of article 8

According to some organizations, the public may have difficulty participating effectively in the preparation of laws, regulations and standards which they find too technical. Provisions subject to consultation do not express the issues clearly enough, and insufficient time is allowed for these consultations.

Further information on the practical application of the provisions of article 8

The draft order on public participation and information was subject to public consultation at www.consultations-publiques.developpement-durable.gouv.fr.

Website addresses relevant to the implementation of article 8

www.consultations-publiques.developpement-durable.gouv.fr/

Georgia

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

Answer:

According to the national legislation, public participation in the decision-making is regulated with respect to environmental impact permits (EIP). Not only NGOs, but also any interested party has a right to participate in the process, as well as appeal in regard to legitimacy of procedures and substance. The obligatory components of the procedures are the following: submission of the documents for public examination and announcement about this, receiving the comments, conducting public hearing and publishing decision. An administrative decision, taken by violation of procedure is considered as annulled. Any representative of the public has a right to appeal such decision and attain its cancellation. The established procedure of issuing of permits is in compliance with almost all the requirements, provided in article 6 of the Convention, in particular:

(a) The Law of Georgia on Environmental Impact Permit (2007) defines the list of activities subject to ecological expertise. All these activities are subject to EIP that contains procedures, stipulated by article 6.

(b) The mentioned law ensures public participation in the decision-making in regard to issuing of EIP (article 1, paragraph 2). According to the same law a permit-seeker is obligated to organize public hearing on environmental impact assessment (EIA) prior to its submission for permit to the relevant administrative body (article 6).

(c) The issues related to the public consultations are defined in the Law of Georgia on Environmental Impact Permit. According to the law, within 45 days from publication of information on planned activities public is authorized to submit written comments and suggestions (article 6, paragraph 4, sub-paragraph “b”).

(d) According to the mentioned law, developer is obliged to organize a public hearing on the EIA report no earlier than 50 days prior to and no later than 60 days after publishing the announcement on planned activity (article 6, paragraph 4, sub-paragraph “c”). Only after this procedure, the developer can apply to the administrative body to obtain the permit for starting implementation of the activity. Publication of information on the planned activity both in the central and local newspapers of the region, where the activity is planned is a responsibility of the developer. Following information should be published in regard to planned activity: aim of the planned activity, title, location, and address where public can familiarize itself with the documents on the activity, as well as deadline for submission of comments and time and place of public hearing. In addition to this, for the purpose of promotion of publicity of information and informing the public at the earlier stage, relevant department of the MENRP publishes information on planned projects and related documentation on the website of the MENRP.

(e) Developer is required to carry out a study of environmental impact of activity and prepare the EIA report prior to publishing the information on the activity and applying to the administrative body for obtaining of a permit. Developer
has the right to consult with the public at a given stage. The results of such consultations should be attached to the application for a permit.

(f) According to the mentioned law, developer is obligated to: provide the public the EIA report along with all significant documents during the public consideration, receive public comments and suggestions expressed during or prior to the public hearing, prepare the protocol of public hearing and submit it to the administrative body authorized to issue permits. This information is accessible to any interested party (articles 6 and 7). According to the article 8, paragraph 2, “e” of the same law, if the activity is related to the state or commercial secrets, developer should submit statement on the confidentiality of the application. According to the paragraph 3 of the same article, developer has to provide a complete scheme of technological cycle to the administrative body, authorized to issue permit even in those cases when the activity is related to commercial and/or state secret. According to sub-paragraph “e” of paragraph 2 of given article, developer should submit this part of application separately. Such cases have not been taken places in the process of issuing of environmental permit by the MENRP.

(g) Any representative of the public has the right to submit written comments and suggestions to the developer within 45 days after publication of the information (application) on implementation of activities (article 6, paragraph 4, “b”). The permit-seeker should consider public comments and suggestions and take them into account when preparing the final version of the EIA report.

(h) A given issue is regulated by the article 7 of the provided law, according to which, developer shall prepare the protocol on results of public hearing within 5 days from the date of holding of public hearing of the EIA report. The protocol should describe in detail comments and suggestions provided by the public during the public hearing. In case of not consideration of comments and suggestions of the public, developer is required to provide written justification for refusals and send them to the authors of comments and suggestions. Developer should submit the above mentioned written justification (together with the relevant written comments and suggestions) along with the protocol of public hearing and the EIA report to administrative body, issuing the permit.

(i) According to the General Administrative Code of Georgia, upon receiving a written application with request of information, the MENRP issues requested public information. According to the article 53 of the same Code, written issue of individual legal-administrative act should contain written justification. Paragraph 5 of the same article states, that an administrative body is not authorized to base its decision on the circumstances, facts, evidence, or arguments that have not been examined and analyzed during the administrative proceeding. Consequently, justification of legal-administrative acts issued by the administrative body is based on professional and legal conclusions, if such need arises in regard with establishment of significant circumstances of the case.

(j) The register of permits is updated regularly. According to the national legislation, modification of existing production technology and its replacement by different technology, that causes changes in exploitation conditions, is also considered as activity, subject to ecological examination and, correspondingly, requires an EIP, during the provision of which every above-mentioned condition shall be considered (Law of Environmental Impact Permits, article 4, paragraph 2).

(k) Since 2015, the Law of Georgia on Living Modified Organisms has been enacted, which includes the principles of the Aarhus Convention. According to the mentioned law, deliberate release into the environment and placing on the market of LMOs on the territory of Georgia is prohibited (Title II, Chapter II, article 7, first paragraph).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

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

Answer:

The list of activities subject to EIA ecological expertise, provided by the national legislation of Georgia is less detailed and flexible, than the list of activities, provided in the Annex 1 of the Aarhus Convention and it does not include whole range of spheres, such as: opencast and deep mining of minerals, production and processing of paper, facilities designated for intensive poultry or swine breeding, food production, including milk processing, etc.
Public participation in EIA hearings is low. Generally, public expresses more interest towards large projects. Limited participation of public can be ascribed to the fact that in some cases developer cannot notify and involve the public in the decision-making process effectively. As practice shows, in cases, when information and participation procedures were implemented properly as well as in the public interest projects, the level of public participation was quite high. Some other reasons might be noted as well, e.g. lack of interest expressed by NGOs. It is necessary to raise interest of NGOs towards participation in projects. Also, low organizational level of population at local level and weak community-based civil society organizations.

It should also be noted, that the MENRP developed a draft Environmental Assessment Code, according to which the list of activities of EIA expanded and are in compliance with the Aarhus and Espoo Conventions, as well as with the activities listed in the Annexes I and II of the respective EU EIA directive. The screening and scoping will be introduced and public participation will be ensured at the earliest possible stage of activity. In addition, the high-quality public participation will be ensured in the EIA process, the obligation to inform the public and conduct public hearings will be imposed to the MENRP, instead of the developer of activity, and in the part of strategic environmental assessment – to the planning state institution.

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

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 defense purposes.

Answer:

In projects, implemented by the subordinated agencies of the Ministry of Regional Development and Infrastructure of Georgia, which are subject to EIA (such as: treatment of solid waste and/or construction of landfills; construction of roads/highways, having international and national importance along with bridges and tunnels located on that roads/highways; as well as construction of facilities for protection and fortification of roads; construction of subway; and wastewater treatment facilities (with capacity of 1000 and more cubic meters); installation of mail collector of sewage) all requirements, related to the public involvement and procedures, considered under the respective national legislation are adhered to.

The Law of Georgia on Environmental Impact Permit defines the rules of exemption of an activity from EIA procedures. Article 11 of this law states, that activity can be exempted from EIA procedures, if the state interests require initiation of an activity and adoption of decision in a timely manner.

At the MENRP Special Council on Environmental Impact is set up, which is authorized to consider exemption of activity from EIA procedures in cases, when due to the state interest the activity should be implemented and decision on this should be made in a timely manner. This procedure implies exemption of activity from EIA and consequently, from the public hearing. The MENRP maintains database on activities, exempted from EIA. From January 2014 to June 2016, 13 projects have been exempted from EIA. All enterprises, which received conclusion of ecological expertise and/or environmental impact permit, have undergone the procedure of public hearing, apart from the enterprises, which have been exempted from EIA.

All the projects submitted to the MENRP for permits are placed on the MENRP official website for preliminary consideration and submission of comments and opinions. Besides, based on the request of interested organizations or individuals, at the early stage of implementation of the planned activity, even during the planning process, the meeting is organized with the employees of the permit issuing department, with the head of the department and, in case of necessity, with the MENRP management.

Based on the water resources basin management principles the draft Law of Georgia on the Water Resources Management has been developed. According to the draft law involvement of the public and stakeholders is obligatory
during the elaboration, revision and renewal of river basin plans. The draft law considers also establishment of consulting-coordinating councils for water resources management.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 6
Give relevant web site addresses, if available:

www.moe.gov.ge; www.mrdi.gov.ge

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7
List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programs 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:

Georgian legislation does not consider the public participation in the process of preparation of environmental plans and programs. But, as it was stated above, the draft Environmental Assessment Code is already developed, which provides the mechanism for the Strategic Environmental Assessment (SEA). According to this draft law, any strategic document, such as plan, program, strategy or policy document, prepared under the law for different sectors, will be subjected to SEA, where public participation is considered.

With regard to public participation in consideration of plans, attached to EIA report (plan of activities for environmental impact mitigation, emergency response plan, waste management plan, environmental monitoring plan, etc.), these plans should be attached to EIA at the stage of preliminary consideration of EIA to ensure, that the public can express its opinion at public hearings. In those cases, when certain interested parties of population could not get acquainted with such plans, they can be requested from the MENRP on the basis of public information request. In such cases the General Administrative Code of Georgia is applicable (articles: 28, 37, 40).

As it was stated above, ongoing legislative changes includes, among others, increased level of public involvement both at the stage of initial consideration, as well as in decision-making. For example, the Georgian draft law of Water Resources Management provides public participation in the development of river basin management plans. In particular, according to the article 30 of the draft law:

1. The MENRP ensures publication of and public access to information defined by the sections “a” and “b” of provided paragraph, related to the river basin/basin districts for receiving public opinion:
   a) a schedule and working program necessary for making the river basin/basin district management plan, with reference to the issues, which will be discussed at the public hearing;
   b) a rule of public hearing of the draft river basin/basin district management plan and the draft river basin/basin district management plan.

2. The MENRP ensures:
   a) upon request, accessibility of the main documents and information used during the development of the draft river basin/basin district management plan;
   b) receiving written opinions and organizing public hearings.

3. The mechanisms for ensuring information provision, accessibility to documents and public hearing process are defined by the Resolution of the Government of Georgia on “Elaboration, Revision and Approval Procedures of River Basins/Basin Districts Management Plans”.

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4. The provisions of paragraphs 1 and 2 of the abovementioned article also apply to the updated river basin/basin district management plan.

During the reporting period, the public participated in the development of the following documents: draft Basin Management Plan for River Chorokhi-Adjaristskali (the document is under development) and the 2nd National Program of Combat Desertification of Georgia (NAP) approved in 2015.

According to the 2014 National Action Plan for the Implementation of the Association Agreement between the EU and Georgia and Georgia’s Action Plan for the Implementation of Deep and Comprehensive Free Trade Area (DCFTA) for 2014-2017, with support of World Health Organization (WHO), the Ministry of Health, Labour and Social Affairs of Georgia, with participation of all stakeholders, developed the first draft of National Environmental and Health Action Plan of Georgia (NEHAP-2) in 2016. The finished document will be accessible to the public.

As to public participation in elaboration of other environmental documents (such as National Environmental Action Plan, Report on the State of Environment, etc.), public hearings are organized and provided comments and proposals are reviewed/considered.

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

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

Answer:

Georgian legislation does not consider public participation in the process of preparation of policies relating to the environment. But, as it was stated above, the draft Environmental Assessment Code considers SEA mechanism, according to which, policy document, prepared under the law for different sectors, will be subjected to SEA, where public participation is considered.

Despite the fact that public participation in the preparation of policies relating to the environment is not considered by the national legislation, during the reporting period the public participated in the development of the following documents, which were in the process of preparation or were approved: National Forest Concept, National Forest Program (NFP) started in 2013, Forest Sector Reform Strategy and Action Plan 2016-2021 started in 2015, and National Biodiversity Strategy Action Plan (NBSAP) 2014-2020.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

Currently, according to the national legislation, public participation is considered by the Law of Georgia on Environmental Impact Permit, which does not refer to the public participation in policies and strategies.

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

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Answer:

During the development of the National Forest Program (NFP), along with the representatives of structural units of the MENRP and line ministries, the representatives of NGOs, private sector, educational and professional institutions,
regions, the Patriarchate of Georgia and international organizations were participated. Within the framework of NFP up to 150 working meetings were held since 2014 to May 2016.

Development of Forest Sector Reform Strategy and Action Plan 2016-2021 was started in 2015 with public participation. At present, discussions on strategy are under way.

In order to support the National Biodiversity Strategy and Action Plan (NBSAP) 2014-2020, extended working group meetings of educational Task Force were held. Representatives of the Government, NGO and International Organizations participated in the working group meetings. It should be noted that for effective broad public participation and receiving the comments, the document was placed on the website of the MENRP and disseminated through the CENN network before its approval. Also, representatives of NGOs and scientific organizations participated in the development of the document.

As it was mentioned above, several public discussions on the draft of “Chorokhi-Adjaristskali River Basin Management Plan” were organized in 2014-2015. The draft was placed on the MENRP website for comments from the interested parties.

In 2014, with the financial support of Global Environment Facility “National Action Programme to Combat Desertification in Georgia” (NAP) was approved. The experts working on the thematic directions of the documents, with the active involvement of MENRP, workshops with interested parties were organizing. Around 20 workshops were held in 2014

During the development of “National Waste Management Strategy (2016-2030) and the National Action Plan (2016-2020)”, adopted in 2016, the public hearings with the involvement of all stakeholders, international organizations and local NGOs and experts were held in 2015.

In order to ensure public participation in the decisions related to the protected areas, LEPL Agency of Protected Areas disseminates the draft Protected Area Management Plans through CENN for public discussion. Before official approval of the management plans, the comments and proposals from the stakeholders are considered.

Public participation is considered in the approval process of hunting and fishing management plans. The management plans are placed on the MENRP website and interested public has a possibility to submit comments and proposals within 15 calendar days.

Public hearing on the document “Intended Nationally Determined Contribution (INDC) of Georgia” prepared within the Climate Change Convention was held in 2015.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 7

Give relevant web site addresses, if available:

www.moe.gov.ge; www.mof.ge; biomonitoring.moe.gov.ge; www.soegeorgia.blogspot.com; www.matsne.gov.ge

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

The Constitution of Georgia, the General Administrative Code of Georgia, the Law of Georgia on Environmental Protection and the Law of Georgia on Environmental Impact Permit ensure implementation of the rights, provided in the article 8 of the Convention. Public administrative proceeding is also applicable for promulgation of individual legal-administrative act of an administrative body if the above mentioned is directly considered by the law (the General Administrative Code of Georgia, Chapter IX). Stakeholders’ participation in this process is guaranteed by the legislation. According to the Chapter IX of the General Administrative Code of Georgia, everybody has a right to submit written suggestions within 20 days. From the date of notice on issue of individual legal-administrative act or from the date of submission of draft individual legal-administrative act for public consideration, each administrative
body ensures publication of draft normative acts, elaborated by them on their official websites. In the process of elaboration of draft normative acts the institution, issuing such act shall be responsible for ensuring publicity of issued acts, and respectively, public comments and suggestions are submitted to the institution issuing administrative act for its further consideration.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

Describe any obstacles encountered in the implementation of article 8.

Answer:

There are cases, when public actively participates in the process of preparation of draft laws, as well as cases, when the level of public participation is quite low. In cases of expressed interest from the public, the public has an opportunity to participate in the development of draft laws. Often such initiatives are coming from the public but not from the state agencies.

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

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

Answer:

Administrative bodies often publish information on their official websites. Also, they cooperate with NGOs and disseminate information on draft laws and projects through them. It should be noted, that according to the practice established at the MENRP, draft legal acts are placed on the MENRP website and public hearings are organized. For example, in 2015-2016, during the development and reviewing of the draft Forest Code, all interested parties were actively participated.

The MENRP, with financial assistance of EU, implemented Twinning Project on waste management. Within the framework of the project 6 public hearings on the draft law on waste management were conducted in 2014. Based on the Waste Management Code, the Government of Georgia approved number of normative acts in 2015-2016, during the development process of which a public hearings were actively held.

In 2016, a public hearing on the changes made in the fishing regulatory normative acts was held, which was attended by various stakeholders, including fishing license holders and the general public representatives.

In general, 158 public hearings on EIA reports were held in 2014-2016:

2014 - 64;
2015 - 81;

In 2014-2016 53 public hearings on normative acts were held:

2014 – 14;
2015 – 19;

For the purpose of public participation in the decision-making, more than 20 public hearings were organized by LEPL EIEC in 2014-2016. The planned public hearings among other environmental events are marked on the LEPL EIEC calendar, which is placed on the Centre’s website.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 8

Give relevant web site addresses, if available:

www.parliament.ge; www.moe.gov.ge; www.eiec.gov.ge

Germany

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in Article 6

Public participation in decisions on specific activities mentioned in Article 6 of the Convention has traditionally been regulated on a broad basis in German law, so that in terms of the implementation of the provisions of the Convention and Directive 2003/35/EC, only minor adjustments were required through the Act on Public Participation in Environmental Matters pursuant to Directive 2003/35/EC (Public Participation Act, Öffentlichkeitsbeteiligungsgesetz) of 9 December 2006. It should also be noted in this context that Germany has been a Party to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) since 2002.

(a) (i) Under German law, many of the activities listed in Annex I to the Aarhus Convention are subject to the licensing procedure under Section 10 of the Federal Immission Control Act (Bundes-Immissionsschutzgesetz – BImSchG), which is elaborated in the Ninth Ordinance Implementing the Federal Immission Control Act (Neunte Verordnung zur Durchführung des Bundes-Immissionsschutzgesetzes – 9. BImSchV). This procedure safeguards the participation of the affected public in accordance with the provisions of Article 6 of the Convention. For the licensing of nuclear power plants, the same applies accordingly pursuant to Sections 2a and 7 of the Atomic Energy Act (Atomgesetz) in conjunction with the Nuclear Licensing Procedure Ordinance (Atomrechtliche Verfahrensverordnung) and the provisions of the Act concerning the Search for and Selection of a Site for a Repository for Heat-Generating Radioactive Waste (Site Selection Act, Gesetz zur Suche und Auswahl eines Standortes für ein Endlager für Wärme entwickelnde radioaktive Abfälle – StandAG).

Major planning and infrastructure projects, such as the construction of airports, railway lines, motorways, express roads, waterways, ports, landfill sites, highvoltage transmission lines and pipeline systems, are subject to the so-called planning approval procedure, in which intensive public consultation is also prescribed as mandatory (cf. Section 73 of the federal Administrative Procedure Act (Verwaltungsverfahrensgesetz – VwVfG)). The Building Code (Baugesetzbuch – BauGB) also provides for public consultation during the establishment of all area development plans (Sections 3 and 4a BauGB).

In addition, the Federal Environmental Impact Assessment Act (Gesetz über die Umweltverträglichkeitsprüfung – UVPG) provides for a public consultation process in the licensing of activities with substantial environmental impacts, which include the activities listed in Annex I of the Convention. Here, the UVPG sets a minimum standard which must always be met if the provisions of specialised law lag behind the requirements of the UVPG. Within their jurisdictions, the Länder have adopted regulations that correspond to those contained in the UVPG at federal level.3

(ii) Both Annex 1 to the Fourth Ordinance Implementing the Federal Immission Control Act (Verordnung über genehmigungsbedürftige Anlagen – 4. BImSchV) and Annex I of the UVPG include a list of activities for which approval and/or environmental impact assessments are mandatory and which are not included in Annex I of the

3 For example, Section 1 of the Berlin Environmental Impact Assessment Act (UVPG Bln); Section 4 of the Bremen Environmental Impact Assessment Act (BremUVPG); Section 1 (1) of the Hamburg Environmental Impact Assessment Act (HmbUVPG); Section 5 (1) of the Mecklenburg-Western Pomerania Land Environmental Impact Assessment Act (LUVPG M-V); Section 5 of the Lower Saxony Environmental Impact Assessment Act (NUVPG); Section 1 (1) of the North Rhine-Westphalia Environmental Impact Assessment Act (UVPG NW); Section 3 of the Saarland Environmental Impact Assessment Act (SaarlUVPG); Section 4 (3) of the Saxony Environmental Impact Assessment Act (SächsUVPG); Sections 9 and 12 of the Saxony-Anhalt Environmental Impact Assessment Act (LUVPG SH); Section 4 of the Thuringia Environmental Impact Assessment Act (ThürUVPG).
Convention. They are also subject to the procedure set forth in Section 10 BImSchG in conjunction with the Ninth Ordinance Implementing the Federal Immission Control Act or Sections 5 ff. UVPG, as appropriate.

(b) The consultation process is fleshed out in more detail in, for example, Section 10 (3) and (4) BImSchG in conjunction with Sections 8 to 12 of the Ninth Ordinance Implementing the Federal Immission Control Act, and in Section 9 UVPG, which makes reference to Section 73 VwVfG. The process is illustrated as follows with reference to these norms. The competent authority must first give public notice of the project in the area where the installation is to be constructed (see, for example, the first sentence of Section 10 (3) BImSchG in conjunction with the first sentence of Section 8 (1) of the Ninth Ordinance Implementing the Federal Immission Control Act, and Section 9 (1a) UVPG). In this notice, the public must be provided, in particular, with the following information: details of the application including the type, scale and site of the project, the type of possible decision, the competent authority, the procedure envisaged, details of the time period for public discussion and deadlines for the lodging of objections, and details of any consultation of the authorities and the public in other countries (see Section 9 (1) of the Ninth Ordinance Implementing the Federal Immission Control Act, and Section 9 (1a) and (1b) UVPG). Based on Section 27a VwVfG, which entered into force in 2013, in addition to giving public notice in the locally usual way all public notices and disclosed documents are also to be published on the website of the competent authority. The federal government is currently elaborating an amendment to the UVPG which will serve in particular to transpose Directive 2014/52/EU amending EIA Directive 2011/92/EU. An important innovation in this context is the strengthening of public participation through greater utilisation of electronic means of communication and through establishing central EIA portals at federal level and in the Länder.

(c) Under German legislation, the application and the supporting documents must be made available for public examination at the licensing authority and, if necessary, at other suitable locations such as in the municipalities affected, for a period of at least one month following the publication of such notices; any objections raised against the project may be lodged in writing with the competent authority up to two weeks after the expiry of the examination period.

(d) Under German legislation, the public consultation process must be initiated, at the latest, once the competent authority takes the view that the project application documents are complete. For projects which require an environmental impact assessment (EIA), this must also include a non-technical summary description of the documents. This ensures that the public has an adequate basis for effective consultation. At this point in time, no decision will have been taken by the competent authority on the project’s eligibility for approval. For projects which require an EIA, there is also the option for the competent authority to call in expert witnesses, affected local authorities, neighbouring states, recognised environmental associations and other third parties – which may also include members of the public – to attend the scoping meeting at which the scope of the EIA will be determined.

In accordance with the new Section 25 (3) VwVfG introduced in 2013, during the planning of projects with not merely insignificant impacts on the concerns of a large number of third parties the authorities should furthermore seek to ensure that the project carrier informs the public concerned at an early stage about the aims of the project, the means by which they are to be realised and the foreseeable impacts, in order that the public concerned has the opportunity to express its opinions and discuss the project (early public consultation).

The special procedure established for the search for and selection of a site for a repository for heat-generating radioactive waste involves even more extensive public consultation under the provisions of Sections 9 and 10 StandAG. According to the legislation, it is mandatory to conduct public dialogues and public meetings, and to provide information, e.g. on the Internet, concerning the aims of the project, the means for and progress of its realisation, and its foreseeable impacts, combined with opportunities to comment on this information.

(e) A major contribution to the implementation of Article 6 (5) of the Convention has been made by the German IMPEL project Informal Resolution of Environmental Conflicts by Neighbourhood Dialogue, which highlights the

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4 This citation corresponds to the UVPG as promulgated on 24 February 2010 and last amended by Act of 21 December 2015. In order to transpose Directive 2014/52/EU amending the EIA Directive, the federal government is currently preparing an amendment to the UVPG that will result in a re-numbering of its sections.
information, application and evaluation options for voluntary, multiparty dialogue on conflict resolution for sites with neighbourhood complaints.

(f) The requirements concerning the documents which must be made accessible for examination pursuant to Article 6 (6) of the Convention have been incorporated, for example, into Section 4a of the Ninth Ordinance Implementing the Federal Immission Control Act and Section 6 UVPG.

(g) Under German law, at least the public concerned always has the opportunity to lodge written objections to the project with the competent authority. In addition, German law provides for procedures which allow universal participation, such as under Section 10 (3) BImSchG; in such cases there is no need to determine who belongs to the “public concerned”.

(h) After the establishment of the requisite facts and participation of all actors, the authority must, on the basis of the overall findings of the administrative procedure, including the result of the public consultation, take a final decision. Appropriate consideration of the outcome of the public consultation process in the authority’s decision is safeguarded, e.g. in relation to projects subject to the licensing procedure under immission control law, by Section 20 of the Ninth Ordinance Implementing the Federal Immission Control Act, and otherwise by the first sentence of Section 11 and Section 12 UVPG. The competent authority prepares, inter alia, a summary description and evaluation of the environmental impacts of the project, taking account of the opinions presented by the public, and these in turn must be considered in the project approval decision in the interests of effective precautionary action in the field of environmental protection.

(i) The public must be informed, by means of public notice, of the approval or rejection of a project application. The decision is made available for public examination, with reasons for the decision being stated (see, for example, Section 21a of the Ninth Ordinance Implementing the Federal Immission Control Act, and Section 9 (2) UVPG).

(j) The competent authorities, according to the environmental laws applicable to them, must supervise compliance with the relevant legislation and review any licences granted at regular intervals (see, for example, Section 52 (1) to (1b) and Section 52a BImSchG). If necessary, the installation’s operator may be issued with a subsequent order requiring them to upgrade their system. Section 17 (1a) BImSchG, in its wording applicable since 2013 (Gesetz zur Umsetzung der Richtlinie über Industrieemissionen), requires public participation in the event of subsequent orders prescribing new emission limits that replace a licence for installations covered by the Industrial Emissions Directive.

(k) The public is also consulted on decisions on the deliberate release of genetically modified organisms into the environment: Section 18 (2) of the Genetic Engineering Act (Gentechnikgesetz – GenTG) prescribes a consultation procedure that must essentially satisfy the requirements of Section 10 (3 to 8) of the Federal Immission Control Act, unless a simplified procedure is conducted once the experience gained of releases of genetically modified organisms is sufficient to guarantee protection. The details of the consultation procedure are defined in the Genetic Engineering Consultation Ordinance (Gentechnik-Anhörungsverordnung). The competent authorities must supervise the implementation of the Genetic Engineering Act (Section 25 GenTG) and may, in individual instances, give the orders necessary to eliminate established offences against this act or to prevent future offences of this kind (Section 26 (1) GenTG). Pursuant to Section 28a GenTG, the public must be informed of any enforceable orders. The current German legislation on genetic engineering already complies with the provisions of the first amendment to the Convention (the “Almaty Amendment”). The Federal Republic of Germany adopted the Almaty Amendment with effect under international law on 20 October 2009.

XVI. Obstacles encountered in the implementation of article 6

No information was provided under this heading.

XVII. Further information on the practical application of the provisions of article 6

Under the UVPG, which entered into force in 1990, the obligation to carry out an EIA applies in principle to defence activities as well. In accordance with letter c of Article 6 (1) of the Convention, however, it may be decided, on a case-by-case basis, not to apply the provisions relating to EIA or public participation to proposed activities that serve defence purposes, if compelling grounds of defence or the fulfilment of international commitments so require. The
Ordinance Implementing Section 3 (2) of the Act on Environmental Impact Assessment in Relation to Defence Projects (Gesetz über die Umweltverträglichkeitsprüfung bei Vorhaben der Verteidigung – UVP-V Verteidigung) specifies in concrete terms the cases in which it is possible to dispense with an environmental impact assessment. According to Section 6 UVP-V Verteidigung, it is only possible to rule out an environmental impact assessment if a project has to be implemented without delay in order to avert an impending threat to the Federal Republic of Germany or visiting armed forces, or a project has to be implemented without delay for the purpose of conflict prevention and crisis management measures taken to fulfil NATO, EU or other international obligations. According to Section 5, public participation may be restricted in so far as this is required for reasons of confidentiality. The option to restrict public participation for the purposes of national defence has only been utilised in two EIA cases since 1990. In 2012, the non-application of the UVPG was initially envisaged in another case: however, it was decided to waive this following the conduct of legal remedy proceedings, and instead an EIA was initiated with public participation.

The further strengthening of public participation in decision-making procedures was an important political topic during the reporting period. Since 2012, a directorate at the Federal Environment Ministry is the first to be concerned with “civic participation” across the board with the aim of mainstreaming the topic more firmly in all areas of policy and, in this way, fostering a new culture of participation. The work of the division responsible for civic participation in environmentally relevant large-scale projects involves, inter alia, drawing up principles for high quality consultation processes, which is done in part on the basis of research projects. In this respect, the focus is on how the formal participation processes founded on Article 6 of the Convention can be meaningfully complemented with informal consultation processes.

In 2015 the BMUB and UBA published practical guidance for authorities setting out how to handle an additional participation of citizens, to an extent going beyond statutory requirements, during the planning and licensing of projects in the context of realising the German energy transition. In the Land of Schleswig-Holstein, the competent ministry and the transmission network operator have offered, and continue to offer, a range of dialogue events at an early time in the process of planning the transmission networks the installation or expansion of which is essential to the success of the energy transition. The purpose of these events is to improve acceptance of these spatially significant projects.

Strengthened public participation has also been embodied in the Act concerning the Search for and Selection of a Site for a Repository for Heat-Generating Radioactive Waste (StandAG), as set out above (XV d.). In July 2016 the German commission on the storage of high-level radioactive waste (Kommission „Lagerung hoch radioaktiver Abfälle“ – the Repository Commission) submitted its final report. In particular, the commission agreed on site selection criteria, criteria for weighing conflicting interests, and a comprehensive public participation procedure. Through these elements, the best possible site for radioactive wastes can be found in a selection procedure. The federal government will assess these proposals carefully. Directly following publication of the repository report, a public consultation on the Repository Commission’s report was organised in the summer of 2016. The online comments submitted in that process were discussed by the Environment Committee of the German Bundestag together with the members of the Repository Commission at a publicly-held expert panel meeting on 28 September 2016.

The BMUB is currently having a German translation made of the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters that were taken note of by the 5th Meeting of the Parties to the Aarhus Convention in June 2014. Upon completion, the German translation will be made available to the Länder.

XVIII. Website addresses relevant to the implementation of article 6

5 www.bmub.bund.de/themen/forschung-foerderung/forschung/forschungs-undentwicklungsberichte/?
tx_cpsbmuforschung_pi1[sField][Fkz]=&tx_cpsbmuforschung_pi1[sField][Title]=Konfliktdialog&
χ_cpsbmuforschung_pi1[selectBox][Categories]=&tx_cpsbmuforschung_pi1[selectBox][BeginYear]=&tx_cpsbmufor
schung_pi1[selectBox][EndYear]=.
Information provided by the BMUB:
http://www.bmub.bund.de/buergerbeteiligung/
http://www.bmu.de/umweltvertraeglichkeitspruefung/aktuell/aktuell/6364.php

Information on the IMPEL project Informal Resolution of Environmental Conflicts by Neighbourhood Dialogue:
www.bmub.bund.de/bmub/parlamentarischevorgaenge/
detailansicht/artikel/nachbarschaftsdialog-freiwilliges-instrument-zurkonfliktloesung/
and http://impel.eu/?s=neighbourhood+dialogue

EIA/SEA procedures in the nuclear energy sector:
www.bmub.bund.de/themen/atomenergie-strahlenschutz/nuklearesicherheit/internationales/uvpsup/

Information provided by the Federal Environment Agency (UBA):
http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategieninternationales/umweltrecht/beteiligung
www.umweltbundesamt.de/themen/nachhaltigkeit-strategieninternationales/umweltpruefungen

Information provided by the BMWi:
www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/buergerdialog.html

Federal Institute for Geosciences and Natural Resources (BGR):
http://www.bgr.bund.de/DE/Home/homepage_node.html

Information provided by the Federal Nature Conservation Agency (BfN) on agricultural genetic engineering and nature conservation:
http://www.bfn.de/0301_gentechnik.html

Information provided by the Nature and Biodiversity Conservation Union (NABU):
https://www.nabu.de/

Information provided by the Independent Institute for Environmental Issues (UfU):
www.aarhus-konvention.de/

Information on genetic engineering provided by the Federal Office of Consumer Protection and Food Safety:
www.bvl.bund.de/DE/06_Gentechnik/gentechnik_node.html

Information provided by the Federal Ministry of Education and Research (BMBF) on biosafety research in the field of genetically modified plants:
https://www.bmbf.de/pub/Biologische_Sicherheitsforschung.pdf

Information service on new developments in plant research:
www.pflanzenforschung.de/de/startseite/
XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

The participation of the public during the preparation of plans and programmes relating to the environment was legally safeguarded through the transposition into national law of European Directives 2001/42/EC and 2003/35/EC, which, inter alia, bring European law into line with the provisions of the Convention on public participation in decision-making processes in environmental matters. At federal level, the provisions have been transposed by means of the enactment of the following legislation:

- Act Introducing a Strategic Environmental Assessment and Implementing Directive 2001/42/EC (Gesetz zur Einführung einer Strategischen Umweltprüfung und zur Umsetzung der Richtlinie 2001/42/EG – SUPG) of 25 June 2005. Through this legislation, the provisions on SEA, including those dealing with public consultation, and a list of plans and programmes for which SEA is mandatory, were integrated into the existing UVPG.

- Act Adapting the Federal Building Code to EU Directives (Gesetz zur Anpassung des Baugesetzbuchs an EU-Richtlinien – EAG Bau) of 24 June 2004, which, by adapting the existing rules on public consultation, implemented the SEA Directive in the sphere of area development planning.

- Act on Public Participation (Öffentlichkeitsbeteiligungsgesetz) of 9 December 2006. This introduced public participation for certain plans and programmes under EU law insofar as these do not already require an SEA under the SEA Directive, e.g. air quality plans or waste management plans.

Land law contains corresponding provisions for plans and programmes undertaken at Land level.

Under the SEA provisions in the UVPG, public consultation is undertaken in a manner similar to that applicable to EIAs (Section 14i UVPG makes reference to Section 9 UVPG); the same applies to transboundary public consultation (Section 14j UVPG makes reference to Section 9a UVPG).

By means of a public notice, the public must first of all be provided with relevant information on the consultation process in conformity with the provisions of Article 6 (2) of the Convention. Furthermore, the draft plan or programme, environmental report and other relevant documents must be made available for public examination at an early stage for an appropriate period of no less than one month (Section 14i (2) UVPG). The places where the information is made available for examination must be determined in a way which ensures effective participation by the public concerned. The public concerned has the opportunity, within an appropriate period of no less than one month, to state its views. This ensures that the public affected or likely to be affected by the decision-making process, or which has an interest in the decision-making process, can look in detail at the plans and express a view at an early stage in the process. The outcome of this public consultation process must be given due consideration in the further procedure to establish or amend the plan or programme (Section 14k UVPG).

A similar procedure is envisaged for plans and programmes which fall within the scope of the Act on Public Participation, and for area development plans alongside the formal public consultation process (making available of documents for public examination). Under the Building Code (BauGB), too, the public must generally be consulted at an early stage; among other things, the public must be informed of the general objectives, purposes and likely impacts of the plans, and given an opportunity for the expression of views and discussion (Section 3 BauGB).

In this context, it should be noted that since February 2007 Germany has also been a Party to the Protocol on Strategic Environmental Assessment (SEA Protocol) to the Espoo Convention, which entered into force on 11 July 2010. Article 14 of the EU Water Framework Directive should also be mentioned; this also provides for extensive public consultation, including the promotion of active participation, and is transposed by Section 83 (4) and Section 85 of the Federal Water Act (Gesetz zur Ordnung des Wasserhaushalts – WHG) of 31 July 2009. Similar provisions are included in Articles 9 and 10 of the European Flood Risk Management Directive and Article 19 of the Marine Strategy Framework Directive, which are transposed by Section 79 and Section 45i WHG.
In connection with the national discussion in Germany about strengthening public participation, mention is to be made of two specific pieces of legislation that have been used to introduce early and repeated public participation in phased planning procedures during particular, important planning and approval processes. This relates firstly to the planning of extra-high-voltage power lines between Länder and across national borders under the Grid Expansion Acceleration Act adopted in 2011 (Netzausbaubeschleunigungsgesetz Übertragungsnetz – NABEG, supplemented by provisions in the Energy Industry Act (Energiewirtschaftsgesetz – EnWG)), and secondly to the search for and selection of a site for a repository for heat-generating radioactive waste under the Site Selection Act (StandAG), which entered into force in the summer of 2013 and has been discussed above.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

In Germany, the preparation of policies relating to the environment, in the sense of political programmes or strategies, is not undertaken in accordance with a specific procedure in which the public could participate; stakeholders are involved in policy formulation as is appropriate.

In sustainability policy, in particular, public participation has become standard practice for drawing up progress reports. However, in the preparation of legislative procedures by the federal or Land governments which are intended to enshrine policies in law, there is scope for representatives of the public with appropriate expertise, notably the associations, to voice their opinions and discuss the draft legislation with the competent authority. Norms governing this consultation requirement are enshrined in the Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien), for example.

In addition, the draft legislation is often made available on the Internet for the purposes of public information even at this early stage. The same procedure also applies to the enactment of secondary legislation. In some cases, the law prescribes consultation with the groups concerned as mandatory (see also the comments on Article 8).

In environmental and urban development policy, many decisions need to be taken that affect various interests and often have substantial impacts of the living conditions of citizens. It was therefore agreed in the current coalition agreement that the participation of the public in issues of environmental policy relevance is to be strengthened, and that such participation is to be expanded in the field of urban development. Various projects have shown how important it is to involve the public.

The BMUB also carries out participation procedures itself. Before drafting its 2050 climate action programme, the BMUB conducted a nine-month participation process. The Länder, municipalities, associations and the wider public were invited to propose strategic actions by which to cut greenhouse gas emissions by 80 to 95% by 2050 from the 1990 baseline. This resulted in a catalogue containing 97 proposed actions on which all four target groups voiced their views. The catalogue was handed over to Federal Environment Minister Barbara Hendricks in mid-March 2016. The proposals were subsequently taken into account when drafting the action programme.

The BMUB also participated in “World Wide Views”, a global citizen consultation round. On 6 June 2015 some 10,000 people in 96 countries debated climate protection simultaneously during one day. In Berlin, too, a climate dialogue was convened with BMUB support during which 71 people discussed their views. The individuals invited were selected at random in order to attract as diverse a range of opinions as possible and mirror a representative section of society. The results were presented directly to the UNFCCC subsidiary body meeting in Bonn and to the German-French session of the Bundestag Environment Committee on 11 June 2015.7

A further nationwide citizen consultation was held in the early summer of 2015 while updating ProgRess II, the German resource efficiency programme. This citizen dialogue took place in both online and offline formats. Its purpose was to capture the everyday perspective on the issue of “living with minimum resource consumption”. The approaches formulated in the course of the dialogue were taken up in ProgRess II. Key questions were: What do citizens consider particularly important for a resource-conserving future? Where do they feel a need for action? Which challenges do they see? An online dialogue was carried out in parallel with citizen workshops. Subsequently, the

7 www.bmub.bund.de/P3930/.
various outcomes were combined in a package of “citizen advice”. This package was included as an annex to the ProgRess II progress report.

Finally, when elaborating its third environmental programme the BMUB carried out a citizen consultation with six citizen councils and six citizen forums in a range of German cities. An online council and online environmental forum were convened in parallel. The discussions and outcomes of this process were taken up as a dedicated chapter in the new BMUB environmental programme. The final report was submitted to the Federal Minister on 10 September 2016.

XXI. Obstacles encountered in the implementation of article 7

No information was provided under this heading.

XXII. Further information on the practical application of the provisions of article 7

To support the implementation of the above-mentioned provisions of the UVPG, a research project was carried out with the aim of developing guidelines on strategic environmental assessment. These guidelines help ensure that the assessment process, including public consultation, is demanding in substantive terms and is conducted effectively.

For certain types of plans and programmes, e.g. area development planning, a number of research projects have already been carried out and guidelines produced. A selection is available on the following websites.

XXIII. Website addresses relevant to the implementation of article 7

National Sustainability Strategy of the German Federal Government:
www.bundesregierung.de/Webs/Breg/DE/Themen/Nachhaltigkeitsstrategie/_node.html

Information provided by the BMUB:
www.bmub.bund.de/themen/strategien-bilanzen-gesetze/umweltpruefungenvupsup/kurzinfo/

Guidelines on strategic environmental assessment:
www.bmub.bund.de/themen/strategien-bilanzen-gesetze/umweltpruefungenvupsup/strategien-umweltpruefungen-uvp-sup-download/artikel/leitfaeden-zu-uvp-undsup/?tx_ttnews%5BbackPid%5D=881

BMUB: Environmental dialogue on the National Sustainability Strategy:
http://www.bmu.de/themen/strategien-bilanzen-gesetze/nachhaltigeentwicklung/erfolgskontrolle-und-weiterentwicklung/

BMUB: Citizen participation: www.bmub.bund.de/buergerbeteiligung

Information provided by the UBA:
http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategieninternationales/

umweltrecht/beteiligung

http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategieninternationales/

umweltpruefungen

Internet site of the Association for the Assessment of Environmental Impacts (German EIA Association), which has also established a Working Group on Strategic Environmental Assessment: http://www.uvp.de/de/

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8 www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Umweltpruefungen/sup_leitfaden_lang_bf.pdf

Information provided by the BMWi:
www.bmwi.de/DE/Themen/Energie/netze-und-netzausbau.html
www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html

Information provided by the BNetzA:
www.netzausbau.de/cln_1931/DE/Home/home_node.html

Information provided by the Federal Institute for Geosciences and Natural Resources (BGR): www.bgr.bund.de/DE/Home/homepage_node.html

Information provided by the Federal Maritime and Hydrographic Agency (BSH):
www.bsh.de/de/Meeresnutzung/Wirtschaft/Windparks/Windparks/Literatur.jsp

Guidelines of the Land Mecklenburg-Western Pomerania for Municipalities, Planners and the Authorities, as well as for the Public, on Implementing Environmental Impact Assessments in Area Development Planning:
www.wm.mv-regierung.de/arbm/doku/PR_inhalt_Umweltpruefung.pdf

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

German environmental law provides for broad stakeholder participation prior to the adoption of secondary legislation. The stakeholder groups involved (in particular, representatives – to be selected by the authorities – of the academic community, environmental groups and other affected persons and participating businesses) are regularly consulted before the adoption of executive regulations; see, for example, the third sentence of Section 4 (1) and Section 51 BImSchG, Section 21 (4) UVPG, Sections 5 and 20 of the Federal Soil Conservation Act (Bundes-Bodenschutzgesetz – BBodSchG), Sections 8 and 68 of the Closed Substance Cycle and Waste Management Act (Kreislaufwirtschaftsgesetz – KrWG), and Section 17 of the Chemicals Act (Chemikaliengesetz – ChemG).

As regards the preparation of draft legislation, in general, the Joint Rules of Procedure of the Federal Ministries provide for consultation with associations during the preparation of drafts, as an element of regulatory impact assessment. In parallel, draft legislation is increasingly being published on the Internet and the opportunity to comment offered. The same applies accordingly for the Land level. When it comes to the expansion of Germany’s power grids, a federal act governs the multiple forms of “general” public consultation on plans and reports (Scenario Framework Plan, Grid Development Plan, Environmental Report) that paved the way for the draft Federal Requirements Plan Act (Bundesbedarfsplangesetz – cf. Sections 12a ff. EnWG).

In some cases, German law also allows the “general” public to participate in processes that lead to the enactment of secondary legislation. Such opportunities exist, for example, under Land nature conservation law in the designation of conservation areas, under Land water law in the designation of water conservation areas, and in some cases with

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9 See, for example, Section 74 (2) of the Baden-Württemberg Nature Conservation Act (NatSchG B-W), Section 9 (2) of the Brandenburg Nature Conservation Act (BbgNatSchG, Section 15 (2) of the Mecklenburg-Western Pomerania Nature Conservation Act (NatSchG M-V), Section 19 (2) of the Schleswig-Holstein Nature Conservation Act (LNatSchG SH).
regard to other protected areas,\textsuperscript{10} as well as under Land soil conservation law in the designation of soil contamination areas.\textsuperscript{11}

XXV. Obstacles encountered in the implementation of article 8

No information was provided under this heading.

XXVI. Further information on the practical application of the provisions of article 8

No information was provided under this heading.

XXVII. Website addresses relevant to the implementation of article 8

BMUB:

www.bmub.bund.de/themen/strategien-bilanzen-gesetze/gesetze-verordnungen/

BfN:

www.bfn.de/0320_gesetzgebung.html und www.bfn.de/0320_landesgesetze.html

BSH (on behalf of the Federation and Länder) on public participation in reporting on the implementation of the EU Marine Strategy Framework Directive:

www.meeresschutz.info/

BMW: Information on grid expansion:

www.bmwi.de/DE/Themen/Energie/netze-und-netzausbau.html

BMW: Information on public participation in grid expansion:

www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html

Information provided by the BNetzA:

www.netzausbau.de/cln_1931/DE/Home/home_node.html

Information provided by the German transmission grid operators:

www.netzentwicklungsplan.de/

Greece

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

96. Laws 4014/2011 and 4042/2012 considerably contribute to the implementation of the article 6 objectives through the procedural simplification of the environmental permitting process of projects and activities, the criminal protection of the environment and the restructuring of the national system for waste management, giving emphasis to waste minimization, recycling, reduce and reuse in practice.

\textsuperscript{10} See, for example, Sections 41 and 58 of the Bremen Water Act (BremWG), Section 91 (1) of the Lower Saxon Water Act (NWG), Section 122 (2) of the Mecklenburg-Western Pomerania Land Water Act (LWaG M-V), Section 130 (2) of the Saxon Water Act (SächsWG), Section 124 (2) of the Schleswig-Holstein Land Water Act (LWG SH).

\textsuperscript{11} Cf., for example, Sections 7 ff. of the Bremen Soil Conservation Act (BremBodSchG).
More specifically, Law 4014/2011 (OJG A’ 209) aims at accelerating environmental permitting and licensing procedures, decentralizing competencies for environmental licensing, reducing bureaucratic and administrative burdens, enhancing transparency and promoting stakeholder participation in decision making. To this end, the following steps/tools are established:

1. Standardization of the administrative procedure for the approval, renewal or amendment of the decision setting the environmental terms for the operation of activities and projects.

2. Minimization of the number of competent Ministries involved in the permitting procedure.

3. New classification of projects and activities based on their environmental impact and introduction of Standardized Environmental Specifications for the permitting of low-impact installations.

4. Improvement of the administrative structure of environmental licensing services by establishing a single licensing authority at central level under the Ministry of Environment.

5. Introduction of dispute resolution councils dealing with particular cases, both at central/Ministry of Environment level, as well as at regional level.

6. Establishment of a Digital Environmental Registry enhancing public access to environmental information

The DER platform enables the online submission of Environmental Impact Studies for activities that belong to the A1 and A2 categories, as well as the monitoring of the process of issuing, renewal or amendment of the Environmental Conditions Approving Decisions and the Standard Environmental Commitments. The main users of DER are:

- the studier that uses the platform to submit the Environmental Impact Study and monitor the whole procedure
- the competent authorities that contact the environmental permit
- other bodies that are involved in the environmental permitting procedure
- citizens & environmental organizations that are offered the ability to be informed and to keep track of any environmental permitting procedure and its results

The benefits of the DER are:

- the automation of the environmental permitting procedures through the use of the online management system
- the improvement of the whole process with more qualitative and transparent procedures
- the simplification of the permitting procedure, the reduction of the time required for the monitoring and approval of the study, the reduction of bureaucracy and related costs

Secondary national legislation regarding the article 6 of the Aarhus Convention is the followings: (a) Joint Ministerial Decision 48963/2703/5.10.2012 on content specifications of environmental permits for projects and activities category A of JMD 1958/13.1.2012 of the Minister of Environment, Energy and Climate Change (B-21), as applicable, in accordance with Article 2 § 7 of Law 4014/2011 (b) Ministerial Decision 167563/EYΠΕ on the procedure and the environmental clearance criteria for projects and activities (OJG964/B/2013), (c) Ministerial Decision no 1958/12 on the classification of projects and activities into categories/subcategories on the basis of their potential impact on the environment (OJG B/21/2012) & Ministerial Decision 3764/2016 (OJG 2471 B’), for
amendment and codification of MD 1958/2016 (d) Ministerial Decision no 20741/12 for the modification and completion of Ministerial Decision no 1958/12 (OJG 1565/B/2012), (e) Ministerial Decision 1649/2014/45 on the specification of the procedures of consultation procedure and information to the public and participation of the interested party in the public consultation procedures within the context of the environmental licensing of category A projects and activities as set forth by Ministerial Decision 1958/2012, in accordance with the provisions of Article 19 para. 9 of Law 4014/2011 (OJG 1649/B/27.01.2014), (f) Ministerial Decision 1070225/2014 on the specification of the contents of the environmental clearance files for category A projects as set forth by Ministerial Decision 1958/2012, in accordance with the provisions of Article 11 of Law 4014/2011, in accordance with the provisions of Article 11 of Law 4014/2011, (g) Ministerial Decision 15277/12/2012 relating to the specifications of the procedure for the incorporation of forest interventions into the AEPO (OJG 1077/B/12), (h) Circular of the Ministry of Environment Energy and Climate Change no 27953/5.6.12 in connection with the operation of a special internet site for the posting of AEPOs in accordance with Article 19(a) of Law 4014/2011, Ministerial Decision 3764/2016 (OJG 2471 B’), for amendment and codification of MD 1958/2016


101. Strategic Environmental Assessment is covered by the Joint Ministerial Decision 107017/28.8.2006, which is in accordance with the EU Directive 2001/42/ΕΚ for the assessment of plans and projects.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

102. Need for better cooperation among competent services regarding the inspections. According to NGOs Greek law does not provide for early public participation, when all options are open and effective public participation can take place. Additionally stakeholders’ commentaries on the EIA report, submitted during the authorisation process for environmental permit, cannot be viewed by other members of the public throughout the procedure.

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

103. Through the website 'Open Governance' citizens can be informed on the important legislative initiatives of the Ministry of Environment & Energy and participate in public consultation (see more under article 8).

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE

www.opengov.gr official site for public consultation

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

104. Legislation and Information provided under this Article remain the same as it is in the Report of previous reporting cycle.

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

105. According article 75 of Law 3852/2010 (OJG A’ 87) Quality of Life Committees must be established, in every Municipality with a competence on environmental issues. The Quality of Life Committees shall submit an annual activity report in the areas of its competencies, which will be discussed and approved by the City Council. The Quality of Life Committees with a special decision taken by an absolute majority of its members may refer a matter that lies in its competencies to the City Council for the latter to decide, if this is deemed necessary by the particular severity of the matter at hand. According to para.10 of article 75, the decisions of the Committee are published in the Municipality’s website.
106. According to articles 76 and 78 of Law 3852/2010 (OJG A’ 87) a Consultation Committee in all Municipalities and Regional Administrations must be established, by decisions of the local council or regional governor respectively. These Committees are composed – among others- by representatives of the local society, scientific unions, and trade unions. Their sessions are open to the public. Apart from the abovementioned committees, online consultation is provided for by Law 3852/2010.

107. One of the main priorities of MoEE for the Programme Period 2014-2020 as far as Guidelines Development Strategy on environmental matters are concerned is the enhancement of institutions and mechanisms of environmental governance (connection between spatial and environmental planning, clarification of competencies on central, regional and local level, awareness and training, enhancement of access to environmental information and participation to the “civil society”).

108. The Special Secretariat for Water of MoEE has conducted extensive public consultation on Water Management Resources Plans, which are available on the its official website.

109. Each OP or ROP financed by ESI Funds and which is likely to have significant effects on the environment is subjected to the Strategic Environmental Impact Assessment Study (SEIA) process before its adoption by the EU. The SEIA constitutes a precondition for the program’s approval in compliance with the Directive 2001/42/EC “on the assessment of the effects of certain plans and programs on the environment” and the Joint Ministerial Decision (JMD with n. 107017 (Government Gazette - FEK 1225/B/2006), which harmonized the Directive into National Law. During the SEIA process of the draft plan or program, the consultation process carried out by the public authorities and the public concerned in accordance with the JMD. The competent authority makes publicly available the Strategic Environmental Impact Assessment Study (SEIA) folder, before its adoption, to acknowledge and give to the public the opportunity to comment their views in writing or electronically, if they wish, via the website of MEE (www.ypeka.gr) or on the respective website of the competent regional authority. The competent consulting authority besides the electronic means, it may use any other appropriate means such as public hearings, interviews, open discussions, dialogue via internet, making the public participation meaningful. The conclusions are sent to the competent authority within 45 days by the delivery of the folder. In case that the pertinent authority considers that the implementation of a program could have significant effects on the environment in another EU Member State or at the request of a State in EU, which may suffer significant environmental effects by the implementation of a Greek program, the relevant authority must forward as quickly as possible the relevant documents of SEIAs to Member State concerned before adopting the SEIAs. Moreover, any additional information concerning transboundary environmental effects of the program’s implementation is forwarded to the other Member State including guidelines and measures to prevent, reduce or eliminate such effects. The transboundary consultation process with the other EU Member State and the public concerned is described in detail in the above JMD. In addition, the relevant authority ensures that the information referred to the program and any other relevant information related to the likely transboundary environmental effects, as well as the information concerning the envisaged measures to reduce or eliminate such effects are made available within a reasonable time to the public authorities and the public concerned. The above Executive Authority of MEE within the framework of its responsibilities, evaluates the annual reports of the environmental monitoring of the OP/ROP implementation as provided by the approved JMD of the approve Strategic Environmental Impact Assessment Studies of the respective OP/ROP for the period 2007-203 and for the current period of 2014-2020. The evaluation results are made publicly available on the websites www.eyesped.gr and www.ypeka.gr.

110. In early 2014, the Action Plan for Biodiversity and National Environment 2007-2015 was uploaded for public consultation by the MoEE. The Action Plan was adopted as a component of the National Strategy for Biodiversity. It should be pointed out that the NBSAP for Greece was adopted as a Ministerial Decision and published in the Official Journal of the Government (OJG 2383 B / 08 September 2014). The National Biodiversity Strategy takes into consideration the following:

- Scientific knowledge about the wealth, value-of, and pressures-to the biodiversity in Greece
- Legal framework – national, European and international – including International Treaties and European Directives
• Strategic framework, as defined by various national, European and international documents that Greece has adopted
• General principles that are considered a priori acceptable, since they originate from moral values, national needs and capabilities, as well as from corresponding scientific approaches
• Integration of preservation and sustainable development into a national policy framework

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

111.

• Participatory processes can take a lot of time and money, affecting the timely implementation of the legislative act under public consultation (e.g. possible delays, potential changes in the plans). Another obstacle is limited public ability and willingness to participate as well as in some cases the large amount of irrelevant information/views.
• In some cases due to international and European obligations there is not enough time in order to be followed by public administration the practice of four-week consultation

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

112. Law 2742/1999 on Spatial Planning and Sustainable Development (art.4) provides for the involvement of non-governmental organizations in environmental decision-making within the National Council for Planning and Sustainable Development and the information of the public on urban planning through the public consultation.

113. As part of the consultation for the formulation of the Development Strategy in the field of Environment of ESPA 2014-2020, the Executive Authority of MEE organized a development conference, in May 2013, with the participation of a wide range of partners including environmental, social and economic partners, NGOs, research institutes, universities, bodies representing civil society and etc. The thematic sessions were held during the conference in order to better prepare the development strategy in the environmental sector addressed environmental issues such as resource management and protection (water, nature, soil), Energy, RES and climate change issues and entrepreneurship and innovation in the field of resource efficiency, energy and climate change. The results of the above mentioned discussions, the comments and recommendations of the partners within the thematic meetings and the conclusions of the consultation process during the development conference are accessible to the competent stakeholders and the public concerned on the website of MEE www.ypeka.gr.

114. All the above referred partners including environmental partners, NGOs, bodies representing the civil society, etc., participate in the Monitoring Committees of OPs/ROPs of ESPA 2014-2020 in accordance with the art. 48 of CPR 1303/2013. The monitoring committee of each OP/ROP meets once a year and reviews the implementation of the program and the progress towards achieving its objectives including environmental objectives. In this regard, it considers the financial data, common and program specific indicators including environmental indicators and changes in the values of result indicators and progress towards quantified targets and milestones.

XXIII. Website addresses relevant to the implementation of article 7

www.ypeka.gr,
www.opengov.gr
www.hellenicparliament.gr

XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE Regulations AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8
115. In October 2009, the Greek Open Government Initiative was established in Greece in order to ensure the diffusion of information and to involve all citizens and stakeholders in the decision making mechanism. A website has been created that gives the opportunity for participation on the consultation of draft laws, ministerial decisions etc.

- Opengov.gr has been designed to serve the principles of transparency, deliberation, collaboration and accountability and includes three initiatives:
- Open calls for the recruitment of public administration officials. Top level and mid-level openings in the public sector are available on the Internet. Applications are submitted on-line using a platform available on the opengov.gr website.
- Electronic deliberation. Almost every piece of Draft Laws by the government, are posted in a blog like platform prior to their submission to parliament. Citizens and organisations can post their comments, suggestions and criticisms article-by-article. As part of the voting process in the Greek Parliament, the legislative proposal will be preceded, among others with the public consultation document which should be taken into consideration by legislators. All relevant documents are published on the parliament’s website.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

116. Consultation legislative provisions published on opengov.gr are used to not be accompanied with appropriate supporting material as an explanatory memorandum and a priori feasibility study. Additionally consultation, is non compulsory for regulatory acts unless is explicit foreseen in the law. Furthermore, according to NGOs there is no provision for multiple stages of public consultation. The notification part of the process is underdeveloped, since open hearings and conferences, do not take place often.

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

117. No information was provided under this heading.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE

www.opengov.gr

http://et.diavgeia.gov.gr

http://hellenicparliament.gr

Hungary

15. Application of Article 6 (public participation in decision making related to certain activities)

105. The amendment to the Administrative Procedures Code affected public participation in administrative procedures relating to the environment in more than one way.

In order to facilitate the involvement of social and stakeholder organizations into public procedure it gave authorisation to the Government to create a database (nevjegyek.kormany.hu). The purpose of this database is that if social and stakeholder organizations point out which basic right or public interest they wish to defend then at the start of authority processes concerning these topics then the authorities will send them an electronic notification on the initiation of the procedure. If an organization presents its intention to participate in the process, the authority will inform the organization on all case activities and decisions. If during the procedure the organization made a statement the authority must practically inspect them if it does not unnecessarily tie down the acting authority. The registration into the database is however not a prerequisite for participating in the process it just helps to ensure that all of the affected organizations are informed of the forming of a case in the early stages of the case itself.

With a view to effectively resolve disputes, the holding of a public hearing is mandatory if over fifty clients or over five organisations deemed to be clients participate in the procedure (unless provided otherwise by law). The institution of the public hearing not only applies to environmental procedures, but to all public administrative procedures. Thus, the public may access key facts and information of the procedure, as well as the positions of clients, other stakeholders
and the authority in procedures that are only indirectly related to the environment. If an organization answers their intention to participate in the process, the authority will inform the organization about every process activity and any decisions therein. If the organization has made a statement the authority must practically inspect them, but in making decisions, shall not be bound by any statements.

It also expands the possibility of public access by granting wider public access to the decision concluding the procedure and the decision annulling the decision of first instance and obliging the authority passing the decision of first instance to conduct a new procedure by stipulating that data of public interest contained therein must be made accessible to anyone if requested. Thus, the application for access to a decision not containing personal data and classified data is not bound to proof of lawful interest to the access of such data, and with a view to ensuring the enforcement of greater access to data of public interest, the authority is required to provide an extract of the document to the applicant that also contains data which are not accessible to the applicant.

Under paragraph (5) of section 15 of the law about the legal procedures of the public administration, legal rule can provide client status for civil organizations in some cases where the registered activity of NGO contains protection of basic rights or protection of common public interests. Paragraph (5a) of section 15 stipulates that civil organizations have right to verbal declaration when their registered activity contains the protection of basic rights or public interest.

Comments from the Deputy Commissioner for the Protection of the Interests of Future Generations:

Regarding the right of participation of civil organizations, according to section 2, Paragraph (2) of Government Decree 187/2009 (IX. 10.) on the creation and management of the electronic database for notifications concerning the initiation of public authority procedures, and notifications based on the database states that: “in cases described by law, the acting authority is obliged to notify, in electronic way, the involved organizations, which are in the database, at the time when the procedure is made public. These organizations have client status in the administrative procedure according to the law governing the general rules of the public administration legal procedures.”

Article 6, paragraphs 1 to 10 (participation in the licensing of activity with a material effect on the environment)

106. The activities listed in Annex I to the Convention are subject to EIA (environmental licensing) and/or the integrated environmental licensing procedure in Hungary. Both procedures are in line with the Directive 2003/35/EC.

107. Prior to the environmental impact assessment procedure, the framework of the geographical placement of investments likely to produce a material effect on the environment is provided by national, priority regional and country spatial planning. The coordination of the regulation frameworks regarding spatial planning schemes, are accessible on the Internet, and anyone can submit an opinion in connection with the plans (As per Government Decree 2/2005 (I. 11.) on the environmental inspection of given plans and programmes the rights to access during the acceptance of plans with a mandatory environmental inspection between Points 115-119.).

108. EIA is regulated by the Environment Act and by Government Decree 314/2005. (XII. 25.) on EIA and the integrated environmental permit. In the cases of investments where the legislative power has deemed a shorter and simpler authorization procedure, non-standard regulations have been put into place regarding the impact assessment during the reporting period for a wide array of investments. Such discrepancies are made available by the Act LIII. of 2006. on the fastening and simplification of investments deemed priority projects for national economic reasons and Section 30/B on the contracted deployment process of Act LXXVII. of 1997. on the protection and shaping of built environments. Certain general issues are governed by Act CXL of 2004. on the General Rules of Administrative Procedures and Services (the Administrative Procedures Code) or, in the case of access to information in the relevant procedures, the Data Protection Act.

Problems reported by environment- and nature protection civil organizations:

In our standpoint these standalone procedures mean a significant and continuous decline in the rights of participation and harm the spirit of the Treaty. The main problem is that there is basically no restriction or supervision mechanism on what investment the government deems to be of national priority. Practice shows that these exceptional processes are used more and more frequently.
The provisions of Article 6 are implemented in Hungary in the following manner.

The relevant annexes to the Government Decree determine the activities that are subject, unconditionally or subject to certain conditions, to EIA. These annexes cover a range of activities broader than laid down in the Convention, or apply thresholds lower than those in the Convention.

Problems reported by environment- and nature protection civil organizations:

In practice impact assessment obligation is rarely issued by authority decisions as the authorities interpret the significant environmental impact very narrowly.

To commence an activity subject to EIA, a so-called “environmental permit” has to be obtained, or where the activity also falls under the scope of the IPPC but out of the EIA rules, an integrated environmental permit has to be sought. In latter case the rules of environmental impact assessment also prevail.

Early and effective information/participation is already ensured in the preliminary phase of the EIA procedure (screening) and - if asked by the environment utilizer - in the framework of preliminary consultations. Following the submission by the developer of the application for a permit and the preliminary assessment and consultation documentation, the competent environmental authority (environmental and nature conservation department of the relevant government office) publishes a public notice at its premises and on its website. The content of the public notice is defined by the Administrative Procedures Code and the Government Decree, in accordance with the relevant provisions of the Convention. At the same time the environmental authority publishes the full permit documentation and its later submitted annexes on the website - in the case of deficiencies.

The preliminary assessment and consultation documentation, the original application for a permit as well as the public notice are also forwarded to the offices of the municipalities concerned, who have to ensure access to these documents at designated premises and have to publicize the project through posting bills or any other appropriate way. The public concerned may inspect the documents and submit comments in writing within 21 days of publication.

During preliminary assessment procedures, a public hearing must be held if there are at least 50 clients or 5 civil organizations participating in the process.

The environmental authority also grants access to additional information; when made available, access is granted to the hearing minutes, positions of administrative authorities and expert opinions.

The user of the environment may submit a request for preliminary examination to the environmental authority, even in case his planned activity corresponds the activities in Annex 3, but it does not reach the threshold specified in that or criteria contained therein are not met.

According to Annex 3 of the Government Decree, in case of transaction which does not reach the threshold set out in Annex 3 or the conditions of the activity laid down in that is not met, in cases provided for the government regulation, the environment protection authority (without preliminary examination procedures) investigates in different proceedings (eg. construction, water law) whether there will be any significant environmental effects or not. If the environmental authority states that the expected environmental impacts of the activity is serious, environmental permits are necessary based on environmental impact assessment procedure.

Before reaching a decision, the competent environmental authority has to examine the merit of all comments received. The decision is made public by way of a notice drawn up in accordance with the Administrative Procedures Code, the Environment Act and Government Decree 314/2005. (XII. 25.). When the decision becomes final, it is also made public in its entirety by the authority in accordance with the Administrative Procedures Code and the Environment Act.

According to the Administrative Procedures Code and the Environmental Act the environmental authority publishes the final decision. In the meantime, the environmental authority publishes the entire permit documentation and all of its possible amendments submitted as deficiencies in an electronic format on its website. In procedures pursuant to
Governmental Decree 314/2005 not the text of the final decisions are published, but instead the decision itself as an announcement. For concerned public parties the appeal deadline begins after the 15 day publication period.

If the planned activity falls under Annex 1 of the Government Decree or due to the significance of environmental impact, an EIA is necessary the procedure starts following the completion of the preliminary assessment phase.

Commencement of the procedure is publicized by the competent authority by way of public notices on its website. The content of the public notice is defined by the Administrative Procedures Code and the Government Decree in accordance with the relevant provisions of the Convention.

The environmental authority will publish data concerning the public hearing via advertisement and will forward it to be published to the clerks of all municipalities involved in the process. The notary will inform the environmental authority on the time and date of the publishing of the public advertisement (Section 9 Paragraph (6) of the Governmental Decree).

The environmental impact study, the application, the public notice and the non-technical summary are also forwarded to the offices of the municipalities concerned that have to ensure access to these documents (Gov. Dec. Section 8, Paragraph (2)) at designated premises and have to publicize the project through bill posting or any other appropriate way. Pursuant to Section 9 Paragraph (8) comments must be submitted to the environmental authority or to the notary of the relevant local authority depending on the location of the public hearing. As per authority practice, concerned public may submit a comment at any time during the process. The 30 days (at least) deadline binds the environmental authority on one hand because of Section 8 Paragraph (3) on the publication of announcements concerning procedure starts and on the other hand Government Decree Section 9 Paragraph (7), that the publication of the notice on public hearings must be made at least 30 days before the hearing itself. The public concerned has at least 30 days (or 25 days in the case of high priority investments by the National Economic Act, to submit comments in written form.

The environmental authority also grants access to additional information, enabling access to administrative authority positions, expert opinions and corrected information once these are made available.

If the data of public hearing concerned is known to all at the initiation of the investment, the launch notice contains it. It is mandatory to hold a public hearing at least at the municipality of the location of the activity, with the exception of activities under military secret. Public hearings may be held at more than one location if there are more than one municipalities involved, or if the number of concerned parties makes this reasonable. If this causes no hindrance in the public procedure, the hearings may be held on official premises. Environmental authorities do not use this method in practice, as the right to go public of the client may come under harm. The environmental authority will publish data concerning the public hearing via advertisement and will forward it to be published to the clerks of all municipalities involved in the process. The notary will inform the environmental authority on the time and date of the publishing of the public advertisement (Section 9 paragraph (6) of the Governmental Decree). The publication must be carried out at least 30 days before the public hearing (Gov. Dec. Section 9, paragraph (7)).

Environmental civil organizations participating in the procedure are individually invited by the inspectorate and it also will notify the Commissioner on Fundamental Rights pursuant to Section 21, item c) of Paragraph (1).

If the environmental Authority, records the public hearing by video or audio recording devices, it will publish it through electronic channels. If a written minutes of meeting is prepared it must also be published in the same manner.

Before reaching a decision, the competent authority and all other authorities involved in the procedure have to examine the merit of all comments received. The reasoning of the decision has to provide a summary of the involvement of the public as well as the comments received. It makes public its decision in accordance with the rules of the Administrative Procedures Code and Government Decree 314/2005. (XII. 25.) and sends it for disclosure to the municipalities taking part in the procedure. When the decision becomes final, it also has to be made public in its entirety by the environmental authority in accordance with the Administrative Procedures Code and the Environment Act.

As described above, a wide range of information and documents relating to the EIA procedure (e.g. notices, public hearing minutes, the final decision) have to be actively published by the environmental authorities, while the remainder of the documents generated in the procedure (e.g. expert opinions) merely have to be made accessible to the public.
However, access to certain documents is restricted when they constitute a State or service secret or, based on the classification by the applicant, are considered as a business secret. Furthermore, there is no public participation in procedures subject to military confidentiality (defence projects). In these cases, however, the environmental inspectorates duly inform the offices of the affected municipalities.

In relation to other documents of the procedure, the minutes of public hearings and legal binding decisions need to be granted public access, while the public concerned needs to be granted access to other documents, such as expert opinions or documents containing material environmental information in terms of the decision.

109. According to the Espoo Convention on the Inspection of Transboundary Environmental Effects, signed in Espoo (Finland) on 26 February 1991, during an international environmental impact assessment process, the same right of participation is to be granted to the public of the affected Party as to the Party who makes the emission. In light of this, if Hungary participates as affected Party in an impact assessment made in another country for a locally planned investment, rules for public hearing and for written comments is derived from the issuing country’s regulations. In such events, the Ministry responsible for environmental protection guarantees the publication of project documents by the issuing party. Written comments on the impact assessment may be forwarded to the Environment Preservation Department of the Ministry of Agriculture, or via email to espoo@fm.gov.hu. The received comments, along with the official Hungarian standpoint are forwarded to the issuing party.

110. In the course of the licensing procedure, public participation is provided for through the posting of notices at the municipality of the site of installation, the municipality of the neighbouring settlement and the municipality located in the impact area, affected by the emission, or otherwise. Guidance on participation is also provided in the public notice issued by the environmental inspectorate on its own news board and website.

The public notice contains a brief description of the location and the nature of the planned activity, with particular attention given to the use of the best available technique and the description of the affected area. It must also specify how and when the original application can be consulted and must also contain a call for written comments that are to be submitted to the environmental inspectorate or the offices of the affected municipalities. It also contains the path to the petitions and appendixes published via the internet (Gov. Dec. Section 8, item g) of paragraph (1). The notice may contain data regarding the public hearing. In such cases a separate publication of documents on the hearing is not necessary (Gov. Dec. Section 8, item a) of paragraph (1).

The comments are forwarded by the environmental authority to the permit applicant, who may react to these comments. Before reaching a decision, the competent environmental authority, together with all other authorities involved in the procedure, has to examine the merit of all comments received. The legal and factual evaluation of the comments has to be summarized in the reasoning part of the resolution. The evaluation includes the factual assessment of the comments, their technical analysis and the legal conclusions.

The public is informed of the decision of the environmental authority through its public posting, by both the environmental authority and the offices of the affected municipalities. The environmental authority is required to provide information upon request on the data it manages and ensure access to such data.

111. Pursuant to Section 113 (15), (16) of the Environment Act, all authorities and government and municipal organisations are obliged to make available to the forestry authority data necessary for the operational review performed on areas not constituting a protected natural area. Decree 11/2010. (II. 4.) FVM regulates the procedure of the review. Access to data relating to protected natural areas or Natura 2000 areas located in the area of forest planning must be made accessible by the forestry authority to the body responsible for nature conservation management of the protected natural area at least 30 days prior to the notice of the date of the preliminary hearing. The regulation also grants participation rights to NGOs in the preliminary hearing which have a scope of activity – set out in the statutes and the deed of foundation – that is affected by forestry conducted in the area drawn under forest planning.

Article 6, section 11 (participation in the permitting procedure of genetically modified organisms)
112. The permitting procedure of genetically modified organisms (GMOs) in Hungary is laid down by Act XXVII. of 1998. on Gene Technological Activities.

Pursuant to relevant legal requirements the representatives of civil organizations aimed environmental health- and consumer protection – elected according to the procedure determined by them - participate in the Gene-technology Advisory Committee (GEVB). The activities of the committee are governed by Ministry decree 128/2003/FVM (XII. 19.). Gene-technology authorities review permit requests for gene-technological activity with respect to the comments made by the GEVB.

The environmental protection, agricultural and industry gene-technology authorities involve the healthcare gene-technology authority as professional authorities during permit processes falling under national jurisdiction. The healthcare gene-technology authority involves the environmental protection, agricultural and industry grade gene-technology authorities as professional authorities during permit processes falling under national jurisdiction.

In permit processes falling under EU jurisdiction when national authority tasks are carried out by the competent gene-technology authority, it consults with the GEVB during the fulfilment of its tasks, excluding administrative matters.

The gene-technological authority has to publish the draft permit (without transport, export, import) in its official paper and its website for public consultation, excluding data subject to commercial confidentiality, intellectual copyright or patent. Comments on the draft can be made within 30 days from publication. These comments are evaluated by the Gene-technological Advisory Committee within 10 days, and the competent authority has to reach a decision on the authorization within a further five days.

16. Obstacles encountered in the implementation of Article 6

Problems reported by environmental- and nature protection civil organizations:

It is the civil organizations’ standpoint that ability for active civil participation should be strengthened, mainly through the educational system.

Comments of the Deputy Commissioner for the Protection of the Interests of Future Generations:

“Several ombudsman reports dealt with the publication of announcements and its effects on public participation and the right to legal remedy. I find that important to note in this context that certain government decrees on the declaration of authority processes in connection with the realization of investments into special processes, declare the decisions immediately enforceable without possibility of appeal. The allowance of immediate feasibility allows for construction or other activity with an expected impact on nature can begin without the required environmental use permits. A paradox situation may also arise with regards to the right to legal remedy because in the cases of environmental use with an expected high environmental impact legal appeal cannot reach its intended goal, so such rights may become hollow because the environmental impacts that are to be averted by the legal remedy process can come to pass before the end of said process. In the case of irreversible environmental impacts, the actual feasibility of processes with environmental use while connected appeals still have not been reviewed will make the enforcement of legal remedy decisions impossible.

Report no. AJB-8103/2013 of the Commissioner for Fundamental Rights has established that the website Announcement of the Észak-Dunántúl Environmental- and Nature Protection Inspectorate on the initiation of the preliminary process regarding the establishment of the Esztergom Intermodal Hub did not contain the expected boundaries of the direct impact area and the names of settlements within as set down in Section 3, Item c) of Paragraph (3) of the Government Decree and Item I.1. of Annex 7.

Pursuant to Section 15. Paragraph (3) of the Civil Procedures Code the owner of premises within the impact area and those whose right to property has been laid down in the property register is to be considered as a client without the need for the review of potential client status.

As per the conclusions of the report, the deficiencies of the announcements concerning the expected boundaries of impact of the planned facility violates the right of participation of concerned public in the decision making process of
Article 6. of the Aarhus Convention, so the Ombudsman has reported the prejudicial situation regarding client rights, and the potential breach of the fundamental right to a healthy environment to the head of the Inspectorate on a short notice and has noted these aforementioned facts in this Report according to Section 24 Paragraph (1) of Act CXI of 2001. on the Commissioner for Fundamental Rights.

113.

17. Additional information on public participation in decision making related to certain activities (optional)

114. The amendment of Act LIII. of 2006., (in force since May 1 2012.) on the acceleration and simplification of investments of natural economic concern have greatly and universally reduced administrative deadline of EIA and unified environmental use permit required for justified decision-making in the case of investments falling under the jurisdiction of the Law. The deadline changed with amendment of 1 April 2015. to 42 days. Preliminary investigation process presents an exception this according to Section 3,Item a) ofParagraph (5) , in this case the deadline is 30 days. The amendment of Government Decree 314/2005. (XII. 25.) (also in effect since May 1. 2012.) on EIA and unified environmental use permit has decreased the deadline available for public comments concerning investments falling under the jurisdiction of the Law in EIA processes to 25 days. As per Section 9 of Paragraph (8) comments may be submitted to the environmental protection authority or the notary of the relevant local authority. As per authority practice however, the concerned public may submit comments at any time during the process. The 25 day binds the environmental authority on the one hand because of Section (3) Paragraph 8 on the publication of announcements concerning the start of the procedure and on the other hand Government Decree Section (7) Paragraph 9, that the publication of the notice on public hearings must be made 25 days before the date of the hearing.

Standpoint of the Deputy Commissioner for the Protection of Interests of Future Generations:

With regards to investments falling under the jurisdiction of Act LIII. of 2006. on the acceleration and simplification of key investments of national economic concern, the deadline required for the purposes of reaching an informed decision according to EIA and uniform environmental use permit procedures has already been reduced to 2 months in 2012. This has been further reduced to 42 days in 2015. This, along with the amendment of Government Decree 314/2005. (XII. 25 on EIA and unified environmental use permit that has reduced commenting deadlines to 25 days from 30 make public participation in decision making difficult, on the one hand, because with the reduction of administrative deadlines, the timeframe available for the preparation of effective public participation and then the processing, evaluation of received comments has decreased and on the other hand the public will have less time to read documentations and formulate comments with regards to the largest investments.

Pursuant to Government Decree 38/2012. (III. 12.) on government strategy management public comments are required in the case of the preparation and acceptance of strategic program document drafts. According to this the strategic plans of the water administration sector were available for public consultation for many months in 2015, and a Strategic Environment Assessment was also carried out. Discussions regarding the Kvassay Jenő Plan – National Water Strategy were available in written and electronic way.

Government Decree 221/2004. (VII. 21.) on river basin management plan required public participation during the planning period. The first Hungarian River Basin management plan (VGT-1) was carried out according to this and later the second “Hungary’s reviewed 2015 river basin management plan” (VGT2) implemented through Government Resolution 1155/2016 (III. 31.). Both went through extensive public consultation (fora, website, press, etc.). Government Decree 178/2010 (V. 13.) on the designation of areas jeopardized by extensive water supply and management of hazard- and risk maps and the creation and content of risk management plans also stipulates the requirements of public participation during risk management plans. Hungary’s National Flood Risk Management Plan was accepted through Government Resolution 1146/2016 (III. 25.) was accepted according to this.

18. Related websites

http://www.ippc.hu
19. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to Article 7

115. Basic rules concerning the environmental assessment of plans and programmes relating to the environment are laid down in the Environment Act, while applicable detailed rules are set out by Government Decree 2/2005. (I. 11.) on the environmental assessment of certain plans and programmes and Governmental Decree 132/2010 (IV. 21.) on the ratification of the minutes of impact assessments linked to the Espoo Convention on Transboundary Impact Assessments signed on the 26th of February 1991; signed in Kiev on the 21st of May 2003. This legislation is in line with the relevant EU directive, Directive 2001/42/EC. Thus, the Hungarian regime covers all fundamental elements of the assessment cycle such as preparation of the environmental report, commenting by other authorities and the public, international consultations, and consideration of the comments and the findings of the consultation in the finalization of plans and programmes.

The applicable legislation requires that in case of plans and programmes with mandatory environmental inspection, the scope and methods of public consultation must be determined early in the procedure, upon the finalization of the scope and content of the assessment.

The public must be informed by the author of the plan or programme of the environmental report and the modalities of submitting comments. This information must be provided in the manner that best suits the size of the public concerned, from local media to national newspapers and Internet notices. A commenting period has to be at least 30 days. The opinions received have to be taken into consideration before the adoption of the plan or programme.

116. The summary of the national – and if relevant, international – comments received, their management and environmental assessment have to be attached to the final documentation of the plan or programme and plan that is tabled for adoption. Public access to the adopted plan and programme must be ensured. A final document must contain a summary on the preparation of the plan or programme with a record of the comments and their consideration. The summary must also be made public.

The Environment Act grants a general right to environmental civilian organizations to review any plans or programmes affecting them and bound to environmental assessment.

Problems reported by environmental- and nature protection civilian organizations:

Although the possibility of commenting plans and programmes does exist in theory it must be mentioned, that according to Government Decree 2/2005. the creator of the plan or programme may designate the boundaries of concerned public. This is an opportunity for abuses, especially in the cases of plans and programmes that were not directly created with an environmental protection theme, but still have a strong connection to- or may have impact on the field of environment. In cases where the person does not regard environmental protection civil organizations as concerned parties, but only for example sectorial organizations (energy, forestry, and hunting), than environmental participation in the decision making process may be eroded. For these cases, legal guarantees should be created, that do not exist today.

117. According to the Protocol of the Espoo Treaty on Transboundary Impact Assessments, (signed in 26 February 1991, Espoo) during the strategic inspection process of the plans and programmes the significant transboundary environmental effects should also be handled. During such procedures, the Ministry responsible for the environment is responsible for the publication of the plans and programmes and related impact assessments. Written reviews on the published data may be sent via e-mail to the Environmental Preservation Department of the Ministry of
Agriculture’s address at skv@fm.gov.hu. The received reviews will be forwarded to the publishing country along with the official Hungarian standpoint on the plan, programme and the impact assessment.

Relevant websites available between 2010-2014 and from 2014 till today:


http://www.kormany.hu/hu/foldmuvelesugyi-minisztérium/hirek/stratégiák-környezeti-vizsgalati-ugyek

118. The spatial plans are prepared on a national, high priority regional and country level and contain the spatial order of area use, the technical infrastructure networks and specific structures of national or regional relevance, as well as the zoning of areas under different forms of protection (natural resources, cultural heritage) and rules applicable to the zones. The spatial planning of the country and priority regions is approved by parliament by law and county spatial planning is approved by the county municipality by decree. The National Spatial Plan must be reviewed every 5 years; thereafter, the lower level plans need to be harmonised with the national level plan. The spatial plans and draft legislation may be reviewed by anyone, jointly with the environmental impact assessment prepared according to Governmental Decree 2/2005. (I. 11., Kvr. from now on) on the environmental impact assessment of certain plans and programmes.

The National Regional Development Council (OTT) participates in the coordination of the spatial plans and the environmental assessment of featured and domestic regions; civil organizations were permanent members. OTT was abolished according to the amendment of Act XXI. of 1996. on spatial planning and spatial order (Spatial Planning Act) in force since 14 December 2013. The National Spatial Planning and Interest-Synchronizing Forum (OTÉF) taking its place is a forum for consultations, discussions and interest synchronization between the Government and the local government of counties, the capitol and districts of the capital.

Spatial plans are to be always subjected to impact assessment. As such, the regulations (such as public participation) of environmental impact assessments must be utilized during the preparatory and adoption stages. Act LXXVIII. of 1997. on the Development and Protection of the Built Environment also sets out general criteria and requirements to ensure that the quality of the state of the environment does not deteriorate as a result of urban planning.

119. The government decree 314/2012. (XI.8.) on settlement development concept, integrated urban development strategy, measures of urban planning and on certain legal instruments of urban planning defines that the consultation procedure of the settlement development concept, integrated urban development strategy and the measures with the habitants, with advocacy, civil and business organizations, and churches must take place according to the rules of partnership reconciliation. These rules are defined by the municipalities individually taking into consideration the regulations of the Act LXXVIII. of 1997. and the Government Decree 314/2012. (XI. 8.) concerning publicity. Amongst the rules of partnership consultation the informing method and measures of the concerned participants, the documenting and registration methodology of the proposals, opinions; the justification method of the non-accepted proposals and opinions, their order of documentation and registers; the provisions assuring the publicity on the accepted concept, strategy and urban planning instruments must be specified.

An EIA is always prepared according to Government Decree 2/2005. (I. 11.) on the environmental impact assessment of plans and certain programmes regarding the spatial order tools for affecting the township as a whole. According to Section 1 Paragraph (3) of the Decree and separate impact assessment for a part of the township may be decided upon after the case by case evaluation of expected environmental impacts. According to Section 3 of the Decree it is the task of the body responsible for the design of the spatial planning plan and programme (the municipality) taking the advancements in the planning process into account to prescribe an EIA or not. According to Section 4 Paragraph (2) the designer will ask for the opinion of the bodies responsible for environmental protection on the necessity of the EIA. Pursuant to Section 4, Paragraph (2) the designer will publish its decision and the reasons leading up to it and if in contrast to the opinion received by the bodies responsible for environmental protection it has decided that an EIA is not necessary this fact as well in an official announcement or any other method suitable for public information and if possible on its website as well. (The designer must also inform the bodies responsible for environmental protection involved in the process of deciding on probable environmental effects of its decision and the reasons leading up to it).
In his AJB/845/2012 report, concerning the 23 August 2012, state of the Construction Act with regards to the legislation held therein the commissioner has ascertained that “in order to facilitate the remediation of insecurities in application of the law and in order for the EIA process to be fully and adequately integrated into the spatial order planning-commenting-discussion-acceptance phases, a legislative act phase is required in my opinion. I think that in the norm governing spatial order processes it must be stated in the text through connote disposition that the special rules of EIA also apply to the spatial order process.”

Report AJB-8103/2012. of the Commissioner for Fundamental Rights has stated that the discrepancies identified by the earlier report AJB-845/2012. on the amendment of Act LXXVIII. and Government Decree 314/2012 (XI.8.) have not been effectively remedied, thus in order to guarantee normative cohesion pursuant to Section 3, Item e) of Paragraph (1) of the Environmental Act this is still necessary in order to guarantee the relation, order and synergy between the two processes, and so it has stated that due to the deficiencies in legal regulations during urban planning processes stemming from the lack of legal cohesion governing urban planning process and strategic EIA it becomes questionable from the points of view of the legal security based on the principle of rule of Law and the right to a healthy environment.

20. Opportunities for public participation in the preparation of environmental policies

120. The main bodies of institutionalized public participation are described under item 30. Among these bodies, outstanding role is played by the Hungarian National Council on the Environment (OKT) which, in accordance with the Environment Act, is an advisory, reviewing and consulting body to the Government.

Problems reported by environmental- and nature protection civilian organizations:

The role of the OKT is sadly insignificant in practice, compared to the starting expectations; its opinions were rarely taken into consideration by decision-makers.

121. Widespread, open public participation is enabled through public consulting. In addition to the formal consulting procedures relating to draft legislation, the ministry responsible for the environment prepares and submits for approval major draft environmental policy documents through extensive consultation.

The comment process is further assisted by strategic agreements between the Ministry and the organizations representing smaller organizations or larger professional sectors.

Problems reported by environmental- and nature protection civilian organizations:

Although the possibility exists, to our knowledge, no such strategic agreement has been signed with any environmental civil organization. In case our information is incorrect, than we will be happy to be correct it. However, even if such an agreement exists, the required criteria and process required for signing are not public and perhaps they are not regulated at all.

122. The 6 year National Environmental Programme provides a comprehensive framework for Hungary’s environmental policy objectives and measures. The Parliament Decree 27/2015. (VI. 17.) OGY on the National Environmental Programme (IV. NKP) was prepared in cooperation of Ministries, experts, scientific and civil organizations. In the course of administrative and public consultations, in addition to the ministries and government agencies, approximately 150 institutions and organisations received the draft in a targeted form. The National Inter-Ministerial Committee of the National Environmental Programme and its subcommittees also received the draft for review. Upon commencement of administrative consultations, the draft was also accessible on the website of the ministry responsible for the environment, where comments were received.

A Strategic Environmental Assessment was also carried out in relation to the IV. NKP; in the course of public consultations, over 300 organisations and institutions received IV. NKP and its environmental assessment. The received comments and proposals significantly contributed to the finalisation of the National Environmental
Programme which was adopted by Parliament by decision 27/2015. (VI. 17.) OGY. The Programme is available on the web-site of the ministry responsible for environment issues.

123. The Kvassay Jenő Plan – National Water Management Strategy that serves as the framework strategy for Hungarian water management until 2030 and mid-long term action plan until 2020 was adopted in 2015. As a professional policy strategy it separately deals with the question of “the improvement of relations between society and water (on individual, economic, and decision-making level as well)”. The task-group prepares duties – with reference to the obligations of the Aarhus Treaty and their fulfilment for the areas of:

- information;
- public education, teaching, training;
- social values
- social involvement and
- use of media

stating areas of intervention in order to improve them.

21. Obstacles encountered in the implementation of article 7

22. Additional information on public participation in procedures relating to environmental plans and programmes

124. The report on activities of the Commissioner for Fundamental Rights and its deputies in 2012 dealt with the convenient application of environmental assessment on spatial planning measures, including public participation.

(See the report on the activities of the Commissioner and Deputy Commissioner for fundamental rights, 2012, page 188-189.)

23. Related websites

   http://www.kormany.hu
   www.vizeink.hu
   www.kvvm.hu (archived)
   www.emla.hu
   www.jogalkotas.hu
   www.euvki.hu
   
   http://www.ajbh.hu/documents/10180/129110/AJBH+Besz%C3%A1mol%C3%B3+2012/9215dc04-4031-451e-b79c-eff2e2e63925?version=1.1

24. Application of Article 8 (public participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments)

125. The general rules concerning public participation in the preparation of legislative provisions are laid down by Act CXXXI. of 2010. on public participation in the preparation of legislative provisions.

The Act requires Ministries to publish on their websites all draft legislative texts, concepts, and related proposals as well as their full explanatory documentation. Exemptions from this obligation are specifically listed in the Act.
The homepages of Ministries have to ensure that comments can be uploaded. The general deadline for comments is 10 working days, depending on the publication date which means 12-14 calendar days at the longest, but in exceptional cases minimum 5 working day deadline is possible. Public comments have to be evaluated and a summary thereof has to be published on the same website that also contains the reasons for refusal.

126. In addition, the Environment Act explicitly sets out that environmental civil organizations have a right to comment on any draft legislation on environmental matters. Upon a general request, the Ministry responsible for the environment sends individual invitations to civil organizations to comment on particular legislative texts. The National Council on the Environment has to be consulted on each draft bill and decree before adoption.

25. Obstacles encountered in the implementation of Article 8

127. Difficulties reported by the non-governmental sectors are the following:

Problems reported by environmental- and nature protection civilian organizations:

According to the viewpoint of civil organizations, in certain cases the time for commenting legislative proposals is too short, not enough for substantive comments.

The civil organizations indicated as well, that during the social consultation they do not get substantive feedback if their comments were accepted and incorporated or not in the text, if it was ignored, on what ground.

26. Additional information for public participation in the planning process of executive regulations and/or generally compulsory regulative measures (optional)

128. The 2012 report of the Commissioner and Deputy Commissioner for Fundamental Rights has dealt with the public participation in the procedure of the preparation of legislative provisions.

(See the report on the activities of the Commissioner and Deputy Commissioner for fundamental rights, 2012, page 186-187.)

Standpoint of the Deputy Commissioner for the Protection of Interests of Future Generations:

Besides the very short comment deadline as per of Act CXXXI. of 2010. mentioned in item 31, public participation is further hindered by the fact that public consultation is not held at all during the drafting process of some important legal rules. The Prime Minister’s Office can be raised as an example, that as a body is responsible for areas of huge environmental importance, such as construction, cultural heritage protection, agrarian- and rural development strategy, spatial order, urban planning, urban administration (under which falls the management of government offices fulfilling many authority permission tasks), and on the website of the Office where regulations drafts uploaded for public consultations are available there were no documents uploaded in 2014, 7 in 2015 and 3 in 2016. (see: http://www.kormany.hu/hu/dok?page=1&source=7&type=302#!DocumentBrowse).

It frequently occurs that legal drafts are submitted as a motion from a parliament representative and in such cases no public consultation or commenting is held during the governmental draft.

Additional information on public participation in procedures related to environmental plans and programmes (optional)

27. Related websites

http://www.kormany.hu/hu
www.kvvm.hu (archived)
www.oktt.hu
www.emla.hu
Iceland

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

(a) (i) and (ii) Iceland has implemented Directive 2011/92/EU on Environmental Impact Assessment (EIA) through the EEA Agreement, by Act No. 106/2000 on Environmental Impact Assessment (EIA act). According to the act all projects listed in Annex I to the Convention are either subject to an EIA or must be screened in order to determine whether they might have severe effects on the environment and should therefore be subject to an EIA. The EIA act ensures the public and environmental NGOs a right to participate in the EIA process. Work is now underway to implement Directive 2014/52/EU amending Directive 2011/92/EU into Icelandic legislation. A working group, appointed by the Minister, where the Ministry, municipalities, environmental NGOs and the business sector are represented, is responsible for preparing the legislation.

(b) According to the EIA act the developer of a project that is subject to an EIA shall draft an Assessment Plan, which must be presented to the public. The developer is therefore required to inform the public of the project and the plan for the EIA work at an early stage. This gives the public a timely notification of the assessment report which is produced later in the process and introduced to the public and stakeholders for comments.

(c) According to the EIA act the public is given 6 weeks to comment on the assessment report. Where the National Planning Agency finds that a project shall not be subject to an EIA its decision can be appealed to the Environmental and Natural Resources Board of Appeal within one month.

(d) See above (b)

(e) See above (b)

(f) (i) When the National Planning Agency decides after a screening process that a project shall not be subject to EIA the agency must inform the public about its decision and reasons for it. This includes making available all the relevant information. The same is true in the case of a public authority making a decision on issuing permits (operation permit, building permit or development consent). If the authority decides against the opinion of the National Planning Agency on the EIA it must be explained and all relevant information must be made available.

(ii) All the information listed in paragraph 6 shall be available to the public according to Act No. 23/2006 on Access to Information on Environmental Matters, unless some of the exemptions apply.

(g) See above (b)

(h) The deciding authority must take due consideration of all information gathered including the comments (information, analysis or opinions) put forward in the public participation process. This fundamental principle of public participation, that is that all comments are duly considered before a decision is made, has been reaffirmed in legal rulings on appealed decisions.

(i) According to the Administrative Procedure Act No. 37/1993 an administrative decision must be announced to all parties to the decision. According to the EIA act a decision on whether a project shall be subject to EIA or not shall be presented to the public and according to the same act the National Planning Agency’s Opinion on the EIA of a project shall be presented to the project developer, permit authorities, parties and everyone that participated in the decision making process by sending in comments or other information. The Opinion shall be made easily accessible to the public and the National Planning Agency must for that purpose advertise in a national newspaper when the Opinion is finalised and available. In practice all decisions and opinions of the National Planning Agency are published on the agency’s web site. Operation Permits are issued in accordance with Act No. 7/1998 on Hygiene and Pollution Control and regulation 785/1999 based on that act. The issuer of Operation Permits must make sure that applications
for permits are accessible for the public. As soon as a permit has been drafted the draft must be made available for
the public for comments, giving 4 or 8 weeks to comment depending on the size of the project in question. Once a
decision has been made to issue a permit the permit shall be advertised in the Icelandic Official Journal. In the case of a
development consent a decision to issue consent as well as the Opinion of the National Planning Authority, if the
project was subject to an EIA, shall be published in the Icelandic Official Journal as well as in a national newspaper
within two weeks from the decision of the issuer. The advertisement shall include information on the right to appeal
the decision and relevant deadlines in doing so. Some projects that must undergo an EIA are subject to a building
permit. Building permits are issued by the local authorities (municipalities) or the Iceland Construction Authority.

(j) This paragraph is implemented in Icelandic legislation by several acts of law. The general rule is that when
operating conditions are reconsidered, same rules on public participation apply as when a new permit is issued.

(k) Act No. 18/1996 on Genetically Modified Organisms (GMOs) implements EU Directive 2001/18/EC on the
deliberate release into the environment of genetically modified organisms. The Act sets out the administrative process
for issuing permits for placing on the market and other deliberate release of GMOs. According to the act the public
must be consulted before a permit to place GMO on the market is issued. The Environment Agency, which issues
GMO permits, shall draft a summary of the application that shall be introduced to the public. The Environment
Agency’s Assessment Report shall also be made available to the public. Furthermore the Environment Agency shall
hold public meetings or in other way consult the public, as is necessary, before a permit is issued. The public has 30
days from the publishing of the summary to submit its comments.

The Ministry received a comment during the writing of Iceland’s 1st implementation report from a citizen which
claimed that in most cases deadlines to submit comments are too tight, despite Article 6, paragraph 3. It also claimed
that Article 6, paragraph 4, is insufficiently implemented in Iceland. The comment referred to the decision making
process of the Icelandic Grid Operator, Landsnet, in particular a decision on electrical lines in 2009. The comment
criticised that the public and its organisations are only invited to participate in the decision making process once the
development in question undergoes an EIA. In the comment it is stated that before that the grid operator has chosen
between different options and even made an agreement with the municipalities where the power line in question will
cross. The public or NGOs are not invited to participate at this stage and therefore, according the comment, the public
do not get to participate early “when all options are open and effective public participation can take place”. In the
same comment it is pointed out that according to Article 6, paragraph 8, due account must be taken of the outcome of
the public participation. However it can be difficult for the public to know whether that has been done or not as the
authorities usually do not explain exactly what account has been taken to the public consultation.

As is said in (h) above, the deciding authority must take due consideration of all information gathered including the
comments (information, analysis or opinions) put forward in the public participation process and this has been
confirmed in administrative rulings. Public consultation is extremely important in decisions making regarding the
environment, not only to ensure the public’s right to express their views, but also to ensure that all relevant information
has been gathered before a final decision is made. Public authorities are in many cases bound by deadlines described
by law when making decisions but in other cases the authorities decide in each case what is a sufficient time for the
public to be able to participate. In many cases extra time is given if requested. It is also up to public authorities to
follow the law and take due account of the public consultation, but the general rule is that administrative decisions
can be appealed and reviewed if necessary.

XVI. Obstacles encountered in the implementation of article 6

Regarding article 6, paragraph 8, comments were received to Iceland’s 1st implementation report and reiterated for
that if a development does not commence within ten years of the opinion of the National Planning Agency on the
environmental impact assessment being given, the relevant licensor shall request a decision from the National Planning
Agency on whether the developer’s environmental impact statement must be revised, in whole or in part, before
development consent is granted. The comment states that this article hinders that due account is taken of remarks or
information given by public since they could be more than 10 years old.
The Ministry would like to point out that Article 12 is currently being revised by the same working group as was mentioned in chapter XV, point (a).

XVII. Further information on the practical application of the provisions of article 6
No further information.

XVIII. Website addresses relevant to the implementation of article 6

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7
Iceland has implemented Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (the SEA Directive) through the EEA Agreement by Act No. 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes. In the Act the public is defined as one or more persons, legal persons, organisations or groups. The Act applies to environmental impact assessment of plans and programmes, as well as any modification to them, that set out a framework for future development regarding issuing or consent of permits for projects listed in the EIA Act.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7
According to the Act No. 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes a proposal for a public plan or programme and an environmental impact assessment thereof shall be introduced to the public. The public must be given 6 weeks to look into the proposal and the assessment and submit its comments before the plan or programme is adopted. Introduction to the public must as a minimum consist of announcements in the Official Journal and one national newspaper as well as on the internet. The proposal and the assessment shall be made available in printed versions and in addition the data the plan/programme is based on must be made available on the Planning Agency’s web site or the developer’s web site. Due consideration must be given to the environmental assessment as well as all comments submitted during the participation period.

XXI. Obstacles encountered in the implementation of article 7
No particular obstacles have been encountered in the implementation of Article 7.

XXII. Further information on the practical application of the provisions of article 7
One comment received claims that public authorities have not given the public opportunity to participate in policy making regarding that sale of power companies of guarantees of origin, issued on the basis of Directive 2009/28/EC on the promotion of the use of energy from renewable sources. It is asserted in the comment that since the power companies are owned by the authorities themselves they should allow the public to participate in policy making on the issue of sale of guarantees of origins.

One comment received was on the environmental impact assessment of the plan for the development of the transmission system. The Ministry points out that Act No. 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes applies to the aforementioned plan when a proposal for the plan is put forward.

XXIII. Website addresses relevant to the implementation of article 7
www.skipulag.is

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8
When legislative proposals and regulations (secondary legislation) are being prepared in the Ministry for the Environment and Natural Resources consulting with the public and other stakeholders is a rule. Draft bills and
regulations are published on the Ministry’s web site for comments. In some cases Environmental NGOs are asked to
appoint a representative in a working group/committee that is preparing the legislation in question (see chapter III,
(c)). The Parliament has a separate consultation process with the public, NGOs and other stakeholders during the
processing of legal bills in the Parliamentary committees.

According to Article 12 of the rules No. 292/2006 on the practices of the cabinet it is required when writing a
legislative proposal to give account of all relevant stakeholders and how the proposal affects them. One is also obliged
to describe in the proposal the consultations process the proposal has had, comments that have been received and what
affect the consultation had for legislative proposal. The Prime Minister’s Office reads through all legislative proposal
prepared by other ministries and ascerts that they are according to the aforementioned rules.

XXV. Obstacles encountered in the implementation of article 8

No particular obstacles have been encountered in the implementation of Article 8.

XXVI. Further information on the practical application of the provisions of article 8

No further information.

XXVII. Website addresses relevant to the implementation of article 8

www.althingi.is, www.umhverfisraduneyti.is

Ireland

15 Legislative, regulatory and other measures implementing the provisions on public participation in decisions on
specific activities in article 6.

The provisions of Articles 6 of the Convention fall within the competence of the European Union, Directive
2003/35/EC, providing for public participation in respect of the drawing up of plans and programmes relating to the
environment.

Ireland has fulfilled its obligation under Article 6 through its implementation of Directive 2003/35/EC. The
combination of (i) the mandatory national thresholds for each of the Annex I project classes, (ii) the requirement for
case-by-case examination of the need for Environment Impact Assessment (EIA) in the case of sub-threshold
development on sites of conservation sensitivity and (iii) the general requirement that sub-threshold projects likely to
have significant effects on the environment must be subject to EIA represents transposition of this article in Ireland.

(a)

(i) Ireland has fulfilled its obligation under Article 6(1) of the Convention through a range of consent procedures:

permissions and consents pursuant to the Planning and Development Act 2000 (as amended);

section 83 of the Environmental Protection Agency Act 1992 (as amended) (integrated pollution control licenses);

section 32 of the Air Pollution Act 1987 (as amended) (provision of licenses);

sections 4 and 16 of the Local Government (Water Pollution) Act 1977 (as amended) (licensing of trade and sewage
effluents; licensing of discharges to sewers);

sections 63 and 81 of the Water Services Act 2007 (as amended) (licensing of discharges to sewers; determination of
an action as a licensing water services activity);

sections 34 and 40 of the Waste Management Act 1996 (as amended) (waste collection permits; grant of waste
licenses);
sections 23, 26 and 29 of the Wildlife Act 1976 (as amended) (e.g. enforcement of protection of wild animals (other than wild birds); licenses to hunt otters or deer and to hunt or course hares; licenses to hunt with firearms);

section 5 Dumping at Sea Act 1996 (as amended) (permits in relation to dumping);

sections 40, 48 and 49 Forestry Act 1946 (as amended) (felling licenses);

sections 2 and 3 Foreshore Act 1933 (as amended) (power for Minister to make leases / grant licenses for foreshore);

sections 8, 22, 26 and 40 Minerals Development Act 1940 (as amended) (prospecting licenses; licenses in respect of State acquired minerals; state mining leases; applications for ancillary rights licenses);

sections 8, 9, 13, 19 and 26 Petroleum and Other Minerals Development Act 1960 (as amended) (exploration licenses; petroleum prospecting licenses; petroleum leases; reserved area licenses; working facilities permits);

section 40 of the Gas Act 1976 (as amended) (restriction on construction and operation of pipelines by persons other than Bord Gáis Éireann).


Public participation is provided for with respect to Integrated Pollution Control / Industrial Emissions Directive licences under Part IV of the Environmental Protection Agency Act 1992 as amended by the Protection of the Environment Act 2003 and the EU (Industrial Emissions) Regulations 2013 (S.I. No. 138 of 2013); the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 (S.I. No. 283 of 2013).

(ii) Public participation provisions for activities not listed in Annex I, include, inter alia:

Regulation 103 of the Planning and Development Regulations 2001 (as amended) (S.I. No. 600/2001) authorises a planning authority to request an EIS for projects outside Annex 1. Schedule 7 of these Regulations lays down the criteria for determining whether a development is likely to have a significant effect on the environment for proposed activities which are not listed in annex 1. Section 13 and schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (as amended) (S.I. No. 436/2004) provide for the same with respect to development plans.


Regulation 103 of the Planning and Development Regulations 2001 requires the planning authority to request an EIS in the case of sub-threshold applications, where it considers the development is likely to have a significant effect on the environment under the criteria listed in Schedule 7 of the Regulations.

Regulation 13 and Schedule 2 of the Planning and Development (Strategic Environmental Assessment) Regulations 2004 establishes criteria for determining whether a plan is likely to have a significant effect on the environment for proposed activities not listed in Annex 1.

The EIA Guidance for Consent Authorities regarding Sub Threshold Development in 2003 provides practical guidance for the competent/consent authorities in deciding whether or not a sub-threshold development is likely to have “significant” effects on the environment. The guidance is also of assistance to developers and EIA practitioners in forming an opinion on whether an EIA is appropriate to a specific sub-threshold development proposal.

In line with the Aarhus Implementation Guide, Irish legislation pertaining to EIA and public participation procedures require notices to be published in a newspaper that is circulated in the relevant area and/or published on-line.
The Planning and Development Act 2000 (as amended) provides for the publication of notifications of proposed plans or proposed amendments to plans in a newspaper circulated in the area of the public concerned before any plans/decisions are finalised, of:

local area plans (section 20);

regional planning guidelines (section 24);

strategic development zones (section 169) and

exemptions from requirement to prepare an EIS (section 172).

Article 23(3) of the European Communities (EIA) Regulations 1989 (S.I. No. 349/1989), as amended also requires the publication of notices. These regulations amend various consent systems to require publication of notices and public participation.

Sections 85 and 87 of the Environmental Protection Agency Act (as amended) require applicants for a licence, or the Agency when reviewing a licence, to publish and/or give notice of the licence application. The Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 (S.I. No. 283 of 2013), require the applicants to publish a notice in a local newspaper (regulation 5) and erect a site notice (regulation 6) of their intention to apply for a licence and where relevant documentation necessary under regulation 10 (which includes the information listed here) can be obtained/viewed.

Article 17 of the Planning and Development Regulations 2001 (as amended) requires applicants to:

publish a notice of intention to apply for planning permission in a newspaper (article 18) and

erect a site notice (article 19) two weeks before the making of the planning application.

Article 13F of the Planning and Development Regulations 2001 (inserted by Planning and Development Regulations 2004) applies the above requirements with respect to a trans-boundary EIA.

National transposing measures to ensure that timeframes for public participation procedures are reasonable and thus allow time for effective participation during environmental decision making, include, inter alia:

Planning/EIA – Planning and Development Regulations 2001 S.I. No. 600/2001

Article 27 requires the local planning authority to publish a weekly list of planning applications.

The public can make submissions / observations, on payment of a prescribed fee, within 5 weeks from the date the planning authority received the application (article 29).

The planning authority cannot make a decision on the application until after the 5 week public participation period has expired (article 30).

The applicant or anybody who participated in the public participation procedure has 4 weeks to appeal any decision of the planning authority to An Bord Pleanála (article 31(j)).

Waste Management

Under section 23 of the Waste Management Act 1996 (as amended) a local authority is required to publish, in a relevant newspaper, notice of the proposal to make, vary or replace a waste management plan, providing, inter alia, details of where the plan is available to view for a minimum of 8 weeks and that written representations can be made to the local authority on the plan in that time which will be taken into consideration by the local authority.

Environmental licences
Sections 87 and 89 of the Environmental Protection Agency Act 1992 (as amended) require applicants for a licence, or the Agency when reviewing a licence, to publish and/or give notice of the licence application. The Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 (S.I. No. 283 of 2013) require the applicants to publish a notice in a local newspaper (regulation 5) and erect a site notice (regulation 6) of their intention to apply.

Sections 87(2) and (3) of the Environmental Protection Agency Act 1992 (as amended) require the Agency to notify the public of its proposed determination of a licence application within 8 weeks from the date of receipt of the application. Regulation 20 of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 (S.I. No. 283 of 2013) requires the notice to inform the public of the proposed determination and where and how an objection can be lodged.

Under regulation 37(3)(l) of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations (S.I. No. 283 of 2013), the notice of the final decision published by the Agency must state that leave for judicial review has to be instituted within 8 weeks of the date the final decision is made, in accordance with section 87(10) of the Environmental Protection Agency Act 1992 (as amended).


(d) As illustrated by the timelines outlined above, Irish environmental law provides for early public participation. In all instances there is a chance for the public to participate before any final decisions are made.

Planning/EIA

Articles 29 and 30 of the Planning and Development Regulations 2001 state that the public must be given 5 weeks to comment on a planning application and that the planning authority shall not make a decision before the 5 weeks have expired.

(e) The relevant legislative provisions in relation to Annex I activities do not require a person who wishes to participate in the consent process to demonstrate any particular personal impact or interest. Therefore, no specific definition of “the public” or “the public concerned” has been included in Ireland’s legislation.

Prospective applicants who wish to apply for a licence for Annex I activities are required by the Environmental Protection Agency (Industrial Emissions) Licensing) Regulations 2013 (S.I. No. 137/2013), the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations (S.I. No. 283 of 2013) and the Planning and Development Regulations (S.I. No. 600/2001) to notify the public before they make an application. Methods of notification include, inter alia, the erection of site notices at prospective sites and publishing of notices in newspapers stating where the proposed activity may happen, the relevant competent authorities handling the application, whether an EIS will be necessary and where a copy of the application or further information may be obtained.

(f)

(i) - (ii) Ireland has taken the following measures to ensure that the public have access to all information relevant to the decision-making procedure (available at the time of the public participation) before a decision is taken and in particular the information listed in Article 6(6)(a) – (f) through the following legislation:

Planning/EIA

Article 105(2)(f) of the Planning and Development Regulations 2001 requires that notices state that the EIS will be available for inspection during office hours at the offices of the authority, free of charge.
Article 35 of the Planning and Development Regulations 2001 requires the local authority make available for purchase copies and extracts from the EIS.

Waste Management Licensing Regulations

Article 6(e) of the Waste Management (Licensing) Regulations 2004 states that a notice shall state that a copy of (i) the application for a waste licence or for the review of a waste licence, (ii) the EIS (which, under article 94 and schedule 6 of the Planning and Development Regulations 2001 is required to contain the information listed here) and (iii) such further information relating to the application as may be furnished to the Agency in the course of the Agency’s consideration of the application, will, as soon as is practicable after receipt by the Agency, be available for inspection or purchase, at the headquarters of the Agency and, where the applicant is a local authority, at the principal office of that authority.

Environmental Protection Agency Licensing Regulations

Regulations 5 and 6 of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 (S.I. No. 283 of 2013) require an applicant to publish a notice in a newspaper circulating in the district and erect a site notice. This notice is to state that a copy of the licence application and any accompanying EIS can be obtained or inspected at the Agency’s headquarters. These requirements are set out in legislation to ensure that the information becomes available at the time the application is submitted and before any decisions are made.

Article 94 and Schedule 6 of the Planning and Development Regulations 2001, regulation 11 of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 (S.I. No. 283 of 2013) require an EIS to contain information corresponding with the requirements of Article 6.6(a)-(f) of the Convention, which is implemented in EU law by Directives 2011/92/EU (EIA) and 2008/1/EC (IPPC) (recast by the Industrial Emissions Directive (2010/75/EU).

(g) Planning Decisions/EIA activities

Under article 27 of the Planning and Development Regulations 2001 a planning authority is required to publish a weekly list of planning applications received which informs the public of planning applications before any decisions are made.

Article 29 of the Planning and Development Regulations 2001 provides that the public can make submissions/observations, on payment of a prescribed fee, within 5 weeks from the date the planning authority received the application.

Article 76 of the Planning and Development Regulations 2001 makes provisions for the public to make submissions/observations at an oral hearing to consider a planning application.

Environmental licences

Regulation 22(f) of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations (S.I. No. 283 of 2013) provides that every notification by the EPA shall specify that an objection can be made against the Agency’s proposed determination and how and where this can be made.

Under article 15 of the Waste Management (Licensing) Regulations 2004 a person may make written submissions to the EPA in relation to an application for a waste licence or such plans, documents, other information and particulars, including an EIS, which are required to be submitted by the applicant.

Section 42(2) – (11) of the Waste Management Act 1996 (as amended) allows any person to make an objection to a proposed decision to grant a waste licence and to request an oral hearing of the matter.

(h) The following legislation provides that due account of public participation is taken in decision-making:
EIA/Planning

Section 34(6)(a)(iii) of the Planning and Development Act (as amended) provides that “any submission or observation as regards the making of a decision to grant permission and which is received by the planning authority not later than 4 weeks after the first publication of the notice shall be duly considered by the authority”.

Environmental Licences

Implemented by regulation 37(3)(g)(ii) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 (S.I. No. 137 of 2013), the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 (S.I. No. 283 of 2013) and by Article 34(3)(b) of the Waste Management (Licensing) Regulations 1994 (as amended).

(i) Ireland has taken measures to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures, through the following legislation:

Planning Decisions/EIA

Section 7 of the Planning and Development Act (as amended) requires each local authority to maintain a planning register of their final decisions and accompanying documents which is to be available for viewing at their principal office.

Article 31 of the Planning and Development Regulations 2001 requires the planning authority to notify anybody involved in the public participation procedure of the decision taken.

Article 32 of the Planning and Development Regulations 2001 requires the planning authority to make available its planning decision at its offices and at local libraries, for public inspection, or by electronic means. It can also be published in a relevant newspaper and any other place the planning authority considers appropriate. For two months afterwards, a copy of the list shall be sent to anyone who requests it at a reasonable or no charge.

Environmental Licences

Regulation 37(2) and (3) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 (S.I. No. 283 of 2013) requires the EPA to publish its final decision and the reasons for its decision.

Section 91 of the Environmental Protection Agency Act 1992 (as amended) requires the EPA to keep a register of licences at the Agency’s headquarters. This register is also available from the Agency’s website at www.epa.ie.

Section 19 of the Waste Management Act 1996 (as amended) requires the Environmental Protection Agency and local authorities to maintain a register for the purpose of the Act. This register is available at the principal offices of each local authority.

(j) Where a consent or decision is reconsidered by the relevant competent authority Ireland has applied the provisions of Article 6(2) to (9) in the following manner:

Planning Decisions/EIA

Articles 34 and 35 of the Planning and Development Regulations 2001 apply the same public participation procedures as apply generally, to revised development plans.

Section 7 of Planning and Development Acts and Article 31 and 32 of the Planning and Development Regulations 2001 apply to all planning decisions, including revised plans.

Environmental Licences

Regulation 37(2) and (3) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing)
Regulations (S.I. No. 283 of 2013) require the Environmental Protection Agency to publish its final decision and the reasons for its decision in respect of review of licences.

(k) Ireland is a Party to the Cartagena Protocol on Biosafety, which is implemented through a range of legislative measures, including:

the Genetically Modified Organisms (Deliberate Release) Regulations 2003, S.I. No. 500 of 2003;
the Genetically Modified Organisms (Contained Use) Regulations 2001, S.I. No. 73 of 2001;
EU Regulation 1946/2003 on the transboundary movement of GMOs and
the Genetically Modified Organisms (Transboundary Movement) Regulations 2004 (S.I. No. 54 of 2004).

16 Obstacles encountered in the implementation of article 6.

No obstacles encountered.

17 Further information on the practical application of the provisions of article 6.

The response to Question XV (b) to (j) lists in detail the legislative provisions which underpin the Article 6 requirements with respect to IPPC and planning consent systems. Similar requirements are provided for in other EIA consent systems. The requirements introduced into the above legislation include: notification requirements including transboundary notifications; notification of public participation; providing information on the final decision to the public; and provisions in relation to the alteration or replacement of an existing EIA project. These requirements have been introduced by the European Communities (Environmental Impact Assessment) Regulations 1989, and in amending regulations.

As discussed above any proposed determinations of licence applications and final licences granted by the EPA for Annex I activities are required to be published by the Agency on its website to ensure that any member of the public can comment on the licence application.

The information to be contained in the advertisement includes:

the name and address of the applicant or the licensee;
a description of the proposed activity;
the location of the premises to which the application or review relates, the date of the giving of the notification;
the manner in which the Agency proposes to determine, and when they have determined the final determination, the application or review;
where a copy of the proposed licence or revised licence or the proposed reasons for refusal, as the case may be, may be obtained;
that an objection which shall include the grounds for the objection may be made to the Agency within the appropriate period and
that a person making an objection may, within the appropriate period and in writing, request an oral hearing of the objection.

The information to be included in the licence application includes, inter alia:

whether an EIS is required and, if it is, a copy of the EIS submitted or, if it is not required, evidence, by way of a letter from the relevant planning authority or An Bord Pleanála that it is not needed, as required under section 87(1B)(b) of the Environmental Protection Agency Act 1992 (as amended) (S.I. No. 282/2012),
the plant, methods, processes, ancillary processes, abatement, recovery and treatment systems, and operating procedures for the activity,
the raw and ancillary materials, substances, preparations, fuels and energy which will be produced by or utilised in the activity,
particulars of the source, nature, composition, temperature, volume, level, rate, method of treatment and location of emissions, and the period or periods during which the emissions are made or are to be made,
monitoring and sampling points and an outline of proposals for monitoring emissions and the environmental consequences of any such emissions, details, and an assessment, of the impacts of any existing or proposed emissions on the environment as a whole, including on an environmental medium other than that or those into which the emissions are, or are to be, made,
the measures to be taken under abnormal operating conditions, including start-up, shutdown, leaks, malfunctions, breakdowns and momentary stoppages,
details of the proposed measures to prevent or eliminate, or where that is not practicable, to limit, reduce or abate emissions,
an outline description of the main alternatives to the proposed technology, techniques and measures which were studied by the applicant,
a description of the measures to be taken for minimising pollution over long distances or in the territory of other states, and
a non-technical summary of information provided.

The EPA has produced guidelines/flowcharts to assist the public in understanding the licensing process, including when and how to get involved in the public participation process. An example of these guidelines/flowcharts can be seen at:

Industrial emissions / integrated pollution and prevention control flowchart

Waste licence flowchart

Waste water discharge flowchart

Review of Waste Certificate of Registration Process - Local Authority

Private Sector - Do I need a Waste Licence, Permit or Certificate of Registration

Certificate of Registration Application Process - Local Authority

In January 2016 the General Scheme of the Planning and Development (No. 2) Bill 2014 was published. The establishment of the Office of the Planning Regulator, which will be an independent corporate identity, is one of the main provisions. Its primary functions will include:

the assessment and evaluation of local area plans,
local development plans and regional spatial and economic strategies,
the provision of education and research on planning related matters, as well as
investigative powers to review the organisation, systems & procedures applied by planning authorities and An Bord Pleanála in the performance of their planning functions.

18 Website addresses relevant to the implementation of article 6.

See relevant sections above.

165
Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7.

The provisions of Article 7 of the Convention fall within the competence of the European Union, Directive 2003/35/EC providing for public participation in respect of the drawing up of plans and programmes relating to the environment. The provisions made by Ireland to ensure that the public have an opportunity to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7, have been enacted in accordance with European legislation in this area. Ireland has thus fulfilled its obligation under Article 7 through its implementation of Directive 2003/35/EC.

Strategic Environmental Assessment (SEA) legislation provides for strategic environmental consideration at an early stage in the decision making process and is designed to complement project based EIA. Irish legislation implementing the SEA Directive (2001/42/EC) provides for public consultation in relation to plans and programmes across 11 specific sectors, in development and local area plans, as well as regional planning guidelines and strategic development zones. Provisions regarding public participation are laid down in set time frames (as required by Article 6(3)), at the beginning of the planning process (as required by Article 6(4)) and submissions or observations shall be taken into account in the final decision (as required by Article 6(8)).

These provisions were amended by the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No. 435 of 2004):

Article 9(1) requires an assessment to be carried out for plans and programmes in the following areas: agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.

Article 13 requires the competent authority to publish notice of the preparation/proposed amendment to the plan/programme in at least one newspaper with a sufficiently large circulation in the area the plan covers, stating where a copy is available for a minimum of 4 weeks and that the competent authorities are required to take submissions and opinions expressed during the consultation phase into account before a final decision is made.

Article 15 requires the competent authorities to take into account submissions and opinions expressed in the consultation procedures under articles 13 and 14 (Article 14 provides for transboundary consultations).

Articles 7, 8, 10 and 11 of the Planning and Development (SEA) Regulations 2004 (S.I. No. 436/2004) provide for public participation procedures in relation to development plans (article 7), local area plans (article 8), regional planning guidelines (article 10) and strategic development zones (article 11). These provide for public participation at the beginning of the planning process (it is required to publish a notification of the proposals in one or more newspapers relevant to the area covered by the plan; this notice is required to state that it is proposed to make, amend or revoke a plan, where a copy of the proposal and the plan (where appropriate) may be inspected (for a minimum of six weeks) and that submissions or observations received during this time will be taken into consideration and also for public participation during the drafting of the environmental report, with further public notification requirements, and that an opportunity be afforded to the public to make submissions or observations on the draft reports before final decisions are made. Submissions or observations must be taken into account in the final decision.

Furthermore, in practice, public consultations are held in relation to plans, programmes and policies relating to the environment. For example, see the public consultation pages on the websites of DCCAE, DHPCLG, EPA and Department of Agriculture, Food and Marine websites. Local authorities carry out public consultations on plans (e.g. local development plans) and strategies that may have an effect on the environment, see for example the consultation page of Cork County Council.

In addition, Public Participation Networks (PPNs) were introduced following the enactment of the Local Government Act, 2014, resulting from the report of the Working Group on Citizen Engagement with Local Government. This report made recommendations on more extensive and diverse input by citizens into decision making at local government level. It recommended that Public Participation Networks be established in each local authority area to enable the public to take an active formal role in relevant policy making and oversight committees of the local
authority. PPNs are now established in all local authority areas, supported by funding from the DHPCLG and from local authorities.

PPNs are empowering local communities by enabling them to take an active formal role in relevant policy making across a range of areas of responsibility in each local authority area. This allows the diversity of voices and interests within a community to be facilitated and involved in decision making. All members of communities may access local government through these new arrangements. While PPNs have been established to accommodate public participation on policy making generally this may encompass environmental matters.

20 Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7.

See previous answer regarding public participation with respect to policies.

The Cabinet Handbook states that Government approval is required for significant new or revised policies or strategies and that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration. There is also a requirement to conduct a Regulatory Impact Analysis (RIA) before any policies (both regulatory and non-regulatory) are officially adopted.

Ireland has adopted a two stage approach to RIAs where an initial preliminary RIA identifies which regulations should be subject to a detailed RIA. Both the screening RIA and the full RIA require the effects of any proposed measures to take into account any negative impacts on the environment and provide for consultation with relevant stakeholders. The full RIA provides for broader access by the public to the consultation procedure.

The introduction of the RIA process in June 2005 provided that a RIA must be conducted by all Policy Review Groups proposing primary legislation or a significant regulatory change.

RIA Revised Guidelines – How to Conduct a Regulatory Impact Analysis state that a RIA should be carried out as early as possible and, in so far as possible, before the actual decision to regulate is made.

The RIA guidelines explicitly state that consultation with the public should commence as soon as possible and the RIA should develop in response to the consultation.

In November 2016, DPER published Consultation Principles and Guidelines replacing the previous guidelines on consultation for public sector bodies [see XXIV for further information].

21 Obstacles encountered in the implementation of article 7.

It was submitted during the public consultation process that it can be difficult to be aware of public consultations due to the practice of different organisations publishing information on consultations on individual websites. Ireland is working, through the Open Government Partnership process, to build capacity within public bodies to improve public consultations. The Consultation Portal that will be developed as part of this commitment will be used to promote best practice in how public consultations are organised, including how they are publicised and how key stakeholders are identified and notified. In addition, renewed guidelines on the public consultation process for public authorities by DPER are available here.

22 Further information on the practical application of the provisions of article 7.

See response to question XIX.

23 Website addresses relevant to the implementation of article 7.

See relevant sections above.

24 Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8.
Ireland has developed the following national policy to ensure that 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, pursuant to article 8.

Regulatory Impact Analysis is a tool used for the structured exploration of different options to address particular policy issues. It is used where one or more of these options is new regulation or a regulatory change and facilitates the active consideration of alternatives to regulation or lighter forms of regulation. It involves a detailed analysis to ascertain whether or not different options, including regulatory ones, would have the desired impact. It helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State.

The Cabinet Handbook states that Government approval is required for significant new or revised policies or strategies and that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration. There is also an official requirement to conduct a RIA before any policies (both regulatory and non-regulatory) are officially adopted.

Regulatory Impact Analysis

As noted above, both stages in the Irish RIA process require any proposed measures to take into account any negative impacts on the environment and provide for consultation with relevant stakeholders.

Guidelines and further details on the RIA process are included in the following:

Regulating Better - the Government White Paper which sets out 6 principles of better regulation: necessity, effectiveness, proportionality, transparency, accountability and consistency. Transparency involves empowering citizens by giving access to information which enhances their decision making abilities as consumers and as participants in the community and aims to provide maximum clarity and openness in the operation of government and public administration.

The introduction of RIA in June 2005 provided that all Government Departments and Offices must conduct a RIA on all proposals for primary legislation involving changes to the regulatory framework; on significant statutory instruments and on proposals for EU Directives and significant EU regulations published by the European Commission.

The RIA Revised Guidelines – How to Conduct a Regulatory Impact Analysis state that a RIA should be carried out as early as possible and, in so far as possible, before the actual decision to regulate is made.

Consultation with the public is specifically provided for at both stages in the RIA procedure. The guidelines state that consultation should commence as soon as possible and the RIA should develop in response to the consultation.

As noted in the response to question XI (g) the RIA guidelines provide that RIAs prepared in line with the Government decision on RIA be published and that the published RIA contains the information which has been considered in the process of policy making.

Ireland participates in the Open Government Partnership (OGP), an international initiative of over 70 countries that aims to make governments more open, transparent and responsive to the citizen. The Government recently submitted to the OGP, its second National Action Plan, which covers the period to June 2018. The fourth Commitment in the National Action Plan, ‘Enhance Citizen Engagement in Policy Making’ will build capacity within public bodies to improve public consultations. The Consultation Portal that will be developed as part of this commitment will be used to promote best practice in how public consultations are organised, including how they are publicised and how key stakeholders are identified and notified.

In August 2016, the Department of Public Expenditure and Reform (DPER) launched a process to consult the public and civil society groups in preparing Ireland’s second Open Government Partnership National Action Plan 2016-2018. The Open Government Partnership National Action Plan 2016-2018, with more details of the commitment to enhance

As noted in response to question XX, the Department of Public Expenditure and Reform recently issued Consultation Principles and Guidelines replacing the previous guidelines on consultation for public sector bodies. This sets out some best practice guidelines in how a public consultation should be run. It also sets out the creation of a legislative “footprint” to increase the transparency of the legislative process by providing more information to the public on the evolution and development of legislative proposals. [See respond to XI(g) for more information].

25 Obstacles encountered in the implementation of article 8.

No obstacles encountered.

26 Further information on the practical application of the provisions of article 8.

The RIA process has been subject to a number of reviews, both nationally and internationally.

Review of the Regulatory Environment in Ireland – Economist Intelligence Unit

Report of the High Level Group on Business Regulation

Progress Report to Government by the Better Regulation Group on Regulating Better

Review of the Operation of Regulatory Impact Analysis -

Revised RIA Guidelines were published in 2009.


27 Website addresses relevant to the implementation of article 8.

See relevant sections above.

Italy

XV. Legislative, regulatory, and other measures implementing the provisions on public participation with reference to specific activities put in place for the implementation of article 6

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;

The provisions of article 6, ensuring public participation in decision on specific activities, are mostly implemented by Legislative Decree 152/2006 “Norms on the Environment” as amended by Decree Law 91/2014 (transformed into Law 116/2014) and the Ministerial Decree 30/03/2015 (concerning projects subject to Regional/local procedure).

All the environmental assessment procedures (Strategic Environmental Assessment, SEA, Environmental Impact Assessment EIA and Environmental integrated authorization AIA, as regulated by Legislative Decree 152/2006, Part 2, foresee public participation.

The public is entitled to participate also in the screening procedure.

Legislation on EIA and IPPC, like any other sectoral environmental legislation, is complemented by general provisions on public participation in administrative decisions (Law 241/90) that focus on aspects not specifically regulated by sectoral legislation. According to this Law, persons likely to be directly affected by the decision as well as anybody having a public or a private interest in a future decision by a public authority, including associations representing
common interests, can participate in the decision-making where such interests are likely to be affected. More specifically, the concerned public, so defined, is entitled to receive the relevant information, to have access to all documents and to give comments which have to be taken into consideration.

The REACH Regulations (1907/2006/EC), on Registration, Evaluation, Authorisation and Restrictions on Chemicals, provide for the participation of EU citizens in decisional processes in the field of chemicals.

In accordance with the provisions of Regulation, ECHA (European Chemicals Agency) carries out a high number of public consultations on substances under the specific REACH and CLP processes. Public consultation notices are published on the national portal www.reach.gov.it.

In case of plans or projects likely to have a significant effect on a Natura 2000, either individually or in combination with other plans or projects, an Appropriate Assessment, in accordance with the provisions of provisions of Article 6 of the Habitats Directive 92/43/EEC to determine its implications for the site has to be undergo. The report should be made available for consultation with relevant nature conservation agencies and the public.

(b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in paragraph 2;

Article 3-sexies of Legislative Decree 152/2006, Part 1, ensures “access to environmental information, to the state of the elements of the environment and landscape, even if a legally relevant substantive interests interest is not state and ensures public participation at different stages of the decisional process, before decisions concerning such plans or programmes are adopted.

The information and participation are guaranteed by:

• notice in the national/regional newspapers (EIA) or in the Official Journal of the Italian Republic ((EIA and SEA Screening) of the starting procedure and of the locations where it is possible to view the administrative and technical documentation; in the notice it is possible to identify the main features of the plan/programme/project and the locations where refer to the documentation, the timing and the methodologies to submit any comments, contributions, opinions, memories, etc..

• the publication on the website of the Ministry of Environment dedicated to the Environmental Assessments of the starting procedure (in the State), the administrative and technical documentation (planning and environmental, in language appropriate to an audience not necessarily expert), the deadlines and the means by which send comments, contributions and opinions; through the website citizens can then continue to follow the progress of the on-going procedure until the final outcome.

(c, d) Measures taken to ensure that the timeframes of the public participation procedures respect the requirements of paragraph 3; With respect to paragraph 4, measures taken to ensure that there is early public participation;

Timeframes for presenting observations vary according to the specific assessment procedure, however, timeframes for consulting the public concerned is not shorter than 30 days.

• in the case of SEA procedures, observations and comments have to be submitted within 60 days from the publication of the notice by the proceeding authority on the Official Journal of the Italian Republic (Legislative Decree 152/2006, art. 14, clause 1).

• in the case of screening for EIA, observations and comments have to be submitted within 45 days from the publication of the notice on the website of the competent authority (art. 20 clause 2 of the Legislative Decree 152/2006).

• for EIA procedures, observations and comments have to be submitted within 60 days from the date of the notice published in the newspapers (art. 24, clauses 1, 2, 3 of the Legislative Decree 152/2006).
The Ministry of Environment, or the competent regional authorities, may decide to consider possible observations submitted after the deadline, according to the time framework set by Legislative Decree 156/2006.

(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;

In the last programming periods, 2014-20 Italy has developed a notable experience in the application of public participation practices (survey, questionnaires, meetings) in the field of Strategic Environmental Assessment (SEA) of cohesion cooperation programmes, which actually represent a valuable knowledge to be used in different assessment procedures.

(f, g) 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) n particular, the competent authorities give to the public concerned the information listed in this paragraph; 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

EIA legislation requires that the public be informed at an early stage of the procedure.

In order to ensure the effective participation of the public concerned in the decision-making procedures, the public is informed electronically and by public notices.

At national level, the Ministry of Environment established a central portal that allow the public to access that information easily and effectively (www.va.minambiente.it).

The comments can be submit as follows: writing to the Ministry of Environment Land and Sea – Department for Environmental Assessments Division II Environmental Assessment Systems in electronic form, using the Certified E-mail DGSalvaguardia.Ambientale@PEC.minambiente.it

The Environmental Assessment portal of the Ministry of Environment provides real-time information about the progress of ongoing environmental assessments procedures

(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;

Decisions take due account comments from the public justification of EIA decisions and SEA results.

A list of all comments received from the public is published on the Environmental Assessment portal and a statement summarising how environmental considerations and comments from the public have been integrated into the plan or projects is included in the decision.

(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;

The decisions resulting from the EIA/SEA evaluation process are published on newspapers, on the Official Gazette of the Italian Republic or of the Region and on the website of the competent authority.

In accordance with the specific procedures, the competent authority makes available to the public the following information:

- the content of the decision and any conditions attached thereto;
- the main reasons and considerations on which the decision is based, including information about the public participation process,
a description of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

(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;

Screening procedures for changes and extensions of existing activities includes public consultations.

Monitoring activities allow to identify environmental effects of projects activities or resulting from the implementation of plans and programmes and help in determine whether it is appropriate to apply the provisions of article 6.

Monitoring is performed by the proceeding authority in cooperation with the competent authorities, with the support of Environmental Agencies and ISPRA as well.

(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.

In 2005, the MATTM, in cooperation with the Bio-safety Unity of the ICGEB (International Centre for Genetic Engineering and Biology) of Trieste, established the Italian node of the Italian Biosafety Clearing House (BCH) with the objective of:

• implementing the obligations of The Cartagena Protocol on Biosafety;
• implementing the Aarhus Convention and the Almaty amendment on GMOs;
• complying with the EU and Italian legislation for information and public hearings on GMOs.

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

While Article 6 paragraph 10 of the Aarhus Convention is clearly addressed in the National legislation, particularly legislation concerning EIA and SEA procedures, there is still the need for:

• strengthening public attitude towards public consultation and appropriate awareness on legislation to ensure effective public participation in accordance with the Aarhus Convention;
• national guidelines concerning participation, partnerships and consultations.

XVII. 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

Environmental Assessment Portal

The Environmental Assessment portal (www.va.minambiente.it) of the Ministry of Environment provides real-time information about the progress of ongoing environmental assessments, administrative information and technical documents concerning projects, plans and programs under assessment, acts and judgment issued from 1989 to date, statistics, synthesis data of concluded assessments, as well as guidelines, technical indications and forms, and useful data and information to carry out environmental studies.
The Environmental Assessment Portal has recently been praised by the European Commission as best practice at EU level, since it anticipated the provisions of the new EIA Directive (2014/25/UE) on environmental information which shall be implemented by 2017.

XVIII. Relevant websites

- MATTM page on EIA and SEA: www.va.minambiente.it
- MATTM page dealing with EIA: http://www.aia.minambiente.it/
- Emilia Romagna Region:

Web-portal SEA and EIA:

http://ambiente.regione.emilia-romagna.it/sviluppo-sostenibile/temi/via

Web portal IPPC:

http://ambiente.regione.emilia-romagna.it/sviluppo-sostenibile/temi/autorizzazione-integrata-ambientale-aia

ARTICLE 7

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

Public participation to decision-making in approving plans and programs has increased at all levels and is now widely spread. Public participation to decision-making on plans and programs is guaranteed mainly through the application of the SEA procedure.

Legislative decree 152/2006, “Norms on the Environment”, Part 2, Title II, as modified by Legislative Decree 128/2010, dealing with Strategic Environmental Assessment (SEA), (implementing EC Directive 2001/42 on the assessment of the effects of certain plans and programs on the environment) addresses public consultation on the environmental impacts of a proposed plan or program which could have a significant impact on the environment or on cultural heritage at national, regional, local and transboundary level. The new procedure for public consultation is similar to the one for the EIA: the notice is published in the official Gazette or in the regional bulletins of interested Regions, the documentations is at the disposal (including on-line) of the public which is allowed 60 days for commenting, including through electronic tools. Comments from the public are taken into consideration while the competent authority takes the final decision, accompanied by a motivated opinion. To be an Italian citizen is not a requisite in order to participate to the consultations, so the principle of non-discrimination is guaranteed. Furthermore, Legislative Decree 152/2006 as modified guarantees that the same standards for public participation are applied everywhere in the national territory.

As a follow up to discussions about implementation of art. 2.2 of EU directive 2003/35 on public participation in certain plans and programs, Italy has inserted explicit norms to foresee public participation on plans and programs related to waste, protection of water by nitrate pollution and air quality (see art.12 of the so called “EU Law 2013bis”), even if in practice public participation was already occurring (one important recent trend by public authorities is to always apply SEA procedure, including its public participation requirements, even in cases where discretion is still available).

At local level, public participation is also promoted through various regulatory and statutory requirements. For example, Emilia-Romagna regional Law n. 3/2010, art.6 envisages various instruments aimed at strengthening participatory processes (i.e. “a dedicated annual session on participation during Legislative Assembly” and “a report on the territorial participation in the Region”)

Public participation is implemented also in the Local Agenda 21 process since local programs for sustainable development are discussed in a consultative forum, in which the public and stakeholders are represented. The participatory Agenda 21 process follows two main steps: a) the creation of a dedicated 'local forum for Agenda 21'
which foresees the involvement of local territorial stakeholders interested in pursuing a specific ‘Agenda 21 local project’; b) the drawing up of an Agenda 21 Action Plan: a strategic document targeting all parties involved (Local Authorities, enterprises, organizations, associations, schools, media). To date, an Italian coordination of Local Agenda 21 has been established and is made up of 240 local authorities.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

The term “policies” includes plans, programmes, strategic documents and legal acts setting out the general guidelines.

Public participation in policy-making is being fostered, amongst others, through on-line consultations. Between 2013 and 2016 the MoE launched numerous on-line consultations on strategies, programmes and action plans, for example on the National Strategy for Adaptation to climate change (2013), the National Action Plan on the sustainable use of plant – health products (2014), the Marine Strategy (2014), the “Made Green in Italy” (2016) and on the National Strategy on Sustainable Development (2016). With regard to the latter, the Ministry of Environment, as provided in art. 3 of Law 221/2015, proceeds with the update of the Strategy on Sustainable Development after consulting recognised environmental associations. The updating of this Strategy is a very important and complex work. It falls within to aims of the 2030 UN Sustainable Development Agenda and addresses diverse and cross-cutting aspects. Thus, the Ministry launched civil society consultations in the preliminary phase of the updating process which involved a first analysis and assessment of the Italian position vis a vis the 17 Sustainable Development Goals (SDGs).

In June 2016, a public consultation was launched through a series of thematic meetings. About 200 civil society organizations were invited to participate in these meetings.

In the framework of the 2014 National Action Plan for Energy Efficiency (Piano di Azione Nazionale per l’Efficienza Energetica 2014 PAEE 2014) several consultations were carried out:

• in 2014 and 2015, public consultations were held with the objective of collecting comments and suggestions on the National Plan for Increasing the Nearly Zero-Energy Buildings and on the Strategy for the Energy Requalification of Buildings.

• in February 2015, the Ministry for Economic Development and the MoE launched a public consultation on the strategies for promoting the improvement and simplification of the incentive mechanism for the production of thermal energy from renewable resources and at increasing small-size energy efficiency (New Thermal Count);

• in August 2015, public consultations on the system of White Certificates for a more efficient and effective use of resources were launched.

The National Programme for Waste Prevention (Directorial Decree 7 October 2013), was also drafted on the basis of a prior public consultation carried out through an online questionnaire diffused on the website of the Ministry of Environment and through stakeholders hearings.

Different Fora were also opened to promote public debate on environmental issues, such as: the Forum on coastal erosion, coordinated by ISPRA with CNR and the university network; the information and consultation Forum with consumers’ associations on REACH Regulations (see Chapter III); the consultation Forum on the National Strategy on Biodiversity.

The National Strategy for the Adaptation to Climate Change was adopted by Directorial Decree No 86 of 16/06/2015. The Decree establishes (Art. 2, clause 2) the creation, within the MoE, of a "Permanent Forum to promote public information, participation to decision making and training" and of a "National Observatory made up of Representatives of the Regions and local authorities, to identify territorial and sectoral priorities, as well as to monitor successive adaptation actions".

Similarly, the Governance structure of the National Strategy for Biodiversity provided for the creation of a joint Committee on Biodiversity, made up of representatives of central, regional and provincial administrations and supported, for technical and scientific aspects, by the National Observatory on Biodiversity, composed of representatives of institutions, research authorities, and scientific societies.
At regional level, the Emilia Romagna Region is developing the Regional Strategy for mitigation and adaptation to climate change through a public participatory process. This strategy will allow to assess the implications of climate change in various concerned areas.

XXI. Obstacles encountered in the implementation of article 7

It is noted that, in some cases, the assessment process is delayed vis-a-vis the planning timeline. Additionally, information regarding public consultations is not always adequately disseminated by the Administrations while a clear feedback on the concrete impact of public participation on the decisional process is not always reported.

XXII. Further information on the practical application of the provisions of article 7

National Forum on River Agreements

In several Italian Regions, the so-called “River Agreements” (Contratti di Fiume - CdF) have spread. The River Agreements are voluntary instruments for strategic and negotiated planning aiming at promoting the protection and correct management of water resources, the enhancement of the surrounding territories, the protection from hydraulic risk, and, more broadly, pursuing local development.

River Agreements, which include lakes/coasts/outlets, are formal commitments to ”put the shared decisions stemming from the participative process into a formal agreement”. In 2007, a National Forum on River Agreements was created as a coordination group for Local Agendas 21, gathering the representatives of the institutions, Regions, environmental associations, professional associations and private sector. During the State-Regions Conference (Conferenza Stato-Regioni), the work of the National Forum of River Agreements led to a shared National Charter of River Agreements (2010) which has already been signed by 14 Regions, while the others have already started accession procedures. Furthermore, numerous Regions have issued dedicated regulations on River Agreements. In 2015, the forum coordinated by the Ministry of Environment and by ISPRA, led to a document on the quality requirements for River Agreements. The category of River Agreements has recently been recognized by Law 221/2015.

XXIII. Website addresses relevant to the implementation of article 7

- Local Agenda 21 coordination: www.A21italy.it
- MATTM page on EIA and SEA consultations: www.va.minambiente.it
- Strategy for Sustainable Development: http://www.minambiente.it/pagina/la-strategia-nazionale
- Aosta Valley Region – Water management and protection: http://www.regione.vda.it/territorio/pta2016/default_i.aspx

ARTICLE 8

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

An institutionalized procedure for public participation in preparing national legislation (i.e. laws adopted by the Parliament or legislative decrees adopted by the Government within the framework established by a parliamentary law) currently does not exist. However, there are some mechanisms for public involvement in legislative activities. For example, for parliamentary hearings, members of the public (or their associations) are invited to comment on issues under discussion by a parliamentary committee. The stakeholders may also file their observations “on line”, according to the manners provided for by Legislative Decree 82/2005 as amended.
Another frequently used tool for public consultation, stipulated by Law 352/70, are petitions (proposals for legislation or motion based on common interest) that can be put forward by a group representing at least 50,000 citizens and are considered directly by the Parliamentary Committee or transmitted to Government. These are common at the local level.

The referendum enjoys widespread use for repealing or abrogating legislative acts, either partially or entirely. A referendum takes place if proposed by at least 500,000 citizens, or by five Regions. The provisions subject to a referendum are automatically repealed if this is favoured by a simple majority of votes and at least half of all eligible citizens have participated in the vote.

Mechanisms for public consultation and procedures for the presentation and early examination of citizens’ petitions and requests, are regulated at the local level.

At the regional level the funding Statutes of Regions and autonomous Provinces state the principle of public participation (both individual and associations) to legislative, administrative and governance functions of regional institutions (see for example the funding Statutes of Umbria and of Bolzano) Those Statutes provide for consultation of employers, trade unions and environmental associations, also in the case of the preparation of legal acts.

XXV. Obstacles encountered in the implementation of article 8

Launching processes for public participation in a systematic way and following predictable and structured rules along the entire regulatory procedure has sometimes been difficult for Administrations. The fragmented nature of the associative world, which is not always organised in higher level networks, multiplies the number of interlocutors while reducing representativeness.

XXVI. Further information on the practical application of the provisions of article 8

The "circular economy" Package

In January 2016, the Environmental Commission of the Senate of the Italian Republic promoted a public consultation on the package of measures on “circular economy” presented by the European Commission on 2 December 2015. The comments achieved through the consultation were sent to the European Commission.

The consultation was open to citizens, Public Authorities, companies, universities, research centres and all the other governmental and non-governmental actors involved. The participation process was organised as follows:

• a cycle of hearings at the Commission, envisaging the opportunity for stakeholders to file written contributions;
• an on-line consultation via questionnaires, open to the public, on the five documents included in the “circular economy” package.

Consultation remained open from 1 February to 31 March 2016 and was promoted through the website of the Senate and of the Ministry of Environment.

After the end of the consultation process, the Environmental Commission of the Senate organised a public conference to discuss the results of consultation.

Kazakhstan

XV. The legislative, normative and other measures to implement the provisions of Article 6, on public participation in decision making on specific activities.

Answer: On the basis of the subparagraph 4 of the paragraph 1 of Article 13 and the subparagraph 3 of the paragraph 1 of Article 14 of the EC, public has a right to participate in a government’s decision making procedure on issues related to environment in the manner prescribed by the legislation of Kazakhstan;
Currently the following laws and regulations for the implementation of Article 6 of the EC in Kazakhstan are accepted and executed:

- EC RK (articles 17, 45, 46, 49, 57, 135);
- Instructions for the environmental impact assessment (EIA) (the order of Ministry of Environmental Protection June 28, 2007 №204-p) as amended on 06/17/2016 number 253.


- Rules for public hearings (MEP Order number 135 of May 7, 2007 as amended on March 26, 2013 №50-Ө, as amended on 21/6/2016 number 260);
- Rules of access to environmental information relevant to the EIA procedure and decision-making on planned economic and other activities (MEP Order of July 25, 2007 №238-p) as amended by 21/6/2016 number 258;
- The list of economic activities, the projects of which are to be submitted to a public hearing (order RK Minister of Energy on June 10, 2016 № 240)

In regard to paragraph 1: Law of the Republic of Kazakhstan "On amendments and additions to some legislative acts of Kazakhstan on environmental issues" on April 8, 2016 number number 491-V made changes and additions to the Environmental Code of the Republic of Kazakhstan. In this connection, projects, according to which public hearing is required, were defined in Article 57-2 of the Environmental Code. Minister of Energy of the Order № 240 of June 10, 2016 approved a list of economic activities, the projects of which are to be submitted to the public hearing.

In regard to paragraph 2:

The order of the SER is determined by the authorized body in the field of environmental protection (Article 49 EC), where expert councils of SEE are established. These councils are advisory agencies (Article 56 EC). In accordance with Article 57 of the EC:

1. Transparency of the state environmental review and public participation in decision-making on issues of environmental protection and management of natural resources is provided by the public hearings.

2. All interested citizens and public associations are given the opportunity to express their opinion during the SEE.

3. Conclusion of the state ecological examination is directed by the nature user to be placed on an Internet resource of the local executive body in the field of environmental protection within five working days of receipt by the nature user.

4. Natural and legal persons have the right to challenge the conclusion of the state environmental review in accordance with the legislation of the Republic of Kazakhstan.

5. When a decision on the conclusion of the state environmental review is made, all interested parties are given the opportunity to get information about the examination object.

The organization of public hearings during the state environmental impact assessment is referred to the competence of the relevant local executive bodies (Article 20 EC) and is conducted in accordance with the rules for public hearings. According to Article 57-2, local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and decision-making process for this activity through the online resource, as well as using other means of informing twenty days prior to the public hearings.

The procedure for conducting public hearings is determined by the authorized body in the field of environmental protection. Law of the Republic of Kazakhstan from April 8, 2016 №491 added added article 57-2 “On the public hearings” to the EC RK.
1. Conduct public hearings, necessarily on the projects:

1) in the areas of agriculture and forestry, mining and manufacturing industries, construction, transport, electricity, heating, water supply, sewerage, waste management and other sectors of the economy according to the list determined by the authorized body in the field of environmental protection;

2) that provide accommodation facilities in water protection zones and zones of sanitary protection of water sources;

3) that provide accommodation facilities on the lands of the state forest fund;

4) that provide deforestation in the lands of the state forest fund, including greenery within the boundaries of settlements;

5) that provide a nature activity in protected areas and the former Semipalatinsk nuclear test site;

6) are the object of the state ecological examination, referred to in sub-paragraphs 1), 6), 8), 9) and 10) of paragraph 1 of Article 47 of this Code.

With regard to paragraph 3:

The legislation of the Republic of Kazakhstan determined reasonable deadlines for decision-making on public participation.

In accordance with para. 10 of the Rules of Holding Public Hearings Customer shall inform the concerned public at the state and Russian languages no later than twenty days prior to the public hearings. Paragraph 12 of the Rules states that the local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and to the decision-making process on this activity through the Internet resource, and also using other means of informing twenty days prior to the public hearings.

According to para. 13. The concerned public provides comments and suggestions (if any) on documentation of the projects to the Customer on time, no later than 3 working days before the date of the public hearing. In accordance with paragraph 19, public hearings results are protocol executed. The protocol is signed by the chairman and the secretary of public hearings and posted on the Internet web-site of the local executive body not later than seven working days after the public hearing.

The Rules of the Public Hearings allow holding public hearings in the form of a survey. Paragraph 27 of the Rules established that the person in charge of the local executive authority, together with the Customer, make a protocol on holding public hearings in the form of a survey, not later than seven working days after the public hearing.

With respect to paragraph 4:

According to Article 57-2 public hearings are necessarily hold on the projects:

1) in the areas of agriculture and forestry, mining and manufacturing industries, construction, transport, electricity, heating, water supply, sewerage, waste management and other sectors of the economy in accordance with the list determined by the authorized body in the field of environmental protection;

2) that provide accommodation facilities in water protection zones and zones of sanitary protection of water sources;

3) that provide accommodation facilities on the lands of the state forest fund;

4) that provide deforestation in the lands of the state forest fund, including greenery within the boundaries of settlements;

5) that provide a nature activity in protected areas and the former Semipalatinsk nuclear test site;

6) are the object of the state ecological examination, referred to in sub-paragraphs 1), 6), 8), 9) and 10) of paragraph 1 of Article 47 of this Code. Order of the Minister of Energy of the Republic of Kazakhstan from June 10, 2016 № 240 approved the list of economic activities, the projects of which are to be submitted to a public hearing.
With regard to paragraph 6:

Kazakhstan legislation does not provide payment for access to the information in the decision-making process. According to Article 57-2 of the Environmental Code of Conduct public hearings are necessarily hold on the projects:

1) in the areas of agriculture and forestry, mining and manufacturing industries, construction, transport, electricity, heating, water supply, sewerage, waste management and other sectors of the economy in accordance with the list determined by the authorized body in the field of environmental protection;

2) that provide accommodation facilities in water protection zones and zones of sanitary protection of water sources;

3) that provide accommodation facilities on the lands of the state forest fund;

4) that provide deforestation in the lands of the state forest fund, including greenery within the boundaries of settlements;

5) that provide a nature activity in protected areas and the former Semipalatinsk nuclear test site;

6) are the object of the state ecological examination.

Paragraph 12 of the Rules states that the local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and to the decision-making process on this activity through the Internet resource, and also using other means of informing twenty days prior to the public hearings.

According to para. 13. The concerned public provides comments and suggestions (if any) on documentation of the projects to the Customer on time, no later than 3 working days before the date of the public hearing. In accordance with paragraph 19, public hearings results are protocol executed. The protocol is signed by the chairman and the secretary of public hearings and posted on the Internet web-site of the local executive body not later than seven working days after the public hearing.

According to paragraph 16, the Customer’s Reports of the projects are heard. EC provides public environmental expertise as an activity carried out on a voluntary basis by expert commissions established by public organizations. Public environmental expertise shall consider any economic activities in compliance with the public interest to preserve favorable environment for the life and health of citizens. Such expertise could be initiated by any private and public organization interested in implementation of the subject of the public environmental expertise. (Article 60 of EC).

The organizer of public ecological expert examination is eligible for: asking the customer of the subject of the public environmental expertise to provide materials and documents needed for this expert examination. Customer of the subject is required to submit the necessary documents and materials on such examination (63 of the EC).

With respect to paragraph 7:

Rules of public hearings imply the following procedures:

Customer pre-negotiates the time and place of the public hearing with the local executive body and a preliminary list of the concerned public and provides the most effective ways of informing (ads in the media, newsletters, stands, written requests) (paragraph 8 of the Rules of the public hearings.);

Local executive body approves the list of the concerned public, the way of informing, time and venue of the public hearings, determines the person responsible for holding public hearings (para. 9 of the Rules of the public hearings).

The Customer shall inform the public concerned at the state and Russian languages no later than twenty days prior to the public hearings (para. 10 of the Rules of the public hearings).
Customer sends announcement of the public hearing, documents on the project to be placed on an Internet resource of the local executive authority (p. 11 of the Rules of the public hearings).

Local executive bodies provide public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and to the decision-making process on this activity through the Internet resource, and also using other means of informing twenty days prior to the public hearings.

According to para. 13. The concerned public provides comments and suggestions (if any) on documentation of the projects to the Customer on time, no later than 3 working days before the date of the public hearing.

With regard to paragraph 8:

In accordance with para. 9 of "Rules of the GEE ’ submissions on the SER should contain the results of considering public opinion. At GEE,

Customer provides a protocol of the hearing and the project OBOC that is modified in accordance with the public opinion (in case of its qualified justification based on normative legal acts) and the comment on the suggestions of the public that the Customer finds irrelevant to be added to the project.

With regard to paragraph 9:

The result of the SER is an expert opinion. All interested parties are allowed to obtain information on the subject of the expertise after the decision on GEE is made (Article 57, EC). Discordance in the implementation of the SEE are reviewed by negotiation or by the courts (Article 58 EC).

It is necessary to modify the legislation, as the protocol of public hearings is a recommendation but not a decision of the authorized body. Internet resources should contain the MOOC texts on environmental impact statements and resolutions justifying the adoption of these decisions.

With regard to paragraph 10:

In accordance with and p. 17, "Rules of the SER", in case of the negative result with the “not agreed”, initiator modifies the material on the observations of the state ecological examination and submit them to re-state ecological expertise or refuses the proposed position.

With regard to paragraph 11:

In accordance with paragraph 5 of Article 12 of the Law "On food safety" (from July 21, 2007 №301) turnover of genetically modified objects and biologically active food additives shall be permitted only after scientifically sound confirmation of their safety, holding of which is carried out in accordance with the legislation of the Republic of Kazakhstan, and their state registration in accordance with Article 34. Before scientifically sound confirmation of safety of GMOs in food products is established, accepted level of its percentage in food products should not exceed the one established in the countries of the European Union.

XVI. Obstacles encountered in the implementation of Article 6

In the course of organizing and conducting hearings in some cases non-technical summary is not available.

Current rules of the SEE does not contain procedural rules on public participation in the process of the SER.

No fixed time of public involvement at the initial stages of environmental decision-making process - the selection and reservation of land for the proposed economic activity.

The Land Code is not provided for public participation at this stage (Clause 1 Article 43).

Disagreement between basic national legal rules of the land legislation and norms of environmental legislation - Chapter 6 of the EC and the Rules of the SEE, could complicate the implementation of the provision4 of Article 6 of
AC. These Rules prescribe the requirements for the composition and the content of the materials submitted for SEE. In accordance with subparagraphs 2 and 5.11.1 and paragraph 18 of these Rules, act of the land choice and the land management issues are not themselves the subject to SEE; these documents are submitted to SEE as a part of the whole documentation. Documented materials (protocols) on public participation on the stage of choosing the land as an integral part of the EIA are not mentioned neither.

In the later stages of the development of project documentation all project decisions have already been linked to the specific characteristics of a particular plot of land. In this case the customer has already spent considerable sums of both human and time resources to develop relevant documentation and to obtain to obtain various approvals and EIA, including a public hearing or a "consideration of public opinion" - in accordance with paragraph 8 of the Instructions on EIA when developing pre-planned, pre-project and project documentation. At this stage it is very difficult to "take into account the public opinion," and to make changes in the pre-project or project documentation submitted for SEE.

In accordance with Article 136 of the EC authorities could attract natural and legal persons on a voluntary basis to work to identify violations of environmental legislation. The authorized body in the field of environmental protection for the implementation of cooperation and collaboration develops a list of public associations whose Charters provide public environmental monitoring functions. This provision may impose restrictions for public participation on the basis of its absence in the "list of authorized bodies in the field of environmental protection" and the necessity of presence of "environmental monitoring functions" in the Charter. However, the list of non-governmental organizations carrying out public control is not made; the provisions of the EC on public environmental control and public environmental review are poorly implemented.

XVII. Additional information on the practical implementation of the provisions of Article 6

April 8, 2016, Amendments to the Environmental Code of the Republic of Kazakhstan are introduced. According to Article 57-2 a list of mandatory projects subject to public hearings was approved. The list of economic activities, the projects of which are to be submitted to a public hearing, approved by the order of the Minister of Energy of the Republic of Kazakhstan № 240 from June 10, 2016. The list of economic activities is provided in accordance with Annex 1 of the Aarhus Convention.

Order of the Minister of Energy of the Republic of Kazakhstan № 260 of 21/06/2016 introduced changes and additions to the rules for public hearings. Changes have been made in terms of the order of holding public hearings. According to current regulations, public hearings are held in the form of public meetings and in the form of survey.

XVIII. Web sites related to the implementation of Article 6


XIX. Practical and / or other measures taken to ensure public participation in the preparation of plans and programs relating to the environment, in accordance with the provisions of Article 7.

Answer:

-XX. Opportunities for public participation in the formulation of policies relating to the environment, provided in accordance with the provisions of Article 7.

National legislation stipulates that all plans, programs and policies, including those concerning environmental protection are developed in accordance with the Decree of the President of the Republic of Kazakhstan dated June 18, 2009 № 827 "On the System of state planning in the Republic of Kazakhstan" (hereinafter - the Decree).

In accordance with paragraph 61 of the Decree, to the processes of state planning systems include: the development, approval, implementation, monitoring, evaluation, adjustment and control of the implementation of its documents.
In accordance with paragraph 62 of the Decree, the following are the participants of the processes of state planning systems: public authorities, legal entities with state participation, representatives of public, academic and private organizations, and individuals.

XXI. Obstacles encountered in the implementation of Article 7

The Rules of the public hearings do not cover the diversity of shapes and performance criteria (timeliness, completeness and adequacy) of public participation in environmental decision-making in the development of the state, branch and regional programs for the development of economic sectors, schemes of productive forces.

So far there is no experience in conducting strategic environmental assessment of plans, policies, programs.

XXII. Additional information on the practical implementation of the provisions of Article 7

Public participation in the development of strategies, policies, programs is often advisory in nature. There is no feedback mechanisms between the decision makers and the public on the issues discussed.

XXIII. The websites that are relevant to the implementation of Article 7


XXIV. Measures taken to promote public participation in the preparation of regulations and regulations that may have a significant impact on the environment, in accordance with the provisions of Article 8

Kazakhstan legislation does not stipulate any discriminatory restrictions on the participation of natural and legal persons in the discussion and preparation of proposals concerning draft legislative and regulatory documents.

National legislation stipulates that all plans, programs and policies, including those concerning environmental protection are developed in accordance with the Decree of the President of the Republic of Kazakhstan dated June 18, 2009 № 827 "On the System of state planning in the Republic of Kazakhstan" (hereinafter - the Decree).

In accordance with paragraph 61 of the Decree, to the processes of state planning systems include: the development, approval, implementation, monitoring, evaluation, adjustment and control of the implementation of its documents.

In accordance with paragraph 62 of the Decree, the following are the participants of the processes of state planning systems: public authorities, legal entities with state participation, representatives of public, academic and private organizations, and individuals.

All documents of state planning systems (with the exception of Kazakhstan Development Strategy up to 2050) are the normative legal acts.


The order of placement and public discussion of draft laws and regulations is defined in the Rules of placement and public discussion of the drafts of bill concepts and normative legal acts on the website of public normative legal acts, approved by order of the Minister of Information and Communications of the Republic of Kazakhstan dated June 30, 2016 № 22 (hereinafter - Rules).

In accordance with the Rules, drafts normative legal acts (hereinafter - NLA) are posted on the Portal of "electronic government" together with explanatory notes and comparative tables in Kazakh and Russian languages.

The period of public discussion of NLA projects may not last less than ten working days since the date of their placement on the Portal. All comments and suggestions received on the NLA drafts are published in the public domain.

State agencies developing NLA projects should consider all the comments and/or suggestions of the public and decide whether to accept them or decline after appropriate justification within three working days after the completion of
public discussion. After, State agencies develop and publish primary version of the report on the completion of the public discussion of the draft.

The on-line public vote on the NLA project and comments and suggestions of the public is held by the public authorities within one working day after the publication of the project on completion of the public discussion of the report. After the voting public agencies that develop projects form and publish the final version of the report on the completion of public discussion.

This report contains the following information:
- commented structural part of the NLA;
- text notes, and (or) a proposal from the public;
- public agency text response;
- number of votes "for" and "against" the NLA project, proposed by the developer of state authority;
- number of votes "for" and "against" on the comments and suggestions from the public on the draft NLA.

XXV. Obstacles encountered in the implementation of Article 8

The mechanism for the implementation of public participation in law-making is not legally fixed. The proposals of the public are not required to be included in the comparative table of amendments to the bill. Mechanisms of Feedback on public offers are almost absent. Requirements for registration are applied to public ecological expertise of NLO drafts; and there is the possibility of refusing to register a public environmental expertise. As a result, the public often does not have a real opportunity to participate in the law-making process, except for some isolated cases.

XXVI. Additional information on the practical implementation of the provisions of Article 8

Answer: gaps and contradictions in the legislation of the Republic of Kazakhstan identified in a result of the preparation of the National Report can serve as a good basis for public participation in the law-making process in accordance with Article 8 of AC.

XXVII. The websites that are relevant to the implementation of Article 8.


Kyrgyzstan

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

176. National law provides for civil society to participate in economic decision-making. The Constitution of Kyrgyzstan is the starting point for the rights and freedoms enjoyed by citizens and public associations.

177. Under the Environmental Protection Act, the public has the right to conduct public environmental reviews, participate in verifying compliance with environmental law, demand that officials guilty of contravening environmental law are held to account, obtain information on planned construction projects, and bring compensation claims and actions for damage to the environment against enterprises and officials.

178. It is a basic principle of the Environmental Review [Expertiza] Act that public opinion must be taken into account. A public environmental review may be organized and conducted on the initiative of citizens, local authorities or duly registered public associations. A public environmental review may be carried out regardless of whether a State environmental review (‘SER’) is being conducted or not.

179. The Land Code entitles Kyrgyz citizens and public associations to participate, by various means including meetings and community assemblies, in examining issues relating to land use and conservation that affect the public
interest.

180. Public authorities must inform the general public about the compulsory purchase and allocation of land for projects involving activities affecting the public interest. The [2008] Local Self-government and Local State Administration Act stipulates that local self-government is a right guaranteed by the Constitution and is the effective means by which local communities manage local affairs through representative and executive bodies and through the direct participation of citizens.

181. The following legislation has been passed: the Concept Note on Environmental Security (Presidential Decree No. 506 of 23 November 2007); the Regulations approving Standards for the Conduct of Various Types of Specialized Review of Draft Laws in the Jogorku Kenesh (Jogorku Kenesh Resolution No. 75-IV of 18 January 2007); the Business Regulation (Optimization of the Regulatory Framework) Act (Law No. 55 of the Kyrgyz Republic of 21 February 2008); the Local Self-Government Act (Law No. 101 of the Kyrgyz Republic of 15 July 2011); the Local State Administration Act [also 2011]; the Public Services Procurement Act (Law No. 162 of the Kyrgyz Republic of 5 June 2008); the Act adopting General Technical Regulations on Environmental Safety (Law No. 151 of the Kyrgyz Republic of 12 March 2009); the Public-Private Partnership Act (Law No. 7 of the Kyrgyz Republic of 22 February 2012); the Presidential Decree on Improving Collaboration between Public Administrative Authorities and Civil Society (Presidential Decree No. 212 of 29 September 2010); the Act on the Rules of Procedure of the Jogorku Kenesh (Presidential Decree No. 223 of 25 November 2011); and the SER Regulations (2014).

182. In 2016, the Jogorku Kenesh approved the Government’s Trust and Unity Programme (Jogorku Kenesh Resolution No. 1053-VI of 9 November 2016). One of the Programme’s aims is to “reduce the environmental risks of industrial activities. Investment projects must undergo careful environmental review. In particular, every project involving the use of mineral resources must provide for investors to assume adequate direct liabilities with regard to reclamation of the land allocated and the environment. Overall, the environmental factor must be taken into account in decision-making and a monetary cost must be estimated for any environmental damage. Legislation must also be passed to introduce payments for ecosystem services, calculated on an economic basis.”

Article 6, paragraph 1

183. Kyrgyzstan applies the provisions of the Convention with respect to public participation in decisions on whether to permit proposed activities listed in the annex to the Convention. The procedures are enshrined in the national legislation detailed above. Moreover, Kyrgyzstan is a party to the Espoo Convention and applies the provisions of that convention with respect to activities with a transboundary impact.

184. An environmental impact assessment (‘EIA’) must be included in the project documentation for any of the installations listed in annex I. The procedure for conducting an EIA is set out in the relevant official instructions, which enshrine the requirement to allow the public to participate in public hearings on a specific project. The EIA documentation undergoes State environmental review at SAEPF: if the review conclusion is not positive, permission for implementation of the project is refused. A public environmental review may be conducted on the initiative of the public. Its conclusions have the status of recommendations and are taken into account when the final report of the SER is drawn up. The procedure for carrying out State and public environmental reviews is enshrined in law.

Article 6, paragraph 2

185. The public is informed of a proposed activity as part of the EIA, which is conducted at the very beginning of the planning process. Before preparation of the EIA, a declaration of intent is drawn up and submitted to the local authorities to allow them to take a decision on the site selected.

186. Under the national legislation, any member or group of the public is ‘the public concerned’.

187. Under Kyrgyz law, public participation in major decisions affecting the environment is mandatory. The Regulations on the National Environmental Protection Fund provide for incentive payments to those, including members of the public, engaged in environmental protection activities.

188. Under the 2006 Access to Official Information Act, an applicant for information may appeal to a higher ranking official, the Ombudsman or a court, as provided for by Kyrgyz legislation, against a refusal to provide
information or against any other action or decision by an official that contravenes the Act.

189. People who fail to perform or do not properly perform their duties to provide information are subject to criminal, administrative, civil or disciplinary penalties or must pay compensation, in accordance with Kyrgyz legislation.

**Article 6, paragraph 3**

190. As a rule, information on public hearings is disseminated in the media and by local authorities two months before the hearings open. Comments may be submitted for one month after the hearings close.

**Article 6, paragraph 4**

191. An EIA must be carried out before any decision is taken, and the EIA documentation must include documents relating to public discussion of the proposed activity. Public participation is mandatory at all stages of the EIA procedure.

192. Under current legislation, EIA documentation submitted to SAEPF for SER must include the outcome of public discussions. Responsibility for holding these discussions in a timely manner rests with the project owner. Under the procedures adopted in Kyrgyzstan, the EIA documentation must include alternative technological and siting options for the project, and these should also be considered in public discussions. The project owner can use the media, websites and mailing lists to notify the public of a proposed activity.

193. Members of the public may sit on State environmental review panels.

**Article 6, paragraph 5**

194. The project owner holds discussions with the public concerned and is responsible for the way they are conducted.

195. The project owner and the document drafters work together to involve the public in the EIA process by informing the public of the proposed activity and inviting them to participate in the EIA process. The project owner also takes part in the public hearings on the proposed activity.

**Article 6, paragraph 6**

196. Under national law, access to information on a specific project is provided free of charge. There are restrictions on access to information if the information relates to a State or trade secret falling within the scope of the relevant laws.

197. Under Article 50 of the Environmental Protection Act, public authorities may refuse to provide environmental information if doing so would disclose a trade secret or would harm international relations, the military interests of the State or the investigation of a crime. Rejection of an application for information must state and explain the reasons for refusal.

198. All other information falling within the scope of article 6, paragraph 6, of the Convention is to be provided to the public concerned by the project owner.

199. There have been no cases where an entire set of EIA documents was classified in order to protect trade secrets or intellectual property.

**Article 6, paragraph 7**

200. Public hearing and discussion procedures provide for collection of any public opinions on the proposed activity.
Depending on the extent of the project’s possible environmental impact, various methods of involving multiple stakeholders in discussions play an important role at certain stages of the EIA.

Under the Urban Development and Architecture Act, it is mandatory to hold public hearings on draft decisions for a proposed project and to take public opinion into account.

**Article 6, paragraph 8**

The results of public participation are recorded, collected, analysed, summarized and, if sufficiently well founded, taken into account by the project owner; they are submitted to SAEPF with the EIA documentation for SER.

When numerous comments are received from the public, there are no set procedures for taking due account of them. In practice, however, well-founded comments are taken into consideration. If a comment from the public indicates that legislation has been contravened, the comment may become binding rather than recommendatory. Failing this, the rules of criminal or administrative law on ‘act or omission’ become applicable.

Comments that have already been received from the public must be accessible to other members of the public throughout the comments procedure.

**Article 6, paragraph 9**

Current legislation states that the outcome of a State environmental review is to be made public. The SER reporting format requires the grounds for the review findings to be shown.

The part of the decision that sets out the relevant reasons must cite the factual, professional and legal arguments raised during the procedure.

**Article 6, paragraph 10**

Under current legislation on State environmental reviews, any changes made to the project by the project owner during its planning or implementation phases are subject to a further SER. Consequently, it may also be necessary to hold a new public discussion, depending on the nature of the changes.

On the initiative of Independent Environmental Expertise, an NGO, a Government Resolution that had reclassified Chatyr-Kul Lake from a Specially Protected Area to a Commercial Fisheries Area was revoked.

**Article 6, paragraph 11**

Kyrgyzstan has ratified the Cartagena Protocol [on Biosafety to the Convention on Biological Diversity] and is currently drafting the appropriate legislation.

Obstacles encountered in the implementation of article 6

The public is not informed of proposed activities in a timely manner. There are contraventions of environmental law, and the effect of some of these is to restrict the right of the public to participate in decision-making. For example, the Government has adopted resolutions allowing construction of certain facilities to start while the proposed activity is still in the design stage and without waiting for a positive conclusion of an environmental review or informing the public and giving them the opportunity to participate in an EIA procedure.

There are no procedures for providing feedback to the public on whether or not its suggestions have been accepted.
213. The public’s suggestions regarding projects tend to lack reasoned grounds.

214. The rights of the public to participate in environmentally significant decision-making are specified in much primary legislation, but these rights often exist only in theory. No legislation specifies concrete mechanisms by which the public can influence decision-making. The public can express opinions, but public authorities are required only to take them into account: the wording is vague, and there is no element of compulsion.

XVII. Further information on the practical application of the provisions of article 6

215. Government statistical bodies do not compile statistics on public participation in decision-making on specific projects.

216. Some examples [of the practical application of article 6] include:

- direct participation by NGOs in drafting the National Development Strategy, which has a section on environmental security;

- a campaign for ratification of the Stockholm Convention [on Persistent Organic Pollutants], conducted by the Network for the Defence of Public Environmental Interests in Kyrgyzstan;

- Independent Environmental Expertise (Kyrgyzstan), a public association, and Green Salvation (Kazakhstan), an environmental association, forced the suspension of a transboundary project for construction of a Chyrpykty-Chong Kemin highway without a positive SER conclusion;

- SAEPF worked with Independent Environmental Expertise and ECO Forum Kazakhstan to carry out a transboundary EIA of the Andash copper and gold mining project;

- the FLEG National Action Plan to Strengthen Forest Law Enforcement and Governance was drawn up by SAEPF, local authorities, international organizations and NGOs;

- with the support of Milieukontakt International, a group of independent experts (including qualified specialists, NGO representatives and local residents) carried out a public environmental review of the EIA section of the project documentation for the Andash gold mining project. The outcome of the public environmental review was discussed at public hearings, a round table, a press conference and an eco-café, and leaflets were prepared and distributed to the public;

- the support of Milieukontakt International, the Impulse Youth Trust, an NGO, carried out public environmental monitoring of the impact of filling stations on the environment in the Moskva District of Chuy Oblast. It was recommended that action be taken to rectify contraventions of environmental law and to reduce the environmental impact of the district’s filling stations;

- with the support of Milieukontakt International, the public in the Kemin District of Chuy Oblast carried out a public environmental review of the EIA section of the project documentation for the Taldy-Bulak Levoberezhny gold mining project.

217. NGOs regularly organize and participate in public hearings. For example, in July 2016, two meetings were held to discuss the EIA section of the project documentation for the Jeroooy gold mining project.

218. As part of its ‘Elimination of acute risks of obsolete pesticides in Kyrgyzstan’ programme, Milieukontakt International worked with partner public associations Eko-oy, Bios, and Protection of Motherhood and Childhood to draw up an inventory of old pesticide warehouses in Osh Oblast and to repack about 90 tonnes of obsolete pesticides in accordance
with international standards.

219. In 2009, as part of the same programme, Milieukontakt International carried out research among all stakeholders to assess their general understanding of the benefits of introducing and using alternatives to DDT.

220. In 2010, Milieukontakt International implemented a programme entitled ‘Building partnerships between environmental NGOs and local authorities to involve the public in managing environmental problems at local level’. This was supported by the Dutch association Vereniging voor Personele Samenwerking met Ontwikkelingslanden [Association for Personnel Services Overseas].

221. Between 2014 and 2016, the Bishkek and Osh Aarhus Centres held a series of public hearings and over 20 seminars and training events.

222. NGO representatives sit on the National Council for Sustainable Development and are members of official interdepartmental and expert working groups.

XVIII. Website addresses relevant to the implementation of article 6

223. See Section VI.

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

224. Under the Constitution, the people of Kyrgyzstan are sovereign and the sole source of State power in the Republic. Under the Environmental Review [Expertiza] Act, programmes, projects, long-term plans and development schemes are subject to expert review, including public environmental review. Moreover, under the Non-Profit Organizations Act, NGOs are entitled to participate in the development of plans and programmes.

225. The Urban Development and Architecture Act gives citizens the right to information on the state of the environment, urban development and socio-economic conditions in populated areas and on the preparation and implementation status of programmes and projects involving changes in land use and development. It entitles them to participate in considering and discussing urban development programmes and projects that affect the interests of groups or individual citizens.

226. The EIA procedure specifies that an EIA must be conducted before plans, strategies and programmes are implemented and makes provision for public participation. NGOs are able to take part in the preparation of almost all environmental protection programmes at the development stage. Before being approved, every programme is subject to review and finalization procedures that allow for feedback and suggestions.

227. Presidential Decrees, Statutes of the Kyrgyz Republic and Government Resolutions are considered to be decisions ‘affecting the environment’, as are orders and directives issued by government departments and the decisions of departmental boards.

228. National law makes no distinction between plans, programmes and policies.

XX. Opportunities for public participation in the preparation of policies relating to the environment

188
provided pursuant to article 7

229. Under current law, there are practically no obstacles to the participation of civil society in the preparation and implementation of environmental programmes and policies. These rights are exercised reasonably successfully on a partnership basis: experts from NGOs are involved in drafting practically all environmental programmes, plans and policies, and there is wide publicity at all stages of the decision-making process.

XXI. Obstacles encountered in the implementation of article 7

230. Inadequate funding means that programme development and implementation are not very effective. Poor interdepartmental co-ordination in developing and implementing programmes leads to duplication and ineffective practical implementation.

231. No procedure for giving feedback to civil society has been developed, so that the suggestions received are often amateurish and do not fit in with national spending plans. Lack of initiative on the part of broader civil society means that the interests of more motivated and active groups carry greater weight.

232. There is more transparency in the development of plans, programmes and strategies at national level than at local. This is owing to the economic situation and limited expertise of local authorities.

233. The principles of timely public participation and provision of information are contravened in most cases, and this has led to socio-economic conflicts in almost all the country’s oblasts.

234. Putting draft legislation up on the websites of ministries and government departments has not been particularly effective in generating discussion.

235. The ways in which public opinion is to be taken into account are not defined with sufficient clarity.

236. The exchange of information and the decision-making process take place entirely separately.

XXII. Further information on the practical application of the provisions of article 7

237. NGOs participated directly in drafting the ‘Environmental Security’ section of the National Development Strategy for the period to 2010. This was the first time that environmental security was included among Kyrgyzstan’s development priorities. Draft local environmental protection action plans were drawn up and implemented by local communities. NGOs were actively involved in drafting the National Development Strategy for 2009 - 2011, the Concept Note on Environmental Security, the Concept Note and Programme for the Sustainable Development of the Issyk-Kul Ecological and Economic System and other plans, programmes and strategies, all of which were subject to public hearings.

238. NGOs and the public actively participated in drawing up the National Sustainable Development Strategy of the Kyrgyz Republic, the Programme for the Transition of the Kyrgyz Republic to Sustainable Development for 2013 - 2017 and other strategy documents.

239. NGO representatives sit on the National Council for Sustainable Development and are members of official interdepartmental and expert working groups.
XXIII. Website addresses relevant to the implementation of article 7

240. See Section VI.

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

241. A Resolution approving a Methodology for Assessing the Regulatory Impact of Legislation on Business has been adopted (Government Resolution No. 559 of 30 September 2014).

242. The Environmental Protection Act entitles citizens to participate in the development and implementation of environmental protection measures, including the legislative process. The Statutes and Regulations Act stipulates that citizens and organizations may be engaged as independent experts in the specialist legal, financial and economic, environmental and/or scientific review of draft legislation, if the legislative body concerned so decides.

243. The Constitution of the Kyrgyz Republic, the Criminal Code and the Civil Code prohibit all forms of discrimination. Any discriminatory behaviour is liable to prosecution under the law.

244. There is no requirement for the public to be involved at the conceptual stage of the legislative process.

245. Draft regulations and rules are not always posted on the Internet. There are variations between the time frames allowed for members of the public to express their opinions in different instances.

246. Comments received from the public during the participation process conducted under article 8 of the Convention are often forwarded to legislative bodies.

247. There are no specific mechanisms for promoting public participation in the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment.

248. [At the time of publication of the 2014 National Implementation Report,] the following legislation had already been passed: the Statutes and Regulations Act, the Technical Regulation (Fundamentals) Act, the Business Regulation (Optimization of the Regulatory Framework) Act, the Standards for the Conduct of Various Types of Specialized Review of Draft Laws in the Jogorku Kenesh, Regulations on the Procedure for Maintaining the State Register of Statutes and Regulations, and a Government Resolution on the Official Publication of Statutes and Regulations.

Between 2014 and 2016, the following legislation was passed: the Public Authorities’ Public Advisory Committees Act, the Administrative Activities and Procedures (Fundamentals) Act and the SER Regulations.

249. [At the time of publication of the 2014 National Implementation Report,] the following legislation had already been amended: the General Technical Regulations on Environmental Safety, the Local Self-Government Act, the Local State Administration Act, the Consumer Rights Protection Act, the Statutes and Regulations Act, the Citizens’ Communications (Procedure for Examination) Act, the State Statistics Act, the State Registration (Legal Entities, Branches and Representative Offices) Act and the Government Resolution on Public Liaison Offices.

Between 2014 and 2016 the following legislation was amended and/or supplemented: the Constitutional Act on the Government of the Kyrgyz Republic, the Fauna Act, the Forest Code, the Environmental Protection Act, the Ozone Layer Protection Act, the Flora
Under the Statutes and Regulations Act and the Business Regulation (Optimization of the Regulatory Framework) Act, draft legislation regulating business activities must be accompanied by an explanatory memorandum based on an assessment of its regulatory impact.

Draft legislation on the constitutional rights, freedoms and duties of citizens, the legal status of public associations and media outlets, the national budget and the tax system, environmental security, law enforcement and the introduction of new types of business regulation must undergo legal, human rights, gender, environmental, anti-corruption and other types of specialist review (Statutes and Regulations Act).

Draft legislation that directly affects the interests of citizens and legal entities or that regulates business activities is made available for public discussion, with relevant information, on the website of the legislative body in question. The legislative body must accept, examine and summarize suggestions made by participants in the public discussion. The resulting information must be taken into account in the explanatory memorandum accompanying the draft legislation. The costs of organizing and holding public discussions are covered by the body that prepared the draft legislation and by any other sources of funding not precluded under national legislation (Statutes and Regulations Act).

Under the amendments to the Statutes and Regulations Act, a time frame of at least one month must be allowed for public discussion of draft legislation. The official publication of legislation in an incomplete form is not permitted, with the exception of legislation that contains State and/or military secrets.

In 2012, the Local Self-Government Act was amended to give any group numbering one third of a local community the right to initiate local legislation.

The Osh Aarhus Centre has organized discussions of draft laws in regions with poor access to the Internet.

XXV. Obstacles encountered in the implementation of article 8

Because of funding constraints, it is not always possible to publish draft legislation in full in the media. This failure to make information available in a timely manner during the preparation of draft legislation means that the public is unable to participate in decision-making: as a result, laws need to be supplemented and amended almost immediately after their adoption. Existing legislation is not usually subject to public review. Laws adopted do not include implementation procedures and mechanisms.

Under the new Constitution, adopted in 2010, Kyrgyzstan has a new form of government, moving from a presidential to a parliamentary system.

The reforms to public administration and the redistribution of functions among public authorities introduced by Government Resolution No. 87 of 10 February 2012 mean that a great deal of legislation needs to be revised.

XXVI. Further information on the practical application of the provisions of article 8

Public authorities have collaborated with public associations in drafting a number of statutes and regulations and assessing the regulatory impact of environmental legislation.

In 2010, the then Ministry of Natural Resources drew up a raft of legislation including the draft Act on the Amendment and Suspension of Articles 20, 22 and 23 of the Statutes and Regulations Act. These articles provide for the conduct of legal and other
specialist reviews and for the organization of public discussions of draft legislation. After the public intervened forcefully through a public review, this legislation was not adopted.

261. A programme for ‘Support to a Strategic Approach to International Chemicals Management and the Introduction of the Globally Harmonized System of Classification and Labelling of Chemicals in Kyrgyzstan’ was carried out by the Ministry of the Economy in partnership with Independent Environmental Expertise and with the financial support of the United Nations Institute for Training and Research (UNITAR). As a result, two new pieces of legislation were drafted and adopted: Government Resolution No. 235 of 22 April 2015 approving the Programme of the Government of the Kyrgyz Republic to introduce the Globally Harmonized System of Classification and Labelling of Chemicals into the Kyrgyz Republic and approving the 2015 - 2017 Action Plan for its Implementation; Government Resolution No. 43 of 9 February 2015 approving Regulations on the Chemical Hazards Classification System and Requirements for Information on Hazards: Labelling and Safety Data Sheets.

XXVII. Website addresses relevant to the implementation of article 8

262. See Section VI.

Latvia

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6


National legislative acts also regulate cases, when proposed activities have a potential transboundary impact.

Article 6, paragraph 1

Articles 8 and 12 of the EPL stipulate that the public authorities take the measures required to timely provide the public willing to participate in decision-making with necessary information.

Article 6, paragraph 1 (a)

The requirements of the Convention’s Article 6 in Latvia are covered by two mutually connected procedures concerning decision-making on activities listed in the Convention’s annex I:
(a) The EIAL lists activities to be performed by the EIA process and details thereof, as does CM Regulation No. 18 on public involvement process;

(b) The Law on Pollution and CM Regulation No. 1082 set out the issuing procedure of polluting activities permits, including for public involvement in activities listed in the Convention’s annex I.

Article 6, paragraph 1 (b)

Article 4 of the EIAL provides that EIA is also required, if international agreements or responsible authority requires so: (a) according to initial assessment results; (b) if one or more proposed activities influence one territory, considering aggregate and mutual impact.

CM Regulation No.300 prescribes special procedure for assessment of activities the implementation of which does not require EIA in accordance with the EIAL.

According to Article 27 of Law on Pollution, in cases listed by CM B category permit application (for waste incineration equipment and in cases when REBs conclude that the activity could have considerable negative environmental impact) is also publicly available for opinion on the issue of the permit.

Article 6, paragraph 2

Anyone is entitled to join public consultation and express his/her opinion. The project developer has to evaluate public opinion on planned construction. According to EIAL and CM Regulation No. 18, prior to the project approval procedure, the public receives information on:

(a) Initial EIA results;

(b) The EIA procedure application for the project;

(c) The EIA report (available online and in paper form) and availability of it for proposals and public discussions;

(d) The ESB opinion on the report which is publicly accessible on the ESB website.

Information is published on the website of the project developer or its authorized representative and on the website of the local government as well as in at least one municipality-published newspaper or other local newspaper. Owners (holders) of immovable properties bordering on the territory of the proposed activity are informed individually. ESB has created a list of NGOs that have expressed interest in information on new proposals.

Procedure for issue of polluting activities permit contains similar regulations with respect to public information and involvement issues covered by the Law “On Pollution” and CM Regulations No.1082. Information about A category or, in certain cases – B category, permit applications must be communicated:

(a) Publicly – by providing information in the operator’s office and municipality as well as by posting the application on the State Environmental Service’s website;

(b) Individually – by notifying owners (holders) of properties adjacent to proposed polluting activity site or those located in directly influenced area;

(c) In the official publication and in at least one local newspaper;

(d) On the Internet – on the operator’s website or on the respective REB website;

(e) On new polluting activities – also in Latvian official or local radio;

(f) The activity developer is obliged to organize a public discussion on the issue of the permit.

Local government on its website or in local newspaper publishes information on commencement of public discussion on construction and informs about the opportunities of getting acquainted with the relevant information.
Article 6 of the EPL stipulates general rights of each private person, also associations, organisations and groups of persons in the environmental field. The public concerned has not been particularly defined.

If during the EIA process informing of the public has not been performed and a public participation has not taken place in accordance with the procedures specified by the CM, the competent authority sends the final statement to the developer for revision, indicating the deficiencies to be eliminated, or assigns the initiator to ensure the informing of the public and a public discussion. Each person has the right to ask for a review of any decision taken in accordance with the EIAL, also any activity or omission to act, if with this decision the rights of the public to information or participation in the process of EIA as specified in regulatory enactments have been violated or ignored. (EIAL, Arts. 20 and 26.)

Article 6, paragraph 3

Respective legislative acts provide for certain deadlines for public involvement in the processes of EIA and permit issuing.

During EIA, there are two notifications. There is a 20 day period for recommendations during the initial public discussion. During public discussion of the EIA report the public is entitled to submit recommendations or opinion within 30 days. Public discussion shall be organized not earlier than seven days after the publishing of the notification in the newspaper and not later than 10 days prior to expiry of the time period determined for the submission of proposals of the public.

During discussion of permit conditions, the public has 30 days from the notification of the publication day to submit written suggestions or opinions to the REB on the issuance of the permit or conditions thereof.

Article 6, paragraph 4

The public are informed several times about projects and during procedures of their impact assessment.

According to normative requirements public has rights, during the EIA to receive information and express its opinions twice - during the initial public discussion and final report public discussion stages. The public also has the right to express opinions during the public discussion of construction and polluting activities' permit.

Interested NGOs that have applied to the ESB are informed as soon as the EIA procedure is started. Adjacent land owners are notified and invited to individually express their opinions on proposed activities.

Article 6, paragraph 5

The project developer is responsible for ensuring public participation as well as ensuring that discussions during the EIA are taking place during permit application assessment procedures.

Before submitting a permit application operator has to perform the EIA, including identification of, information and consultation with the public concerned in accordance with the EIAL.

According to CM Regulation No. 91, NGOs interested in planned activities in certain territories might apply to the REB to receive updated information.

Article 6, paragraph 6

Respectively, the information supplied to the public authority is made publicly available in accordance with the ITL, the EPL, the Law on Pollution and the EIAL.

No cases are reported, when EIA documentation would be classified on the basis of commercial confidentiality or intellectual property rights.

Access to this information is ensured by: (a) the EIAL requirement to provide respective information to public and particularly interested persons; (b) the Law on Pollution, which provides that the application submitted and documents thereof are made publicly available.
(Art. 27); and (c) CM Regulation No. 1082, which states in addition what information has to be made public, including information acquired after public information or after public discussion (Chapter III).

Article 6, paragraph 7

EIA procedures foresee the public’s right to submit recommendations or opinions in written form about the information included in the protocol of meeting which is organized to meet the requirement of public participation 7 days after the meeting.

The ESB has the right to return the EIA report and the obligation to the requirement of public participation should be met if this hasn’t been dully enforced.

Article 6, paragraph 8

According to legislative requirements, public opinions have to be evaluated in the EIA report. The EIA report shall include an overview of the public participation events and the recommendations submitted, indicating how the submitted recommendations have been considered.

The EPL (Art. 12, paras. 6 and 7) stipulates that public authorities in decision-making processes evaluate public opinion and countermeasure individual rights and interests to public gains and losses, observing sustainable development principles.

Following Article 3 of the EIAL decisions have to be taken considering proposals received during public discussions. Article 22 of the EIAL reinforces that decision on acceptance of the intended activity has to be adopted considering also opinion of the public.

According to the paragraph 6 of Article 28 of the Law on Pollution, prior to issuing of a permit, the REB has to evaluate the recommendations received during public participation.

Article 6, paragraph 9

Article 20 of the EIAL provides that the responsible authority (ESB) publishes notification in at least one newspaper issued by the local government or in another local newspaper notifying that the decision on the EIA final report has been issued, informing about opportunities for familiarization with both documents (available also at ESB website). Article 23, paragraph 2, obliges the responsible authority (ESB) to publish the decision within three days of its adoption on the authority’s website (if there exists one) and within five weekdays to submit it for publishing in at least one local government’s newspaper or other local newspaper, indicating the public authority where the public may get acquainted with the decision’s contents, grounds and information on the public participation process as well as measures to be taken in order to prevent or reduce the adverse impact on the environment.

Section VI of CM Regulation No. 1082 provides that in cases of public discussion, operator has eight days from the day when the REB has issued or prolonged the permit, or amended the permit conditions to inform public of the polluting activity, by placing notifications at the site of planned polluting activity and at the respective local government and by individually notifying the owners of adjacent properties and those directly affected.

Article 6, paragraph 10

The Law on Pollution and CM Regulation No. 1082 prescribe public involvement options and procedure also in cases when the permit is prolonged or reviewed including if the competent authority has regarded amendment to the activity as significant. Amendment to the activity as a result of which operational indicators of the installation exceed indicators mentioned in annexes to the Law on Pollution is a significant amendment.

The EIAL and CM Regulation No. 18 also provide for public participation in cases where amendments are planned in activities listed in annex I (i.e. activities requiring EIA), should these amendments comply with certain milestones.

Article 6, paragraph 11
See Sections XXXIII to XXXVI of this report on Article 6bis and Annex Ibis of the Convention.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

Although Latvian legislation provides the requirement of public participation in decision-making on environmental issues, the public are not always aware of their rights and opportunities to submit their opinion before public authorities.

In view of the ECC, public participation in the EIA procedure is frequently hampered by low-quality EIA reports, for example, by insufficiently describing the expected impacts and by providing only superficial information during the meeting of public participation. If the report is improved at a later stage at the request by the ESB, not always it is separately discussed with the public.

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

ESB cooperation with NGOs, in particular their informing the latter of applications received. Similar cooperation has been created between REBs and NGOs active in the region.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6


XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

Legislation is in force to ensure obligations and procedures for public participation in environmental planning and the procedures of the programs of development. The following legislative acts were passed and improved: the EPL; the EIAL and CM Regulation No. 157 (passed 23 March 2004) “Procedure for Strategic Environmental Impact Assessment”; Development Planning System Law; the Spatial Development Planning Law; and CM Regulation No. 628 “Regulations on Spatial Development Planning Documents of Local Governments” of 14 October 2014, where the procedure is detailed on how to ensure public participation; CM Regulation No. 816 “On Drafting, Enforcing, Supervising and Enforcing Public Participation for the National Plan for the Development for 2014.-2020” (Hereinafter in this section the above-mentioned acts are referred with respective number.)

The ECC has been established in accordance with Article 14 of the EPL, bringing together the representatives of environmentally active organizations and professional associations. Therefore, public authorities have an addressee, and know where to send or present drafts of documents.

The annual working plan published on MEPRD website provides a listing of works planned, including projects for documents, with the deadline and responsible official.

Article 4 of the EIAL and paragraph 2 of CM Regulation No. 157 detail the planning documents requiring strategic EIA. Article 23.5 of the EIAL and CM Regulation No.157 (Paragraph 2, section V) detail the procedure for public involvement in strategic EIA.

The responsible authorities organize regular public activities, i.e. they explain public participation procedures vis-à-vis the development of planning documents.

According to legislation, planning has to be done on three levels: national, regional and local. At the moment, public rights are described in more detail at the local planning level, without any criteria for a person’s eligibility to participate.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7
The general attitude towards public participation in environmental policy development is described in Article 8 of the EPL.

Since Development Planning System Law entered into force in 2009, the law refers also to development planning in the domain of environmental protection and its purpose is to promote sustainable and stable development of the State, as well as the improvement of the quality of life of population, by determining the development planning system. This law applies to the development planning in public authorities. In accordance with the participation principle incorporated in Article 5 of the law all interested persons (including NGOs) have a possibility to participate in the drawing up of the development planning document.

CM Regulation No. 300 contains provisions on NGO participation in the development process of policy documents and legislative acts as well as the need for public discussion, and authorizes NGO representatives to participate in meetings of the State Secretaries, where legislative acts and policy documents of all ministries are discussed and administrated further for legislative procedures.

The public is invited to express its opinions on any reviewed policy document available on CM website after a hearing at the Meeting of State Secretaries. Public authorities are obliged to inform interested parties and to organize consultations on sensitive issues according to the Article 48 of SASL.

The procedure for public participation in the strategic assessment is stipulated by CM Regulation No.157, Chapter V.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

Notwithstanding the adequate supply of information the public is not always aware of its rights to participation.

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

The strategic EIA procedure is the main implementation instrument of the Convention’s article 7, practical implementation of which is incumbent upon the public authorities. At the same time, the public not always makes use of the opportunities to participate.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7


XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

Article 13 of the EPL describes the early involvement of public or its representatives in the preparation and discussion of environmental legislative acts.

CM Regulation No.300 “Rules of Procedure of the Cabinet of Ministers”, dated 7 April 2009, contains provisions for NGO involvement in the development of policy documents or legislative acts. The requirement for inclusion of annotation with legislative drafts in included here; this also should cover potential environmental impact, as well as information on public involvement and opinion.

Representatives of NGOs as well as experts of the subject matter are often included in draft legislation work groups.

The deadline for comments on the initial draft is usually two weeks. If an NGO has submitted its opinion within the prescribed term, its objections have to be taken into account or agreement must be reached in a coordination meeting. The outcomes of public participation are included in a form of annotation which together with draft legislative enactment is submitted to the legislator.
Draft legislation is freely accessible on the websites of the ministries and the CM. Draft laws are available at the Parliament’s website. Results of the public participation are submitted to the legislator in the form of annotation in case of draft regulatory enactments and in other appropriate form in case of draft development planning documents.

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

Public authorities, for instance, MEPRD cooperates on a regular basis with particular professional associations and NGOs, especially in the areas of waste management, packaging use and the movement of chemicals. Professional associations are involved not only in discussion of legislative acts, but also in their preparation. The MEPRD involves ECC in discussions on various draft legislation.

State Chancellery ensures implementation of the memorandum of cooperation between NGOs and the CM, including regular meetings with representatives of NGOs on topical issues.

The obligation to annotate every legislative draft and to reflect adequately the results of public participation in draft development planning documents, secures practical implementation of Article 8.

Explanatory seminars are organized on significant legislative initiatives, e.g., seminars have been organized by the Baltic Environmental Forum on legislative regulation and development thereof regarding chemical substances and products.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8


Lithuania

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

109. The terms mentioned in Articles 2 and 6 of the Convention are also used in Lithuanian legislation. Article 7 of the Law on Environmental Protection defines the rights of the public concerned and other natural and legal persons, including the right to participate, in accordance with the established procedure, in the process of environmental impact assessment (EIA) of the proposed economic activity, require termination of the harmful effect of objects of economic activities on the environment and submit, in accordance with the procedure laid down by law, proposals regarding the mandatory nature of environmental impact assessment.

110. Accordingly, Article 8 of the Law on Environmental Protection provides for the duties of public authorities, including the duties to comply with or dismiss, on a reasoned basis, the proposals of citizens, the public concerned, other legal and natural persons concerning the issues of environmental protection; make projects of the economic activities which may have a harmful effect on the environment available to the public; evaluate and have proper regard to reasoned proposals of the public regarding the mandatory nature of environmental impact assessment of the proposed economic activity; evaluate and have proper regard to proposals of the public regarding environmental impact assessment of the proposed economic activity and the likely effect of the proposed economic activity on the environment, and encourage citizens, the public concerned, other legal and natural persons to participate in the adoption and implementation of decisions in the field of environmental protection.

111. The ‘public concerned’ is understood as one or more natural or legal persons affected or likely to be affected by, or having an interest in, the taking of decisions, acts or omissions in the field of the environment and protection thereof as well as utilisation of natural resources. For the purposes of this definition, associations and other public legal persons (with the exception of legal persons established by the State or a municipality or institutions thereof) established in accordance with the procedure laid down by legal acts and promoting environmental protection are in any case deemed the public concerned (Article 1 of the Law on Environmental Protection).
112. The specific terms (e.g. the term ‘public concerned’ used in the EIA process) used within the context of the rights of the public and the public concerned and particular social relationships are defined in the special legal acts such as the EIA Law, the Law on Territorial Planning, etc.

Article 6, paragraph 1

113. The activities listed in Annex I to the Convention are provided for in Annexes 1 and 2 to the EIA Law. Annex 1 lists the proposed economic activities subject to the EIA, while Annex 2 contains a list of activities subject to screening for the EIA.

114. The EIA Law also stipulates that the EIA procedure is applied where:

(a) the implementation of a proposed economic activity may affect sites of the European ecological network Natura 2000, and an institution in charge of the organisation of protection and management of protected areas establishes that this effect may be significant;

(b) participants in the EIA process of a proposed economic activity demand, and the competent authority decides that screening for the EIA is conducted also in respect of the proposed economic activity not included in the lists of activities in Annex 1 or 2 of the EIA Law.

115. Article 6 of the Convention is applied to the granting of integrated pollution prevention and control (IPPC) permits. The granting of IPPC permits is regulated by the Law on Environmental Protection and the Rules on the granting, updating and revocation of integrated pollution prevention and control permits approved by Order No D1-528 of the Minister of Environment of 15 July 2013 (the IPPC Rules).

Article 6, paragraph 2

EIA process

116. The EIA Law defines the terms ‘public’ and ‘public concerned’ as follows:

(a) ‘Public’ shall mean one or more natural or legal persons and their organisations, associations or groups.

(b) ‘Public concerned’ shall mean the public affected or likely to be affected by decisions, actions or omissions in the EIA sphere, or having an interest in the environmental impact assessment process. For the purpose of this definition, associations and other public legal entities (except for legal entities established by the state or municipalities or their bodies) organised under the procedure prescribed by legislation and promoting environmental protection shall be deemed to be the public concerned in all cases.

117. Public information and participation in the EIA process of the proposed economic activity is regulated in detail by the Procedure for public information and participation in the environment impact assessment process of the proposed economic activity. The Procedure provides for the public information and participation procedures, timeframe, persons responsible for public information and assurance of participation, and lists the functions of such persons.

118. In accordance with the Procedure, the public information and participation procedures include:

(a) notices of the EIA of the proposed economic activity (a notice of the screening, a notice of whether the environmental impact assessment of the proposed economic activity is mandatory and a notice of the EIA programme prepared);

(b) making the EIA report on the proposed economic activity available to the public;

(c) information on the decision taken on the proposed economic activity.

119. In accordance with the established procedures, the public is informed of the proposed economic activity in a proper and timely manner.
120. Where the public is of the opinion that the rights assured under this Convention have been infringed, i.e. the authorities have failed to comply with the information obligation or the provision of information has been inappropriate or untimely, the public may, in accordance with law, apply to: (a) the authority that has committed inappropriate actions or omissions with a request to evaluate whether the responsible officials have performed the duties assigned to them by law; (b) the Seimas Ombudsman; (c) an administrative disputes commission; or (d) a court.

Granting of IPPC permits

121. The IPPC Rules stipulate that an application for the granting of an IPPC permit has to contain non-technical information comprehensible to the public and identify the most important aspects of the proposed activity. The public must have the possibility to make comments and proposals which are to be taken into consideration when taking the decision on the granting of a permit. The public concerned has the right to appeal against a decision taken by the competent authority. These provisions ensure effective public participation in the process of the granting of IPPC permits.

Article 6, paragraph 3

EIA process

122. The EIA Law and the Procedure for public information and participation in the EIA process of the proposed economic activity stipulate the timeframes for public information and participation in the EIA process:

(1) Screening for the EIA:

(a) on publishing the screening conclusion, the public has the right within 20 working days to submit to the competent authority requests and proposals for reconsidering the screening conclusion;

(b) on receiving within the timeframe specified in subparagraph a requests or proposals from participants of the EIA process for reconsidering the screening conclusion, the competent authority shall, within 10 working days, by a letter specifying the reasons for reconsidering the screening conclusion invite the organiser of the proposed economic activity, the drafter of the EIA documents, the EIA entities and representatives of the public who have made proposals and together will them examine the proposals or requests, reconsider the screening conclusion adopted and reach the final screening conclusion.

(2) EIA; in accordance with legislation on the EIA process, the public may submit comments on the EIA of the proposed economic activity until the adoption of the decision;

(a) EIA programme; on publishing an EIA programme, a timeframe of 10 working days is recommended for making the EIA programme available to the public and for allowing the public to submit proposals;

(b) EIA report; an EIA report is published no later than 10 working days before a public hearing, during which the public is entitled to have access to the EIA report and information relating to the proposed economic activity, as well as for 10 working days after a public hearing and one more time for 10 working days after the report is published by the competent authority on its website; the public may submit comments and proposals during 30 working days and until a decision is taken on the proposed economic activity.

Granting of IPPC permits

123. On receiving an application for the granting of an IPPC permit, the Environmental Protection Agency informs the public accordingly within five working days.

124. The public concerned has the right of access to information for at least 15 working days from the date of publication of the information on an application received. The public concerned may submit comments and proposals for an application and the granting or updating of a permit from the date of publishing a notice on the receipt of the application.
Article 6, paragraph 4

125. In accordance with national legislation, early public participation is ensured in the initial stage when all opportunities are still open.

126. The public is informed of the screening conclusion where a screening procedure for the EIA is being carried out, as well as of an EIA programme developed in the initial stage of the EIA procedures.

127. Paragraph 70 of the IPPC Rules stipulates that the competent authority – the EPA – shall ensure that the public concerned are given early and effective opportunities in both the granting of a permit for new installations and updating a permit.

Article 6, paragraph 5

128. Legislation has no requirement to encourage operators of the proposed economic activity to identify the part of the public concerned and begin a discussion before the commencement of the procedures.

129. In view of the established national practice, future applicants implement early public information and identify the public concerned in the event of a headline-making proposed activity (an activity of national importance, especially important for a particular region, etc.).

Article 6, paragraph 6

EIA process

130. The competent authority – the EPA – on its website publishes in a centralised manner the information about:

(a) the screening conclusions of the EIA of the proposed economic activity and the screening information which served as the basis for adopting the screening conclusion;

(b) the reconsidered screening conclusions of the EIA of the proposed economic activity and the minutes of reconsidering of the screening conclusion;

(c) the prepared EIA programmes of the proposed economic activity;

(d) the approved EIA programmes of the proposed economic activity;

(e) the EIA reports of the proposed economic activity received;

(f) the decisions taken on the admissibility of the EIA of the proposed economic activity;

(g) the additional possibility of access to the prepared EIA programmes and EIA reports of the proposed economic activity;

(h) former errors and their corrections and the corrected/new screening conclusion or decision on the feasibility of the proposed economic activity;

(i) the screening conclusions and decisions on the admissibility of the proposed economic activity annulled by a court;

(j) the suspension of the EIA procedures;

(k) decisions on the extension of the validity of the screening conclusions and decisions on the feasibility of the proposed economic activity.

On submitting a request, the public is entitled to obtain all other information relating to the proposed economic activity and the procedures applied.

131. The competent authority publishes the adopted EIA decision on its website, and the developer or the drafter of EIA documents announce in the media the information on the decision taken concerning the admissibility of the
activity in terms of environmental impact. The information published by the developer or the drafter of EIA documents specifies:

(a) the developer of the proposed economic activity (name, address and telephone);

(b) the drafter of EIA documents (name, address and telephone);

(c) the title of the proposed economic activity;

(d) the location of the proposed economic activity (county, municipality, borough, city or village);

(e) a description of the proposed economic activity (brief overview of the proposed economic activity);

(f) a description of measures planned for avoiding, mitigating or compensating the adverse environmental impact or eliminating its consequences (key measures are indicated);

(g) conclusions presented by the EIA entities (with an indication of whether approval was issued by all EIA entities);

(h) public information and participation (when and in what media the notices were published, when the public hearing took place and how the proposals from the public were taken into account);

(i) the nature of the decision of the competent authority (the proposed economic activity is admissible/not admissible), the date of its adoption and conditions related to it, and the main reasons on which the decisions was based);

(j) where and when more detailed information on the adopted decision on the admissibility of the proposed economic activity at the selected location can be made available to the public.

Granting of IPPC permits

132. A public notice on an application for the granting of an IPPC permit received and published by the EPA (on the website and in the press) contains:

(a) the name and address of the economic entity (installation) to which a permit is to be granted or updated, and information on the activity planned to be carried out at the installation;

(b) where (the EPA address and website), when (the hours and date by which the information will be made available) and when the application received will be made available;

(c) the name of the authority taking the decision on the granting or updating of a permit, from which information can be obtained and to which comments or questions can be submitted, and to whom, how and by when proposals and comments on the granting or updating of a permit should be submitted;

(d) information on consultations with an EU member state, where such consultations are held;

(e) information on the possible nature of the decision on the granting or updating of a permit;

(f) data on measures of public participation and consultations applied (where the information was published, and where the submitted proposals and the granted permit are made available).

133. The EPA will, no later than within three working days from the publication of a notice, publish the electronic versions of permits granted or updated and the information on the revocation of permits.

Article 6, paragraph 7

EIA process

134. The public is entitled to make comments and proposals throughout the EIA process. Proposals need not be motivated.
135. The drafter of EIA documents registers all proposals received from the public throughout the assessment process in accordance with the established form, evaluates them, prepares their reasoned evaluation and replies in writing to representatives of the public concerned who have submitted the proposals. The reasoned evaluation of proposals from the public is an integral part of the EIA report, which is displayed publicly and made available to the public.

136. Representatives of the public may make proposals and comments also at a public presentation of an EIA report.

137. Prior to making a decision, the competent authority examines the reasoned evaluation of all proposals from the public concerned that was carried out by the drafter of EIA documents and invites representatives of the public who have submitted proposals and other parties to the process for a discussion of their proposals.

Granting of IPPC permits

138. The public concerned is entitled to submit proposals and comments on an application and the granting or updating of a permit from the date of publication of a notice on the receipt of the application. A period of at least 15 working days is set for submitting comments. Comments received are subject to registration and evaluation. Representatives of the public who have submitted comments are informed of the evaluation results in writing.

Article 6, paragraph 8

EIA process

139. Where screening is carried out with a view to identifying the expediency of EIA procedures, the public concerned is entitled, within 20 working days from the date of publication of the screening conclusion, in accordance with the procedure established by the EPA to submit proposals to the competent authority for reconsidering the screening conclusion. On receiving such a request from the public concerned, the competent authority must invite the participants of the EIA process to be present at adopting the final screening conclusion.

140. The provisions of the EIA Law expressly obligate the competent authority, in the process of analysing the EIA report, to examine the reasoned evaluation of proposals from the public concerned and written proposals received from the public concerned by the drafter of the EIA document.

141. Where a competent authority has received proposals from the public concerned for the EIA report, prior to taking the decision the competent authority organises a discussion on the proposals and draws up minutes of the meeting in accordance with the Procedure for the examination of EIA documents of the proposed economic activity at the MoE and institutions subordinated to the Ministry.

Granting of IPPC permits

142. The IPPC Rules stipulate that the EPA shall register comments and proposals received from the public, analyse and evaluate them prior to taking the decision on the acceptance or rejection of an application. Written information on the results of analysis of comments and proposals from the public is supplied by the EPA to representatives of the public and the operator that have submitted the proposals (prior to taking the decision on the granting/updating or not granting/not updating a permit).

Article 6, paragraph 9

EIA process

143. The competent authority publishes the screening conclusions made on its website, indicating the date by which proposals for reconsidering the screening conclusion may be submitted. The final screening conclusion is published on the website of the competent authority.

144. On receiving the screening conclusion from the competent authority as to whether the proposed economic activity is subject to mandatory EIA, the developer must inform the public about it by announcing the following information in the national press and the press of the city/cities or region/regions of the proposed economic activity,
on the notice board of the municipality, and, wherever possible, on the radio and television. The developer and the
drafter of EIA documents are entitled to additional information of the public on their own initiative by publishing
notices also at other places of public concentration (e.g. on notice boards of non-governmental organisations, shops
and housing cooperatives), providing information by other means (e.g. surveys, involvement of the media,
delivering notices to households, sending them by post, e-mail, etc.).

145. Within three working days from the adoption of the decision on the admissibility of the proposed economic
activity, the competent authority must publish that decision on its website. On receiving the decision of the
competent authority on the admissibility of the proposed economic activity at the selected site, the developer or the
drafter of EIA documents has, within 10 working days, to inform the public appropriately in the mass media
specified by legislation.

Granting of IPPC permits

146. The amendments made to the IPPC Rules in 2013 have established a uniform procedure under which the EPA
is obligated to publish on its website the electronic versions of permits granted or updated and the information on the
revocation of permits.

Article 6, paragraph 10

147. National legislation stipulates that the requirements of Article 6 of the Convention apply when reconsidering
the implementation conditions of a particular activity.

Article 6, paragraph 11

148. The information on the implementation of the Convention in the field of GMOs is provided at the
implementation of Article 6 bis and Annex I bis.

XVI. Obstacles encountered in the implementation of article 6

149. During the EIA procedures the public has raised increasingly more questions unrelated to environmental impact
assessment, environmental protection and public health, but rather linked with property relationships and the
possible depreciation of immovable property.

150. NEW! The Lithuanian public is facing the limitation of the rights laid down in Article 6 in a transboundary
context. A mere 50 km away from Lithuania’s largest city, the capital Vilnius, Belarus is building a nuclear power
plant in Astravets. The greatest concern around this project arises from the facts that the public was not and is not
being informed properly of the processes related to the development of the Astravets nuclear power plant project,
and it has failed to obtain detailed explanations to the questions raised. Another concern is compliance of this project
with the requirements of international legislation, especially in the field of nuclear safety, and the assessment
problems that arise. After the failure to resolve the existing problems by cross-border negotiations, on 25 March
2015 Lithuania appealed to the Compliance Committee of the Aarhus Convention concerning compliance of
Belarus’ actions with Article 3, paragraph 9 and Article 6, paragraphs 2 to 4, 6 and 8 in the development of the
Astravets nuclear power plant project.

XVII. Further information on the practical application of the provisions of article 6

XVIII. Website addresses relevant to the implementation of article 6

151.

MoE: www.am.lt

EPA: www.gamta.lt
XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

152. The basis for public participation in the preparation of plans and programmes relating to the environment is laid down in the Law on Environmental Protection and the Law on Territorial Planning. Legislation implementing these laws and stipulating the provisions of public participation includes:

(a) the Specification of the procedure for public participation in strategic environmental assessment of plans and programmes and information of assessment entities, European Union member states and other foreign states;

(b) the Regulations on public information, consultations and participation in decision-making on the planning of territories;

(c) the Procedure for public information and participation in the preparation of plans and programmes for climate change management, ambient air and water protection and waste management approved by Order No D1-381 of the Minister of Environment of 26 July 2005.

153. Under the Law on Environmental Protection, ‘plans and programmes’ are understood as national-, regional- or local-level planning documents (action plans and programmes, development plans (programming documents), plans and programmes for the development of branches of the economy, strategies, conceptions, territorial planning documents, etc., including the plans and programmes which are co-financed by the European Community) which are drafted, approved and/or adopted according to the legal acts currently in force or in implementing public administration within one’s remit and whose implementation consequences may be of importance for the environment, including complete or partial modifications to such plans and programmes.

154. The Procedure for the SEA of plans and programmes does not provide for a detailed procedure for public information and participation but makes references to the implementing legislation. A different procedure for public information and participation is established where planning documents for territories and planning documents other than those for territories are harmonised.

155. In accordance with the Specification of the procedure for public participation in strategic environmental assessment of plans and programmes and information of assessment entities, European Union member states and other foreign states, the publicity procedures of a draft plan or programme (of planning documents other than those of territories) and assessment consists of:

(a) a public notice on the decision of the organiser to carry out or not to carry out an assessment of a plan or programme;

(b) the availability of a plan or programme assessment report and a draft plan or programme to the public;

(c) publicity procedures in cross-border consultations;

(d) information on an approved plan or programme.

156. In accordance with the established procedures, the organiser of the preparation of plans and programmes, after consultations with assessment entities, will publish (on the website and in the press), within 10 working days, the information on whether the SEA will be carried out or not. Where the SEA is not carried out, the organiser has to justify such a decision.

157. Where the SEA is carried out, no later than 20 working days before a public hearing, the organiser will publish on the website and in the press the information on: where, when and until when a draft plan or programme and the assessment report will be made available to the public (the address and time is indicated, and the timeframe must be at least 20 working days); where in particular a draft plan or programme and the assessment report are published on the website of the organiser (the link or rubric are indicated); to whom, by when and in what form (e.g., in writing or by email) proposals can be made concerning a draft plan or programme and the assessment report; when a public hearing will be held at the place of an authority that has organised the preparation of a plan or programme (or at
another place specified in the notice), at which the public will be familiarised with the assessment report and the
draft plan or programme.

158. During a period of at least 20 working days, the public can submit comments and proposals for a draft plan or
programme being development and the assessment report.

159. The organiser evaluates proposals received from the public and informs the public at a hearing on how account
has been taken of the comments received before the hearing. Where comments received from the public are not
taken into account, a statement of an established form evaluating proposals from the public is drawn up. The
organiser makes this statement available to the public no later than within 15 working days.

160. Documents of public consultations (certificates of submission of proposals, minutes of a public hearing, a list
of participants and information on notices) are an integral part of the SEA report.

161. When preparing planning documents for territories and carrying out their assessment, public information and
participation in this process is based on the procedure laid down in the Regulations on public information,
consultation and participation in decision making on the planning of territories. The publicity of the preparation
of planning documents for territories includes the following procedures:

(a) provision of information to the public on the beginning of planning of territories and planning objectives and the
programme of planning operations indicating whether the SEA will be carried out; where no SEA is carried out, the
reasons are specified about why the SEA was not carried out;

(b) acquaintance with the prepared planning documents for territories and their assessment reports;

(c) consultations with competent organisations or the public concerned;

(d) submission and examination of proposals;

(e) public hearing on planning documents for territories;

(f) publication of a prepared planning document for territories;

(g) publication of an approved planning document for territories.

162. In accordance with the Procedure for public information and participation in the preparation of plans and
programmes for climate change management, ambient air and water protection and waste management, the public
must be provided an opportunity to have access to plans and programmes during a period of at least 20 working days
from the date of publication of the information on a plan or programme subject to preparation, modification or
upating. During this period, the public is entitled to submit comments and proposals that are entered in a register of
an established form. Motivated replies are provided to rejected proposals within 10 working days from the deadline
for the submission of proposals. The reasons are also provided on which decision making was based in the
preparation, modification or updating of the specified plans and programmes, and statistical information on public
participation is supplied (the number of natural and legal persons that submitted proposals, and the number of these
proposals taken or not taken into account).

XX. Opportunities for public participation in the preparation of policies relating to the environment
provided pursuant to article 7

163. The right of the public to participate in the formation of policies related to the environment is ensured by
providing opportunities for representatives of the public to take part in the activities of different committees,
commissions or working groups that decide issues relating to environmental policies.

164. For example, in accordance with the Law on Angling, an angling council is established that makes proposals to
the Ministers of Environment and of Agriculture on issues relating to angling. This council consists of
representatives of anglers’ associations as well as representatives of the media in the field of angling.
165. The implementation of this right is also ensured by public participation in the legislative process (see the information on the implementation of Article 8).

XXI. Obstacles encountered in the implementation of article 7

166. In the opinion of public representatives, public participation during the preparation of draft legislation is not ensured in practice. Public representatives indicate that the harmonisation of legislation only through the use of the ISLA is inappropriate. This does not ensure public participation in the early stage when all opportunities are still open. The representatives also claim that, in accordance with the applied practice, not all laws are harmonised through the ISLA.

XXII. Further information on the practical application of the provisions of article 7

167. An example reflecting public participation in the preparation and updating of RBD management plans and programmes of measures is this. When updating the Nemunas, Lielupė, Venta and Daugava RBD management plans and programmes of measures in 2013, the EPA website published the schedule of preparation of the RBD plans, the main surveys on the RBD water protection problems and the draft RBD management plans and programmes of measures. Each time at least six months were devoted to making the information available to the public and submission of comments. The updated draft RBD management plans and programmes of measures were coordinated with different authorities and organisations and the public concerned (were sent in written form, and meetings were held in each RBD). The parties concerned were urged to provide comments on the draft management plans and programmes of measures and make their proposals. Subsequently the documents of measures were published in the form of legal acts on the ISLA.

168. Another practical example of the implementation of Article 7 is the assurance of public participation in the development of a system on the assessment and management of flood risks system. As part of the implementation of the provisions of Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks, the period of 2011-2016 saw the preparation and approval of a report on the preliminary assessment of flood risks, maps of flood hazards and flood risks and plans on the management of flood risks. The development of this system was directly coordinated by the MoE, the EPA and the LHS, and national and foreign experts and scientists as well as local government authorities and groups of the public concerned participated in the preparation of results. The results of each stage were presented to the public both during and after the preparation, and each time at least six months were provided for making the information available to the public and submission of comments, and after the system had been developed the results were published on the ISLA in the form of legal acts. The information prepared in a popular form was published on the EPA website. For the visualisation of the essential conclusions, an interactive map was produced and published on the internet (http://potvyniai.aplinka.lt/).

169. NEW! Evaluating the practice of coordinating plans and programmes with the public in the landscape area, the process of coordinating the National Landscape Management Plan approved in 2015 deserves mention. The development of this plan sought to educate the public (enhance the understanding of the individuality, value and role of landscape) and involve it landscape protection and maintenance actions. The publicity procedures were conducted with account of the provisions of the European Landscape Convention and Recommendation No CM/Rcc(2008)3 of the Committee of Ministers to member states on the guidelines for the implementation of the European Landscape Convention. The information on the beginning of the planning process, the preparation of the plan, the concept and the prepared solutions was published in the official publication Valstybės žinios (Official Gazette) and on the MoE website. The solutions of the plan concept were presented to the public at a training seminar organised by the MoE. During the preparation of the concept, a survey of 1000 inhabitants of Lithuania between the age of 15 and 74 was carried out. The solutions of the plan were presented at an annual conference of landscape architects held by the MoE.

XXIII. Website addresses relevant to the implementation of article 7

170.
XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

171. In Lithuania, the public is assured the right to participate in the legislative process. No special provisions are envisaged that relate to public participation in the adoption of regulations related to the environment.

172. NEW! In accordance with the Law on Legislative Framework adopted in 2014, legislation means a process covering the submission of legislative initiatives, drawing up of draft legal acts and adoption, signing and publication of legal acts. Legislation in Lithuania, inter alia, is guided by the principle of openness and transparency meaning that legislation should be public and that legislative solutions relating to general interests may not be taken without the knowledge of the public or public participation; also that the national policy objectives, the need for legal regulation and the entities taking part in legislation must be known, and the public and interest groups must be provided conditions to make proposals for legal regulation at all stages of legislation; and that the entities who initiated the preparation of draft regulations, drew up draft regulations and carried out the evaluation of the expected effect of legal regulation have to be known. The purpose of public consultations is to ensure openness and transparency in legislation, to get feedback from the public on the issues of legal regulation and their solutions, to allow the public to influence the content of a draft legal act and to better assess the positive and negative consequences of the envisaged legal regulation and the costs of its implementation, to submit proposals relating to the legislative initiatives and draft legal acts published in the ISLA, as well as to the monitoring of legal regulation carried out. The Law on Legislative Framework stipulates that the public must be consulted in due time and on essential issues (effectiveness of consultation), also to the extent necessary (proportionality of consultation).

173. The duty of public consultations in fact is implemented through the publication of draft regulations on the ISLA where parties concerned can make their comments and proposals. Entities engaged in the preparation of regulations must transfer to the ISLA and publish there those proposals that have been submitted not to the ISLA. An entity preparing a draft regulation takes all proposals submitted into consideration.

174. The right of the citizens’ legislative initiative and the procedure for its implementation are regulated by the Law on the Citizens’ Legislative Initiative.

175. The procedure for the implementation of the right to petition guaranteed under the Constitution of the Republic of Lithuania is laid down by the Law on Petitions. The law stipulates that, in exercising the right to petition, a person may, in accordance with law, apply to the Seimas, the Government or municipal authorities, in particular a municipal council and the director of a municipal administration. An applicant is a citizen of the Republic of Lithuania not younger than 16 years or a foreign national permanently residing in the Republic of Lithuania, or a group of them who have drawn up and submitted an application (petition) in accordance with this law.

XXV. Obstacles encountered in the implementation of article 8

176. NEW! Obstacles include low activity of the public in the legislative process and the delayed submission of comments.

XXVI. Further information on the practical application of the provisions of article 8

Answer:

XXVII. Website addresses relevant to the implementation of article 8

177.
Luxembourg

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

On the international level, Luxembourg

- is a Contracting Party to the Espoo Convention on Environmental Impact Assessment in a Transboundary Context and has ratified the two related amendments and the Protocol on Strategic Environmental Assessment,

- is a Contracting Party to the Aarhus Convention and has ratified the Protocol on Pollutant Release and Transfer Registers.


The installations and projects covered by the EIA Directive (Directive 85/337/EEC) and the IED (Directive 2010/75/EU) largely overlap.

The legislation transposing the IED will be implemented by the end of the first half of 2014; it will adapt the provisions of the amended Classified Establishments Act.

The Directives have been implemented as follows:

The amended Classified Establishments Act brings the activities listed in Annex I within the scope of a system for granting Class 1 permits under the powers of the Minister responsible for the environment and of the Minister responsible inter alia for health and safety at work. This permit system applies inter alia to all installations and projects covered by Directives 85/337/EEC and 2010/75/EU, the scope of which goes beyond that of the Aarhus Convention, without prejudice, however, to issues of transport infrastructure and restructuring of landholdings, which will be referred to below.

The following outline covers the main principles of the Act, providing a basis on which to assess how far Luxembourg’s legislation complies with article 6, paragraphs 1 to 11, of the Aarhus Convention.

The Act requires applicants to submit a set of application documents based on standard forms which are provided to them. These documents are to include relevant information on inter alia the identity of the applicant, the nature and location of an establishment, the installations and processes to be carried out, the nature and extent of the activity, any water abstraction, discharges into the air, soil and water, noise emissions, waste production and management, production, consumption and use of various forms of energy, an environmental impact notice which contains the necessary data for identifying and assessing the main environmental effects of emissions, any planned measures to minimize or prevent environmental risks, including the techniques and technologies to be used, measures provided for monitoring environmental emissions, a non-technical summary of the data in question, the environmental impact assessment and, for establishments covered by the IED, an outline of the main alternatives – where these exist – that the applicant has studied.

Further documents are then added: as well as relevant plans and maps, these should include the opinions of administrative authorities concerned by the application and whose views must be sought, as well as other reports and opinions available to the administrative authority and which it considers essential to its decision-making.
At the final stage, the application file should include, for establishments covered by the IED and/or subject to EIA, a clear statement of the nature of the decisions that could be made; where there is a draft decision, this should be added.

The Act provides that a Grand-Ducal regulation shall specify the Class 1 establishments for which the Minister responsible for the environment is empowered to require an environmental impact assessment from the applicant, on the basis of their nature, characteristics or siting. This Grand-Ducal regulation shall specify the nature of the information to be provided by the developer in connection with the EIA, as well as all the detailed rules for carrying it out. The EIA shall identify, describe and appropriately evaluate, according to each individual case, the direct and indirect effects of the establishment concerned on the environment.

The Act introduces a procedure and time frames for decision-making, including at the stage of preparatory inquiries into permit applications. Any disputes that arise are subject to formal discussions between the applicant and the administrative authority and, where appropriate, to interlocutory proceedings before the Administrative Court, with a view to adopting a definitive version of the application documents.

For these establishments, the Act introduces a public inquiry procedure that involves displaying a notice for two weeks in the commune where the establishment would be sited, indicating the installation or activity for which the permit is sought or the proposal to revise authorized emission limit values (including new details on establishments covered by the IED), with simultaneous advertising in the press (at least four daily newspapers printed and published in Luxembourg). The minutes of the public inquiry shall contain the written and oral comments submitted by anyone concerned, as well as the opinion of the town councils of the commune or communes concerned.

The Act provides that applicants or operators shall be notified of decisions granting, updating, refusing or withdrawing a permit, as shall, for the purposes of displaying information, the local authorities of the commune where the establishment is situated. In addition, the public shall be informed of decisions taken, with the information displayed at the town hall for a period of 40 days; a copy of a permit granted is kept by the commune and freely available for inspection at the town hall; anyone who has submitted comments during the public inquiry shall be informed by registered letter of the granting or refusal of a permit and of the procedure for publicizing the decision; individual notification can be replaced by insertion of a notice in at least four daily newspapers printed and published in Luxembourg). Decisions granting, updating or refusing permits for establishments covered by the IED and for establishments subject to an environmental impact assessment shall state, after reviewing the concerns and opinions expressed by the public, the reasons and considerations on which the decision is based, including information on the public participation process.

The Act contains provisions relating to transboundary co-operation. Thus, where a planned Class 1 establishment is likely to have a significant impact on human beings and/or the environment in another State or where a State is likely to be significantly affected by the application, the application documents, including the impact assessment, shall be forwarded to that State as soon as possible, and at the latest by the time the application is published and displayed. Within the framework of bilateral relations between two States, it shall be ensured that the authorities and the public concerned in the State in question have the opportunity to make their opinions known, if possible during the public inquiry and before the public authority has taken its decision, and that the decision made on the permit application is notified to the State in question.

The Act also introduces the possibility of recognized environmental associations making an application to the courts to vary the decision. These associations are deemed to have a sufficient legal interest to bring proceedings.


of the Effects of Certain Plans and Programmes on the Environment; and 3. amends the Law of 19 January 2004 on
the Protection of Nature and Natural Resources

A Grand-Ducal regulation of 7 November 2007 prescribes the contents of the impact study provided for in cases of
restructuring of rural landholdings, with conditions and detailed rules for carrying it out.

The above-mentioned laws and regulations, adopted inter alia in transposing the corresponding EU directives, also
comply with the letter and the spirit of the Aarhus Convention and the Espoo Convention.

XVI. Obstacles encountered in the implementation of article 6

There are no particular obstacles to highlight in this area, since the relevant rules and procedures are widely known
and unanimously accepted.

Most administrative review procedures instigated against permit decisions relate to the nature, the effect and the
extent of the conditions placed on the permit.

So far as concerns transboundary co-operation, the limited number of cases that have arisen implies that bilateral or
multilateral information and consultation practices are essentially pragmatic, currently requiring few strict rules and
procedures.

XVII. Further information on the practical application of the provisions of article 6

As an example, the Classified Establishments Act creates a support committee which includes inter alia
representatives of recognized environmental associations: it is tasked specifically with discussing and commenting
on any general issues that arise in the context of implementing the Act.

XVIII. Website addresses relevant to the implementation of article 6

The main Web addresses are:

www.emwelt.lu.

http://www.developpement-durable-infrastructures.public.lu/fr/index.html

These websites provide a range of environmental information, with links to other, more specific sites.

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans
and programmes relating to the environment pursuant to article 7

On the international level, Luxembourg has ratified the Kiev Protocol on Strategic Environmental Assessment.

As a Member State of the European Union, Luxembourg is required to transpose and implement the relevant EU
legislation, in particular Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on
the environment (the Strategic Environmental Assessment Directive).

This Directive has been implemented by a Law of 22 May 2008 with the same title (‘the Strategic Environmental
Assessment Act’).

The Act provides inter alia

- that environmental assessment shall be carried out, automatically or on a case-by-case basis, by the authority
  responsible for the plan or programme and before it is adopted or submitted to the legislative and regulatory
  procedure

- that an environmental impact report shall be prepared, in which the likely significant impacts and reasonable
  alternatives are identified, described and evaluated
- that the draft plan or programme – before it is adopted or submitted to the legislative or regulatory procedure – shall be made available to the public as follows:

the subject-matter of the draft plan or programme and of the EIA report shall be publicized via electronic media and in the press; electronic media publicity may be supplemented by information meetings convened by the authority responsible for the plan or programme;

at the same time, the public shall have the opportunity to inspect all the documents at the premises of the authority concerned for a period of 30 days, thus giving all those interested the opportunity to make comments and suggestions via electronic media or to forward their written comments directly to the responsible authority no later than 45 days from the beginning of the period of publicity;

in addition, all the documents shall be sent to other authorities with specific responsibilities on the environment, in order to obtain their views

- that a copy of the draft report shall be forwarded to any other Member State likely to be affected by it, before the plan or programme is adopted or submitted to the legislative and regulatory procedure. Existing frameworks of bilateral relations will be used to ensure that the authorities and the public concerned in that State are informed and have the opportunity to make their opinions known within a reasonable period of time and that the decision made on the draft is notified to the State in question

- that the public and other authorities with specific responsibilities on the environment shall be informed of the adoption of a plan or programme, publicized via electronic media and in at least four daily publications printed and published in Luxembourg

- that an application for annulment may be lodged by persons concerned, including recognized environmental associations which are deemed to have a personal interest in the case in point, against decisions relating to the implementation or non-implementation of an environmental assessment and to the contract documents relating to the environmental impact report.

Mention should also be made of Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.

Information and public consultation – publicized inter alia via electronic media, (which may be replaced by information meetings) and in the press, thus giving those interested the opportunity to inspect all the documents and to make comments and suggestions – have been provided for in legislative and regulatory provisions on inter alia waste management, air quality management and water management (the General Waste Management Plan, sectoral waste management plans, plans or programmes for improving air quality, a nitrates action programme).

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

In Luxembourg, as a general rule, public participation in environmental matters is achieved informally through information and awareness sessions and leaflets, press releases, press conferences and regular contact between the public authorities and, for example, environmental associations. Appropriate information is also available to the public through inter alia the Government’s programme, including the State of the Nation Address delivered annually by the Prime Minister, and policy debates in the parliamentary Chamber of Deputies. There are no particular obstacles to highlight in this area, since procedures are transparent and easily accessible.

XXI. Obstacles encountered in the implementation of article 7

None

XXII. Further information on the practical application of the provisions of article 7

The Law of 25 June 2005 on the Co-ordination of National Policy on Sustainable Development established a Superior Council for Sustainable Development and an Interdepartmental Commission for Sustainable Development. The Superior Council works inter alia towards the broadest possible participation by public and private bodies and citizens in the achievement of sustainable development objectives; it also puts forward its views on all measures relating to national sustainable development policy.

The Interdepartmental Commission is tasked inter alia with drawing up and monitoring the National Plan for Sustainable Development.

The Strategic Environmental Assessment Act has established an interministerial committee to assist the Minister responsible for the environment in fulfilling his brief.

XXIII. Website addresses relevant to the implementation of article 7

The main Web addresses are:

www.emwelt.lu.

http://www.developpement-durable-infrastructures.public.lu/fr/index.html

These websites provide a range of environmental information, with links to other, more specific sites.

XXIV. Efforts made to promote public participation during

the preparation of regulations and rules that may have a significant effect on the environment pursuant to 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, pursuant to article 8. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

The country’s laws and Grand-Ducal regulations are published in Mémorial, the official gazette of the Grand Duchy of Luxembourg.

Draft laws and Grand-Ducal regulations are submitted inter alia to professional bodies concerned for their views; they are also are notified, where relevant, to any appropriate environmental associations.

Discussion of draft laws in the Chamber of Deputies’ Environmental Committee enables consultation with the private sector and with environmental associations.

XXV. Obstacles encountered in the implementation of article 8

There are no particular obstacles to highlight in this area, since the mandatory procedures for consulting professional bodies are strictly adhered to, with consultation often taking place even before the draft law or regulation has come before the Council of Government (Cabinet).

XXVI. Further information on the practical application of the provisions of article 8

None

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:
The main Web addresses are:

www.emwelt.lu.

http://www.developpement-durable-infrastructures.public.lu/fr/index.html

These websites provide a range of environmental information, with links to other, more specific sites.

Malta

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

The principle of non-discrimination is provided for in Article 45 of the Constitution of Malta, which states that ‘no law shall make any provision that is discriminatory either of itself or in its effect’. Therefore, the national provisions on public participation in decisions on specific activities must be interpreted in terms of Article 45.

(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;

The Industrial Emissions (Integrated Pollution Prevention and Control) Regulations (S.L. 549.77) (Industrial Emissions (IPPC) Regulations) provides for public participation with regards to the permitting of installations. Public participation with regard to non-IPPC environmental permits is also provided for through procedural measures in certain cases depending on the envisaged impacts.

In addition, the Development Planning Act (Cap. 552) provides for public participation in decision-making for any development whether it requires an environmental impact assessment (EIA) or otherwise. In particular the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provide more detailed provisions regarding public participation inter alia. The Environmental Impact Assessment Regulations (EIA Regulations) (S.L. 549.46) also call for public participation as shall be explained below.

Therefore, the provisions of article 6 are applied both to decisions on activities that fall within annex I and those that do not.

(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;

These requirements are provided for in the Industrial Emissions (IPPC) Regulations (S.L. 549.77), whereby Regulation 18 states that ERA must ensure that the public concerned are given early and effective opportunities to participate – more details are then provided in Schedule 4.

As regards planning applications, the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) obliges the Executive Chairperson (established under the Development Planning Act [Cap. 552]) to ensure that information about the applications are available online, on the actual site, as well as at the relevant local council at an early stage in order to allow for members of the public to make representations.

As regards EIAs, this procedure is catered for under Regulation 25 of the EIA Regulations (S.L. 549.46) which provides inter alia, that the public shall be informed at least 15 but not later than 30 days before the date of the public hearing about their right to attend and make representations on the proposal. The public will be informed of the date, time and place of the hearing through a publication in the Government Gazette and in a local newspaper. The applicant is also requested to publish in at least one daily newspaper in the Maltese language and in at least one daily newspaper published in the English language, a notice with details including the details on the public hearing and opportunities for public participation.
(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3;

Time limits for public participation are listed in the relevant legal instruments as listed below and there is a practice to authorise an extension of the consultation period if reasonable.

The Industrial Emissions (IPPC) Regulations (S.L. 549.77) provide for a 30 day or (15 day in cases of minor changes to an application or similar decisions) time frame;

The Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provide for a 15 day time frame in the case of summary procedures, i.e. specific types of development applications falling within the provisions of Schedule 2 therein; and a 30 day time frame for all other cases (including those which required an EIA) – though such periods may be shortened to seven days in urgent cases.

The EIA Regulations (S.L. 549.46) provide for the opportunity for the public to make comments prior to the public hearing (see above), during it, and up to seven days after it.

(d) With respect to paragraph 4, measures taken to ensure that there is early public participation;

See answers provided above.

(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;

As per the Industrial Emissions (IPPC) Regulations (S.L. 549.77) Schedule 4, the public consultation process shall be initiated through a notice in at least one local newspaper and on ERA’s website, and ERA may also require the operator to organise one or more public meetings as part of the public consultation process. In addition supplementary procedural measures include matters such as the identification of relevant stakeholders.

Development applications are found on the Department of Information’s website, as well as on the Planning Authorities website; in the case of major applications as listed in Schedule 1 therein, the applicant may also be requested to place additional adverts in local newspapers and to hold consultations in relation to such an application. In addition, as per the EIA Regulations (S.L. 549.46), the applicant must publish a notice available to the public that includes details on the proposed application. In addition, supplementary procedural measures include matters such as the identification of relevant stakeholders.

(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;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), this requirement is catered for under Regulation 18 and Schedule 4. The PA also makes planning applications and details available online for effective public access. The provisions of paragraph 6 are also catered for in the EIA Regulations (S.L. 549.46).

(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;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), the procedure is specifically regulated under Schedule 4. Regulation 11 of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), allows any person to declare an interest in any development application and make representations to the PA by any means of communication, written or electronic, in the Maltese or English language, and must include an electronic address. As per the EIA Regulations (S.L. 549.46), the Director of Environment Protection shall arrange for a public hearing to take place, at which the public may make comments and express
their views on the impact of the proposed development – the process is regulated through Regulation 25(7) – though comments in writing are also accepted prior to and even after the hearing.

(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;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), Schedule 4 provides that the results of the consultations must be taken into due account in the taking of a decision and furthermore, Regulation 18 states that the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision must be published. Article 72(2) of the Development Planning Act (Cap. 552) also states that in its determination upon an application for development permission, the Planning Board shall have regard to representations made in response to the publication of the development proposal. In relation to EIAs, this requirement is catered for in Regulation 26 of the EIA Regulations (S.L. 549.46).

(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;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77) this is catered for by Regulation 18(2) which requires the competent authority to make the decision publicly available online. Under Regulation 6(6) of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), the Executive Chairperson shall establish the publication date of the decision which shall not be later than fifteen days from such decision; and the proposal together with the name of the applicant and a note as to whether the application has been approved or refused shall be published on the websites of the competent authority and the Department of Information.

(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;

The abovementioned rules relating to the Industrial Emissions (IPPC) Regulations (S.L. 549.77) apply to a decision on granting, reconsideration or updating of a permit. As per Article 71(8) of the Development Planning Act (Cap 551) and regulations 5(4) and 12(6) of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), when material changes in the application are proposed, or fresh/revised drawings or documents are submitted, those who had previously made representations on the original proposal are informed and are allowed to make comments. Under the EIA Regulations (S.L. 549.46), if there are any requested changes or extensions of a development which would result in significant adverse effects on the environment, the operator may be required to undertake another EIA. In addition, carrying out public consultation where there is an EIA update is considered best practice in the implementation of EIA.

(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.

As regards the deliberate release of genetically modified organisms, this is regulated by the Deliberate Release into the Environment of Genetically Modified Micro-Organisms Regulations (S.L.549.60), whereby the public is given the opportunity to make representations and comments on any proposed release as per Regulations 9 and 12.

Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/1.4 20 February 2007

Paragraph 1: Activities falling under article 6

- Does national legislation or practice apply the procedures of article 6 of the Convention exclusively to decision-making requiring an environmental impact assessment (EIA) or also to other types of decision-making?

Public participation is catered for under the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), in which the public may make representations on any planning
application (whether it required an EIA or not), and as regards applications relating to Projects of Common Interests (as per EU Regulation (EU) no 347/2013) or the Seveso III Directive (Directive 2012/18/EU transposed through the Control of Major Accident Hazard Regulations [S.L. 424.19]) whereby the public must be given the right to participate in the application process. Public participation is also included in the decision-making process under the Industrial Emissions (IPPC) Regulations (S.L. 549.77).

With respect to development applications, planning regularisation procedures and summary planning procedures were introduced in May 2016 through the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13). For the regularisation procedure (which does not require an EIA), an application needs to be submitted which is published on the Government Gazette, and is subject to public consultation. With respect to the summary procedure, most relevant applications were previously processed through the Development Notification Order procedure and were not published for public consultation. Through the summary procedure, applications are now published on the Government Gazette and Department of Information website, have a site notice affixed to the site and the public is allowed to submit any comments/objections generally within 15 days.

• In case a number of consecutive decisions are required in order to permit a proposed activity listed in annex I (e.g. a planning permission, a construction consent, an environmental permit, a mining license), does the legislation require public participation only in relation to one of such decisions (which one?), some of them (which ones?) or all of them?

Public participation is a requirement for: planning applications under the Development Planning Act (Cap. 552), EIAs under the EIA Regulations (S.L. 549.46) and environmental permits under the Industrial Emissions (IPPC) Regulations (S.L. 549.77). The trend is to harmonise these processes.

Paragraph 2: Notification of the public concerned

• Does the national law define the public concerned and, if so, how?

National legislation provides a definition of the ‘public concerned’ in the EIA Regulations (S.L. 549.46): “the public concerned” means the public affected or likely to be affected by, or having an interest in, the environmental decision-making procedures referred to in these regulations; for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest: Provided that where the term "public" appears in these regulations it shall include "the public concerned".

• Are any special measures taken to encourage public participation in the most significant environmental decision-making cases?

The PA makes use of social media in order to encourage public participation in certain major cases. To encourage the public to participate in EIAs, adverts are issued in the press and on ERA’s website, inviting the public to comment within stipulated timeframes in the legislation.

• What is the legal effect of failing to duly notify the public concerned?

In all cases, if the responsible authority fails to duly notify the public concerned, this may nullify the procedure.

Paragraph 3: Time frames for public participation

• How much time is usually allocated for public consultation? Is there a minimum period prescribed by law?

• What are the time frames for:
  o notifying the public about the availability of the relevant information?
  o the public to access the relevant information, form its opinion and submit its comments?
  o notifying the public about the commencement of public hearings?
Schedule 4 of the Industrial Emissions (IPPC) Regulations (S.L. 549.77) sets the periods for consultation applicable to installations covered by the directive. More specifically, the timeframe for public consultation shall be thirty days for the procedures described in Regulation 18(1)(a) to (d) and shall be fifteen days in all other cases where the competent authority deems consultation necessary, provided that where the application for reconsideration of a permit in accordance with Regulation 18(1)(e) includes a request for a substantial change, the timeframe for public consultation shall be thirty days. Moreover, the competent authority may also require the operator to organise one or more public meetings as part of the public consultation process.

The Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provide for a 15 day time frame in the case of applications falling within the provisions of Schedule 2 therein, and a 30 day time frame for all other cases (including those which required an EIA) – though such periods may be shortened to seven days in urgent cases as may be indicated in the publication of the application on the website of the Department of Information.

In the case of EIAs, the EIA Regulations (S.L. 549.46) in Malta provide various opportunities for public participation, i.e. at the scoping stage and at the review stages of the process. Members of the public are allowed 21 days to submit any issues they wish to see included in the EIA Terms of Reference. The public is given a 21-day period to comment on the Environmental Statement. In addition to the latter, a public meeting is called for Annex I projects for which the public has an additional 7 days, following the public meeting/hearing, to comment on the Environmental Statement. For the public meeting/public hearing, the public cannot be notified less than 15 days prior to the meeting.

Paragraph 4: Early public participation

- Does the law clearly identify specific stage(s) of a decision-making procedure at which the public notification shall take place?
- Is public participation provided for in the screening and/or scoping phase of an EIA procedure?
- Does public participation in a decision-making process for proposed activity which is subject to an EIA take place at a stage when alternatives are still open?

The Industrial Emissions (IPPC) Regulations (S.L. 549.77) also set various mechanisms for public participation as defined in Regulation 18.

As regards planning applications, the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provides for public notification in the following cases: upon a request for the planning permission as discussed above, upon any change of plans or documents provided by the applicant, after the decision notice is taken, and in cases of a request for a reconsideration of a decision, the date of the sitting.

Public participation is provided for in the scoping phase of the EIA procedure. For Annex I projects, scoping meetings are set for the Local Councils and NGOs.

Paragraph 5: Encouraging prospective applicants to enhance public participation

- What is the developer’s role in organizing public participation during the decision-making procedure?

In the case of IPCC the competent authority may require the operator to organise one or more public meetings as part of the public consultation process (Schedule 4 of the Industrial Emissions (IPPC) Regulations [S.L. 549.77]).

The developer is requested to organise the public meeting/hearing held at the review stage of the EIA process to encourage public participation in accordance with the EIA Regulations (S.L. 549.46). This stage happens before the actual decision-making session called by the PA.

The decision-making session where the PA Board determines a development planning application is open to the public and the role of the developer is for his/her architect and the EIA Coordinator (where an EIA has been undertaken) to present the case and EIA findings.
Paragraph 6: Ensuring access to information relevant to decision-making

• Have there been cases where a complete set of EIA documentation was classified on the basis of commercial confidentiality or intellectual property rights?

During the period under review, there were no complete sets of EIA documentation that were classified on the basis of commercial confidentiality or intellectual property rights.

Paragraph 7: Public comments

• What role do multilateral discussion techniques (e.g. public hearings, clarification meetings) play in the environmental decision-making procedures?

Schedule 4 of S.L. 549.77 provides that the competent authority may require the operator to organise one or more public meetings as part of the public consultation process in the case of IPPC.

With respect to planning applications under the Development Planning Act (Cap. 552), the public is requested to submit its comments in writing. Relevant comments received by the public are assessed as part of the application and presented to the decision-making body during the decision-making process. During Planning Board meetings, interventions from the public are made at the discretion of the Chairperson, however it is standard practice that members of the public are given the chance to make their observations to the Board.

In the case of EIAs, a public meeting/hearing is held at the review stage of the EIA process to encourage public participation in accordance with the EIA Regulations (S.L. 549.46). This stage happens before the actual decision-making session called by the PA.

Paragraph 8: Taking due account of the results of public participation

• Are there practical techniques for taking due account of public comments in cases where many comments have been received? Are there legal regulations to this end?

• Can public comments which have already been submitted be viewed by other members of the public throughout the commenting procedure?

The IPPC process pursuant to the Industrial Emissions (IPPC) Regulations (S.L. 549.77) ensures that any comments received from the public are answered by the Authority and the operator of the IPPC facility and where necessary conditions arising from concerns raised are included in the permit issued to the installation. In addition, Regulation 18 states that the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision must be published.

With respect to representations made upon any planning application, the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) oblige the PA to reply to the individual by electronic means. In the case of EIAs, relevant comments made by the public during the process are replied to by the EIA Consultant and are included as an Addendum to the Environmental Statement. For the comments to be included in this report, these have to reach ERA by the stipulated deadline.

Paragraph 9: Information about the decision

• Does the reasoning part of the decision refer to the factual, professional and legal arguments raised in the procedure? If not, can such omissions be challenged under the procedure referred to in article 9, paragraph 2 of the Convention?

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), Regulation 18 states that the reasons on which the decision is based must be published, and these would include an explanation of how the results of public consultation were taken into account, as well as more technical points as listed in Regulation 18(2).

Article 33 in the Development Planning Act (Cap. 552) obliges the PA to keep and make available for public inspection a register/s of applications for development permissions, its decisions on such applications and other
decisions relating to building regulations. Furthermore, any person shall have access to that part of the file containing ‘decisions relating to development permissions issued by the Authority together with the relative plans and documents including the reasons for the grant of such permissions or refusal’.

Regulation 44(4) of the EIA Regulations (S.L. 549.46) obliges the competent authority to inform the public on a decision taken regarding the application – including the content of the decision, any conditions, and main reasons and considerations on which the decision is based, including information about the public participation process.

Omissions may be challenged under Regulations 11A and 12 of the Freedom of Access to Information on the Environment Regulations (S.L. 549.39) and more generally under the Articles 11 and 47 in the Environment and Planning Review Tribunal Act (Cap. 551). As a last resort one may appeal under Article 469A of the Code of Organization and Civil Procedure (Cap. 12).

Paragraph 10: Public participation in reconsideration or updating of the decision

• What kinds of changes in the operating conditions of an activity falling within the scope of paragraph 1 of article 6 qualify as significant and therefore lead to a new decision-making procedure where public participation should be provided for?

A change in operating conditions of IPPC installations requires a variation of the permit, which in turn requires public consultation procedures as regulated by the Industrial Emissions (IPPC) Regulations (S.L. 549.77).

As regards development planning applications, the kinds of changes in operating conditions that qualify as significant (and therefore lead to a new decision-making procedure where public participation should be provided for) are listed in Regulation 2 of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) under the definition of ‘material changes’.

Under the EIA Regulations (S.L. 549.46), Schedule IA provides that if there are any requested changes or extensions of a development which would result in significant adverse effects on the environment, the operator may be required to undertake another EIA.

XVI. Obstacles encountered in the implementation of article 6

It is the perception of developers that the EIA process delays the planning process. On the other hand, certain sections of the public tend to harbour certain misconceptions about the process, and have too many expectations for what is essentially a consultation exercise.

Stakeholders mentioned concerns about the impact of the planning regularisation procedures and summary planning procedures introduced in May 2016, through the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) related to access to information in the case of planning regularisations and timeframes for submissions from the public in the case of summary procedures. They mentioned that the minimum period (2 weeks) provided for public consultations on summary procedures is too short and should be extended.

With respect to the summary procedure, the relevant applications were previously processed through the DNO procedure and therefore they were never published for public consultation. Through the summary procedure, applications are now published on the Government Gazette and DOI website, have a site notice affixed to the site and the public is allowed to submit any comments/objections generally within 15 days - thereby they are fully part of a public consultation process. Additionally, the law also gives third party rights of an appeal on all planning decisions.

XVII. Further information on the practical application of the provisions of article 6

No such cases arose during the period under review.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:
XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

The public is given the opportunity to participate in the preparation of plans, programmes and policies relating to the environment by virtue of the following pieces of legislation: the Environment Protection Act (Cap. 549), the Development Planning Act (Cap. 551), the Strategic Environmental Assessment Regulations (SEA Regulations) (S.L. 549.61) and the Plans and Programmes (Public Participation) Regulations (S.L. 549.41). The relevant definitions have been transposed through the aforementioned Acts and Regulations, and they are all non-discriminatory as they provide all members of the public equal rights of participation.

Under the Environment Protection Act (Cap. 549), ERA is required to draw up the National Strategy for the Environment as per Article 45, which is a strategic governance document setting the policy framework for the preparation of plans, policies and programs issued under this Act or under any other Act for the protection and sustainable management of the environment. During the preparation or review of the Strategy, the Minister responsible for Environment shall make known to the public the matters intended for consideration and shall provide adequate opportunities for individuals and organisations to make representations (within a time frame of at least six weeks). The Strategy, together with a statement of the representations received and the responses made to those representations, are then published. ERA may also publish subsidiary plans, defined as: a plan that deals with a specific environmental policy or matter setting out detailed specifications for its implementation, as per Article 48; as well as more detailed plans and policies as per Article 50. In preparing or reviewing such plans, ERA must inform the public of the matters it intends to consider and provide for public consultation on such preliminary issues. Public consultation is also provided for after the draft plan has been prepared and published (for a period of at least six weeks). The plan is formally adopted by ERA after taking into consideration all the representations submitted to it.

The Development Planning Act (Cap. 551) contains similar provisions as regards the preparation of the Spatial Strategy for Environment and Development and other subsidiary plans. The former is a strategic document regulating the sustainable management of land and sea resources covering the whole territory and territorial waters of the Maltese Islands; whilst the latter include subject plans, local plans, action plans or management plans and development briefs. Articles 44 and 53 state that public consultation must be provided for during the preparation of the plan, as well as after the draft has been published in a similar manner as that described above.

Furthermore, provisions for public participation are included in the SEA Regulations (S.L. 549.61) for plans and programmes undertaken by public authorities which are likely to have significant environmental effects.

The above Regulations define "the public" as one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups. In addition, the said Regulations define "make available to the public" as meaning publishing in the Government Gazette or in at least one daily newspaper in the English language and in the Maltese language, a notice indicating where the document may be viewed or acquired; the price of the said document shall not exceed the cost of its printing and distribution. This with a view to ensuring access to documentation to all interested stakeholders without barriers.

According to these Regulations, there are opportunities for the public to be constantly informed and to comment during the Strategic Environmental Assessment (SEA). Responsible authorities are obliged to ensure that their conclusions on the need, or otherwise of an SEA, are made available to the public. Moreover, legislation also requires that the draft plan or programme and the environmental report prepared are made available to the public. In so doing, the public is given an early and effective opportunity within an adequate time-frame, which shall not exceed sixteen weeks from the publication of the plan or programme and its environmental report, to express its opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure. In order to reach out to the public affected or likely to be affected by, or having an interest in, the decision making (e.g. those promoting environmental protection and other organisations concerned), the notice of availability of the plan or programme and the environmental report
shall be published in at least the Government Gazette together with specific details of where the documentation is available and how comments can be submitted and by which date. As a matter of good practice, responsible authorities are also advised to make the Scoping Report available to the public and interested stakeholders.

In concluding the SEA process and communicating the decisions taken, the responsible authority is obliged to ensure that, when a plan or programme is adopted, the public is informed and the following items are made available:

(a) the plan or programme as adopted;

(b) a statement summarising how environmental considerations have been integrated into the plan or programme and how the environmental report prepared, the opinions expressed and the results of consultations have been taken into account and the reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with;

(c) the measures that have been decided concerning monitoring.

In addition to the above, the Plans and Programmes (Public Participation) Regulations (S.L. 549.41) provide for public participation in the drawing up of specific plans and programmes that relate to waste, water and air as specified in the Schedule therein. The competent authority (ERA) must ensure that the public is given early and effective opportunities to participate in the preparation, modification or review of the specified plans or programmes. ERA must take into account the results of the public participation when making its decision and must inform the public of the final decisions along with the reasons and considerations upon which those decisions are based, including information about the public participation process.

Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/1.4 20 February 2007

- What are the most important differences between definitions of plans, programmes and policies according to the national legislation (e.g. in scope, in details, in binding force)?

- Which types of strategic decisions are considered to be “relating to the environment”?

National legislation defines "plans and programmes" as plans and programmes, including those co-financed by the European Community, as well as any modifications to them: (a) which are subject to preparation and, or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and (b) which are required by legislative, regulatory or administrative provisions.

Environmental assessments are carried out for all plans and programmes, (a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or (b) which, in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of Directive 92/43/EEC.

In all cases the following criteria are taken into account in order to ensure that plans and programmes with likely significant effects on the environment are covered by an SEA namely:

1. The characteristics of plans and programmes, having regard, in particular, to:

   ☐ the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,

   ☐ the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,

   ☐ the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
environmental problems relevant to the plan or programme,

the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:

- the probability, duration, frequency and reversibility of the effects,
- the transboundary nature of the effects,
- the cumulative nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
- the value and vulnerability of the area likely to be affected due to:
  - special natural characteristics or cultural heritage,
  - exceeded environmental quality standards or limit values,
  - intensive land-use,
  - the effects on areas or landscapes which have a recognised national, Community or international protection status.

The SEA Regulations in Malta are subsidiary regulations under the Environment Protection Act (Cap. 549) as the parent act which defines "environment" as meaning the whole of the elements and conditions, natural or man-made, whether together or in isolation, and in particular: (a) the air, water, land, soil and sea, including their bedrock, aquifers and subsurface features; (b) all the layers of the atmosphere; (c) all biodiversity; and (d) the landscape and its features.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Articles 45-46 and 48-52 of the Environment Protection Act (Cap. 549) and Articles 38, 44, 45, 46 and 53 of the Development Planning Act (Cap. 552) provide for public participation in the formulation of plans and policies as described above. In addition, where various environmental policies are required under national legislation relating to the EU acquis, provision for public participation is required under the separate pieces of legislation (e.g. the Water Policy Framework Regulations (S.L. 549.100), transposing Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, and the Flora, Fauna and Natural Habitats Protection Regulations (S.L. 549.44), transposing Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora and so on).

XXI. Obstacles encountered in the implementation of article 7

No specific difficulties were encountered.

XXII. Further information on the practical application of the provisions of article 7

Answer:

N/A

XXIII. Website addresses relevant to the implementation of article 7


http://era.org.mt/en/Pages/Strategic-Environmental-Assessment-.aspx
XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Under the Environment Protection Act (Cap. 549), ERA exercises a standard quality procedure to ensure the effective transposition of EU and international legislation and regulations. This procedure acknowledges consultation as a crucial factor in bringing EU and international binding obligations into national law. From the onset, a transposition time plan is prepared, outlining the key stakeholders that shall be affected by the transposition of the regulations coming into force, and what type of consultations need to be carried out. This identification process is in line with the definitions of article 2 (4 & 5) of the Aarhus Convention, since it identifies the public concerned that shall be directly influenced through the decisions of these environmental regulations.

A mailshot of the regulations is sent to stakeholders together with the regulations. These are made available on the ERA website and on the MEUSAC website. This ties in with the non discrimination requirement in article 3 of the Aarhus convention, since all relevant stakeholders are involved in the decision-making process of environmental obligations without prejudice or discrimination.

Under the Development Planning Act (Cap. 552), legally binding regulations shall be made by the Minister after consultation with the PA. A draft of the said regulations must be issued for public consultation, thereby allowing any person a minimum of two weeks to make representations to the Minister stating how in his opinion the proposed regulations could be improved to reach their ultimate aim. The regulations open for public consultation are published on the PA website (http://www.pa.org.mt/public-consultation). Development orders under article 55 of the Development Planning Act (Cap. 552) are also issued for public consultation for a period of two weeks. These orders will amend or establish subsidiary legislation relating to development notification orders or similar, and are therefore legally binding.

Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/l.4 20 February 2007

• Are there any requirements for public participation at the conceptual stage of the legislative procedure?

Regulations under the Environment Resources Act (Cap. 549) and the Development Planning Act (Cap. 552) are drawn up by the relevant Ministers after consultation with ERA and PA respectively. The draft regulations are then published for public consultation and stakeholders are invited to submit their comments to the authority. In the case of regulations under the Environment Resources Act (Cap. 549), after the closing of the consultation phase, all comments forthcoming from the public are gathered into a single document and made available on the authorities’ website. Due to the relevance that environmental legislation may have on industry and/or NGOs, such key stakeholders may be specifically identified and requested to offer substantial feedback, particularly at the onset prior to the legislation being drafted. On Planning Regulations, all public consultation exercises are published on the Ministry for Social Dialogue and Consumer Affairs and Civil Liberties main portal for public consultations. (http://socialdialogue.gov.mt/en/Public Consultation/Pages/Home.aspx)

• What are the time limits given to the members of the public to form their opinion?

Timeframes for public consultation on draft regulations are four weeks, as provided for in Article 55 of the Environment Protect Act (Cap. 549), from the date that they are uploaded on the ERA and MEUSAC websites.

Consultation on draft regulations and development orders under the Development Planning Act (Cap. 552), allows any person a period of at least two weeks to make representations stating how in his opinion the proposed regulation could be improved to reach their ultimate aim.

• Are there specific techniques for facilitating public participation in the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment (e.g. public committees, advisory bodies with NGO members)?

The draft regulations are presented to advisory bodies, public committees and NGOs through bilateral meetings, public consultation or information sessions as well as through mailshots that are sent by MEUSAC as noted above.
• Are drafts regulations and rules available through the Internet?

Draft environmental rules and regulations together with the consultation brief are available during public consultation phases through the ERA website (http://era.org.mt/en/Pages/Active-Public-Consultations.aspx) and the MEUSAC website (http://www.meusac.gov.mt/aboutconsultation?l=1).

The draft regulations and development orders under the Development Planning Act are uploaded on the PA website (www.pa.org.mt) and the public consultation portal of the Ministry for Social Dialogue and Consumer Affairs and Civil Liberties (https://socialdialogue.gov.mt/en/Public_Consultations/Pages/Home.aspx).

• Are the public comments received in the course of the participation process under article 8 of the Convention communicated to the legislature?

Once laws have been finalised, they are presented to the Maltese Cabinet of Ministers for final approval together with a memo and impact assessment form. This accompanying documentation specifically outlines the public consultation process, what methods of consultation and communication have been engaged, as well as whether all relevant stakeholders have been approached and made fully aware of the implications of such laws coming into force.

A response to public consultation comments along with a summary of the outcome are provided in line with the procedure adopted through the public consultation portal of the Ministry for Social Dialogue and Consumer Affairs and Civil Liberties.

XXV. Obstacles encountered in the implementation of article 8

Stakeholders mentioned that the minimum period (2 weeks) provided for public consultations on regulations under the Development Planning Act (Cap. 552) is too short and should be extended. Stakeholders also suggested that holiday periods are avoided when planning public consultation initiatives.

XXVI. Further information on the practical application of the provisions of article 8

The two week time limit as established by the Development Planning Act (Cap. 552) for public consultation is at times extended when requested to do so by ENGOs.

XXVII. Website addresses relevant to the implementation of article 8

http://era.org.mt/en/Pages/Public-Participation.aspx

Montenegro

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DISCUSSIONS ON SPECIFIC ACTIVITIES IN 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 is implemented.

Answer:

Transposition of public participation in making decisions on specific activities referred to in Article 6 of Aarhus Convention shall be ensured though a number of regulations, mentioned in Article 5.

Describe the transposition of the relevant definitions in Article 2 and the non-discrimination requirement in Article 3, paragraph 9.

Answer:

As in Article 4.
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;

Answer:

The Law on Environmental Impact Assessment, Article 5 paragraph 1, stipulates that the Government’s Regulation defines: projects which require impact assessment and projects which may require impact assessment. The competent authority decides on the need for impact assessment in each individual case for projects which request impact assessment.

In the Regulation on the projects which require environmental impact assessment, projects for which environmental impact assessment must be conducted are defined in List I of this Regulation, and projects which may require environmental impact assessment are defined in List II of this Regulation.

The Law on Integrated Prevention and Control of Environmental Pollution, Article 3, stipulates that types of activities, plants and limit capacities within every type of activity for which permits are issued shall be defined by the Government’s regulation.

The Regulation on types of activities and plants, for which integrated permit is issued, defines types of activities, plants and limit capacities within every type of activities for which integrated permits are issued.

(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;

Answer:

Please refer to provisions of Article 5 paragraph 1 of the Law on Environmental Impact Assessment. In the Regulation on the projects which require environmental impact assessment, projects for which environmental impact assessment must be conducted are defined in List I of this Regulation, and projects which may require environmental impact assessment are defined in List II of this Regulation.

(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;

Answer:

Article 5 of the Law on Environment defines the principle of access to information and participation of public according to which everyone shall have the right to be informed about environmental status and to participate in the process of decision-making whose implementation could affect the environment. The data on the status of environment shall be public. Article 72 of this law also stipulates that the state administration bodies, administration authorities, and local administration authorities are in charge of environmental protection affairs. They are obliged to timely inform the public and public concerned on the decision making procedures in issues pertaining to the environment which relate to the following: strategic assessment of the effects of plans and programmes on the environment; assessment of effects on the environment; procedures for issuing the licence for integrated prevention and pollution control by approving the functioning of new or existing plants; strategies, plans, programmes and other documents in the field of environment, and other issues related to environment in accordance with special regulations.

For all projects which are planned and executed, and which may have substantial environmental impact, provisions of the Law on Environmental Impact Assessment prescribe, inter alia, that the competent authority shall inform interested public in regards to giving opinion within the procedure of deciding on the environmental impact assessment for the project, Article 12 paragraph 1; deciding on the requirement for defining the scope and contents.
of the elaborate (Article 16 paragraph 4 and paragraph 8); deciding on the requirement for issuing approval for the elaborate (Article 20 paragraph 1 and Article 24 paragraph 3).

The Law on Integrated Prevention and Control of Environmental Pollution prescribes that the competent authority shall inform interested authorities, organizations and public about the contents of the request for issuing integrated permits; on draft permit and opportunities to review supporting documents; on the decision on issuing permits, i.e. about denying the request for issuing permits (Article 10, 11, 14).

The Law on Environmental Impact Assessment, Article 30, regulates the matter of informing other states about trans-boundary impact, i.e. if a project can have a substantial environmental impact in another country or if requested by the country whose environment may be significantly affected, the authority responsible for environmental protection matters shall notify another country as soon as possible, and not later than the deadline stipulated for informing its public.

The Law on Integrated Prevention and Control of Environmental Pollution, Article 23, stipulates that if operations of a plant may have a significant environmental impact on another state, or if requested by the state whose environment may be significantly affected, the authority responsible for environmental protection matters shall furnish information to another state for consideration.

(c) Measures taken to ensure that the timeframes of the public participation procedures respect the requirements of paragraph 3;

Answer:

Requirements relating to public participation prior to making administrative decisions that allow activities that are likely to have a significant impact on the environment are defined in the Law on Environmental Impact Assessment (Article 12, 16, 20, 21 and 24).

In the Law on Integrated Environmental Pollution Prevention and Control, provisions on time limits for public participation are provided in Article 10, 11, 14.

(d) With respect to paragraph 4, measures taken to ensure that there is early public participation;

Answer:

Please refer to Articles 12 and 13 of the Law on Environmental Impact Assessment and Article 10 of the Law on Integrated Prevention and Control of Environmental Pollution.

(e) With respect to paragraph 5, measures taken to encourage prospective applicant to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

Answer:

The Law on Environmental Impact Assessment and the Law on Integrated Environmental Pollution Prevention and Control stipulate that the competent authority shall before each stage in the process inform the public and public concerned about the planned implementation of the project or activity in order to timely provide opinions and suggestions. Notification is made by at least one local or daily newspaper that is published in the area that will be affected by the planned project, as well as through electronic media. The competent authority shall, when deciding at each stage, consider the opinions of interested bodies and organizations and the public, and take them into account when deciding.

(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;
Answer:

Please refer to provisions of Article 20 paragraph 1, Article 23, Article 24 paragraph 3, Article 32 of the Law on Environmental Impact Assessment.

Also refer to provisions of Articles 10, 11, 14, 22 and 24 of the Law on Integrated Prevention and Control of Environmental Pollution.

(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;

Answer:

The Law on Environmental Impact Assessment stipulates, inter alia, that the competent authority shall inform interested public about giving opinions in the procedure of deciding upon the request for defining scope and contents of the elaborate (Article 16 paragraph 4 and paragraph 8); deciding upon the request for approval of the elaborate (Article 20 paragraph 1 and Article 24 paragraph 3).

The Law on Integrated Prevention and Control of Environmental Pollution stipulates that the competent authority shall inform interested authorities, organisations and public to give opinions on contents of the request for issuing integrated permission; about draft permission and opportunities to review supporting documents; (Article 10, 11).

The competent authority shall, when deciding at each stage, consider the opinions of interested bodies and organizations and the public, and take them into account when deciding.

(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;

Answer:

Please refer to Article 24 of the Law on Environmental Impact Assessment and Article 14 of the Law on Integrated Prevention and Control of Environmental Pollution.

(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;

Answer:

Please refer to Article 24 of the Law on Environmental Impact Assessment and Articles 14 and 22 of the Law on Integrated Prevention and Control of Environmental Pollution.

(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;

Answer:

The Law on Environmental Impact Assessment, Article 26, stipulates that a decision on the EIA approval and decision that no environmental impact assessment is required shall cease to be valid if the developer fails to obtain a permit or authorization for execution of the project within two years of date of delivery of the decision on approval or decision that no environmental impact assessment is required.

Article 17 of the Law on Integrated Prevention and Control of Environmental Pollution stipulates that auditing of the permission must be performed every five years following its issuing.

(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:
The Law on Genetically Modified Organisms, Chapter VI, regulates the matter of intentional introduction of GMO into the environment. Also, Article 32 defines that before the intentional introduction of GMOs, products containing, consisting of or deriving from GMOs into the environment, the applicant shall obtain the approval of the administration body competent for environment protection (Environment Protection Agency). Before issuing an approval, the Agency may request the applicant to submit additional data. The applicant may in the application refer to the data or results of intentional introduction of GMOs into the environment from other application that has been submitted to the administration body competent for environmental protection if such data are not designated as a secret or if it has obtained written consent of the applicant in question. Provision of Article 33 stipulates that the administration body competent for environmental protection shall decide on the application within 90 days from the day the complete application was received. The administration body shall enter the applicant that has been approved for intentional introduction of GMOs, products containing, consisting of or deriving from GMOs into the environment, in the register of issued approvals for intentional introduction into the environment and shall issue a decision on entry in the register to the applicant within eight days from the day of such entry. Article 34 prohibits introduction of GMOs into the environment in the protected areas, in the areas intended for organic production of agricultural products, and in the areas for development of eco-tourism. Also, provision of Article 35 stipulates that the applicant shall, in the course of the procedures for approving introduction of GMOs into the environment, without delay notify the competent body of any change in the requirements that are relevant for risk assessment, unintentional change or new information and it shall provide for more strict measures with the purpose of protecting human health and the environment, which are indicated in the application. When administration body competent for environmental protection gains knowledge of the information which may have significant effect on the assessment of risk to human health and the environment, it shall evaluate such information, make them accessible to the general public, and order the applicant to adjust the conditions of intentional introduction of GMOs into the environment or cancel the intentional introduction of GMOs and products containing, consisting of or deriving from GMOs into the environment. If, in the course of the procedure of introducing GMOs into the environment, the GMO business operator suspects that the level of risk is higher than the one that was estimated, it shall without delay cancel the introduction of GMOs into the environment and notify the administration body (Agency). Article 36 stipulates that the GMO business operator shall submit to the administration body competent for environmental protection the report on the progress of intentional introduction of the GMOs into the environment within 60 days from the day of introduction and, within the deadlines specified in the approval, submit interim reports in written or electronic form.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

- Existing institutional and other capacities of local self-government competent authorities is necessary to build them in the future, in order to achieve satisfactory implementation of the Article 6.

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

In 2014, the Environmental Protection Agency implemented a total of 98 procedures of impact assessment, of which number:

- For 44 projects, the environmental approval to the impact assessment study was issued,
- For 50 projects, it was concluded that there is no need for an impact assessment,
- For 1 project, the environmental approval to the impact assessment study was not issued;
- 2 requests were rejected as incomplete;
- 1 party withdrew their request.

According to the Law on Environmental Impact Assessment, the Environmental Protection Agency regularly implements public hearings when issuing environmental approval.

In 2015, the Environmental Protection Agency implemented a total of 85 procedures of impact assessment, of which number:
- For 44 projects, environmental approval to the impact assessment study was issued;
- For 35 projects, the decision was reached that there is no need for an impact assessment;
- For 2 projects, the environmental approval to the impact assessment study was not issued;
- For 2 requests, the procedure was interrupted;
- 2 requests were delegated to the jurisdiction of the local authorities.

There are another 40 cases which were moved to 2016, of which some had commenced in the previous several years.

By September 2016, the Environmental Protection Agency completed 65 procedures of environmental impact assessment, of which:
- For 53 projects, approval to the study was given,
- For 9 projects, the decision was reached that there is no need to perform an impact assessment;
- For 2 projects, request for approval was rejected;
- 1 conclusion on the interruption of the procedure was delegated to the jurisdiction of the local authorities.

In total, 55 public hearings were held.

In accordance with Article 3, paragraph 3 of the Law on Environmental Impact Assessment, projects serving the national defence purposes are not subject to the impact assessment procedure.

On 9-12 December 2015 in Ljubljana, Slovenia, representatives of the Environmental Protection Agency participated in the regional training “Strategic assessment and environmental impact assessment and implementation of Aarhus Convention”, which focused on the procedure of strategic assessment and environmental impact assessment, according to stages of the given procedures.

In cooperation with the OSCE Mission to Montenegro, on 20 November 2014 in Podgorica, a meeting was held on the “Implementation of laws on strategic assessment and environmental impact assessment”, which also referred to the basic elements and principles of public participation in the decision making process regarding SEA/EIA.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

http://www.mrt.gov.me/
http://www.epa.org.me/
http://www.mrt.gov.me/rubrike/zakonska-regulativa
http://www.mrt.gov.me/rubrike/dozvole
http://www.mrt.gov.me/rubrike/spi
http://www.epa.org.me/index.php/dokumenti/izdate-dozvole
http://www.epa.org.me/index.php/dokumenti/
http://www.epa.org.me/index.php/dokumenti/izvjestaji-2
http://www.epa.org.me/index.php/dokumenti/regulativa
XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

Transposition of provisions on public participation in the course of preparation of plans and programmes relating to environment referred to in Article 7 of the Aarhus Convention is ensured through a number of regulations in MNE:

- Constitution of Montenegro (“Official Journal of MNE”, no. 01/07, 38/13)
- Law on Environment (“Official Journal of MNE”, number 52/16)
- Law on Integrated Prevention and Control of Environmental Pollution (“Official Journal of RMNE”, no. 80/05 and “Official Journal of MNE”, no. 54/09, 42/15)
- Law on Nature protection (“Official Journal of MNE”, no.54/16)
- Forest Law (“Official Journal of Montenegro”, no. 74/10, 47/15)
- Law on Waters (“Official Journal of RMNE”, no. 27/07, 32/11, 47/11, 48/15)
- Law on Protection from Noise in Environment (“Official Journal of Montenegro”, no. 28/11, 1/14)
- Law on Genetically Modified Organisms (“Official Journal of Montenegro”, no. 22/08)
- Law on Waste Management “Official Journal of MNE”, no. 64/11, 39/16)
- Law on Air Protection (“Official Journal of MNE”, no. 25/10, 43/15)
- Law on Spatial Planning and Construction of Buildings (“Official Journal of Montenegro”, no. 51/08, 40/10, 47/11, 35/13, 39/13)
- Law on Prohibition of Discrimination (“Official Journal of Montenegro”, no. 46/10, 18/14)
- Decree on the procedure and manner of conducting public debate in preparing laws (“Official Journal of MNE”, no. 12/12)
- Decree on the procedure and manner of developing cooperation between public administration bodies and non-governmental organisations (“Official Journal of MNE”, no. 7/12)

Article 7 of the Law on Strategic Environmental Impact Assessment provides the following definitions: plans or programmes; strategic environmental impact assessment of plans or programmes; strategic assessment report; public; interested public, interested authorities and organisations.
b) Please refer to provisions of Article 8 of the Constitution of Montenegro and Articles 1 and 2 of the Law on Prohibition of Discrimination.

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

Article 5 of the Law on Strategic Environmental Impact Assessment stipulates that the strategic assessment shall be carried out for plans or programmes when there is a possibility that their implementation shall cause significant impacts on the environment. The strategic assessment elaboration is mandatory for all plans and programmes in the area of agriculture, forestry, fishery, hunting, energy, industry, including mining, transport, tourism, regional development, telecommunications, waste management water management, coastal zone management, urban and spatial planning or land use planning, laying down the framework for future development of projects that are subject to environmental impact assessment elaboration in accordance with the special act, as well as for plans and programmes which, considering the area within which they are carried out, could affect the protected areas, natural habitats and preservation of wildlife. The decision on the need for strategic impact assessment for plans or programmes which envisage the use of smaller areas at local level or in case of minor changes to plans or programmes which do not require the prescribed process of adoption, and for plans or programmes not stated, shall be made by the authority competent for preparation of the plan or programme in compliance with criteria stipulated by this Law in order to establish whether substantial environmental impacts are likely to take place. Strategic assessment shall not be performed for plans and programmes intended for the country’s defence, for plans of mitigation and removal of consequences of natural disasters and for financial and budgetary plans.

Article 10 of the Law prescribes that the competent authority responsible for preparation of plans or programmes shall make the decision on the elaboration of SEA based on the previously obtained opinion of the competent environmental protection authority, competent health care authority and other authorities and organisations concerned. The competent authority responsible for preparation of plans or programmes shall make the decision on the elaboration of SEA simultaneously with the decision on preparation of plans or programmes. We would also like to point out that the Law on Spatial Planning and Construction of Buildings defines that if the strategic environmental impact assessment is to be prepared for a planning document, in compliance with separate regulations, decision on this shall be made simultaneously with making the decision on drafting of the planning document (Article 31), and Article 42 stipulates that the report on strategic environmental impact assessment shall be placed for public hearing along with the placement of the planning document for public debate.

The Law on Strategic Environmental Impact Assessment regulates participation of the public in the phase of deciding upon approval to the Strategic Impact Assessment Report. Article 19 of this Law defines that the competent authority for preparation of plans or programmes (and implementation of strategic assessment) shall inform the public and the public concerned about the methods and deadlines for public inspection into the contents of the SEA Report and method of submission of opinions, as well as about the time and venue of public debate holding. The public debate cannot be held sooner than 30 days from the date of announcement to the public and the public concerned, and shall be carried out by the competent authority responsible for preparation of plans or programmes. As per provisions of Article 20, the competent authority responsible for preparation of plans or programmes shall compile the report on participation of authorities and organisations concerned and about the public debate within 30 days from the date of the public debate completion, and it shall include opinions submitted during the public debate in regards to the Strategic Impact Assessment Report and it shall include the rationale for all the accepted or rejected opinions. Further on, pursuant to Article 21 of the Law, the competent authority responsible for preparation of plans or programmes shall submit the Strategic Environmental Impact Assessment Report to the competent environmental protection authority for approval, along with the report on participation of authorities and organisations concerned. If implementation of a plan or a programme may have a negative impact on the environment of another country, or if another country whose environment may be significantly endangered requests so, the competent state administration authority responsible for environmental protection shall submit, in the shortest period and not later than the date its own public is informed, information about the plan or the programme to the other country for consideration within the procedure of participation of stakeholders and organisations and public. Also refer to the provisions of the following laws:
Law on Spatial Planning and Construction, Article 6, 10, 41, 42, 43, 44 and 45

Law on Air Protection, Article 42

Law on Nature Protection, Article 109

Law on Protection from Noise in Environment, Article 16 and 18

Law on Forests, Article 16, 17 and 30

Law on Waters, Article 3, 30 and 31.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

Within the procedure of drafting of the planning document, interested users of space are given opportunities to submit initiatives for planning of certain segments on individual locations by submitting a request to the Ministry through the survey of users of space or during public debate.

Participation of public in drafting of planning documents contributes to the quality of documents and, at the same time, to raising awareness of importance of spatial planning.

Increasingly strong emphasis is placed on the public participation. Citizens are becoming aware that by participating actively in public debates, by giving comments and opinions, they become active partners in the process of drafting of planning documents and thus contribute to addressing matters of personal and public interest as well.

Public debates for national planning documents which last for 30 days are published in printed media; the draft plan with strategic assessment is reviewed; electronic version of the plan is put on the web-site of the Ministry; round tables take place.

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

In accordance with the Law on Strategic Environmental Assessment, during 2014, based on submitted requests, the Environmental Protection Agency issued the following:

• 5 approvals to the report on strategic environmental impact assessment,
• 4 opinions about the report on strategic environmental impact assessment – state level,
• 11 opinions about the report on strategic impact assessment on the environment – local level,
• 35 opinions about the decisions on commencement of the development of reports on strategic environmental impact assessment,
• 2 opinions about the spatial and urban plans of local self-governments,
• 20 requests for the issuing of information for the report on strategic environmental impact assessment,
• 1 opinion about the report on strategic environmental assessment of the trilateral programme Croatia-Bosnia and Herzegovina-Montenegro 2014-2020,
• 1 opinion about the draft of the Scoping Report for the Cross Border Cooperation Programme Italy-Albania-Montenegro 2014-2020

The procedure is ongoing for 3 more cases started in 2014.

In 2015, the Environmental Protection Agency issued:

-5 approvals to the report on strategic environmental impact assessment,
- 16 opinions about the report on strategic environmental impact assessment – state/local level,
- 44 opinions about the decisions to commence the development of reports on strategic environmental impact assessment,
- 12 requests for the issuing of information for the report on the strategic environmental impact assessment;

By September 2016, 1 approval to the SEA report was given.

In the procedure of reaching plans and programmes, the relevant authority for the preparation of the plan or programme ensures public participation by:

- Publishing on the website the draft of plan or programme with report on strategic environmental impact assessment, with an invitation to provide objections, opinions and comments.
- Informing the public and public concerned on the manner and deadlines for the insight in the reports on strategic assessment and provision of opinions, as well as the time and place of public hearings.
- Provided opinions are taken into account when decisions are made in the strategic assessment procedure, with the explanation of all opinions, accepted or not.

As part of the World Bank Project Land Administration and Management – LAMP, in May 2015, the Handbook “Strategic environmental impact assessment in spatial planning – practical guidelines for relevant authorities in Montenegro” was reached. It is intended for spatial planners, makers of reports on strategic environmental impact assessment, the public, and everybody dealing with environmental protection. The aim of this document is to provide explanations and guidelines for the proper implementation of strategic environmental impact assessment in Montenegro and to increase its efficiency in practice.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

See internet addresses under Article 6.

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

Please refer to the provisions of Article 80, 97 and 98 of the Law on Public Administration.

In 2012, two new decrees were passed providing for more effective public participation in the preparation of laws, policies and other documents:

- Decree on the procedure and manner of conducting public hearings in drafting laws (“Official Gazette of Montenegro”, 12/12), which provides for the consultation of bodies, organizations, associations and individuals (public concerned) in the initial stage of preparation of the legislation and debate about the law itself. This Decree stipulates that consultation of the interested public shall not be shorter than 20 days, while the deadline for the debate on the legislation may not be shorter than 40 days. Public invitation for participation in the public hearing shall be published on the ministry’s website, the website of e-government and one printed media that is published in the territory of Montenegro. After completing the public hearing, the Ministry draws up a report on the public hearing, which contains information about particular proposals and suggestions which were accepted and the proposals and suggestions that were not accepted, with an explanation of reasons. An integral part of the report on the public hearing is a report on consultations with the interested public and a report on the Inter-ministerial consultations, if they are carried out during the public hearing. The report is public.

- Decree on the procedure for cooperation among the state administration bodies and non-governmental organizations (“Official Gazette of Montenegro”, 7/12), specifying the manner and procedure for cooperation between the ministries and other state administration bodies and non-governmental organizations, in addition to the
criteria and procedure for the selection of NGO representatives in working groups and other bodies established by the state administration.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

Answer:

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

Article 8 of the Aarhus Convention envisages that each party shall “strive” to promote effective public participation in the procedure of adopting regulations that may have a significant effect on the environment. While the provision does not use imperative in terms of obligations of public authorities, it should be interpreted for the benefit of public participation. The term “regulations” should be interpreted broadly and it includes both laws and by-laws which may have a significant effect on the environment. Measures that should be taken in order to provide for public participation include: setting reasonable timeframes for various phases of deciding, publishing and otherwise presenting publicly draft documents and including public in the decision-making process through public debates, whether directly or through consultative representation bodies.

In order to ensure participation by the public and non-governmental organizations in the preparation of laws, policies and other documents, the Ministry regularly:

- Issues public invitations to NGOs to propose candidates in the composition of the working group for drafting the proposal of law or other subordinate legislation;
- Organizes public hearings when drafting laws, and strategic planning documents, etc;
- Publishes texts of draft regulations on the website of the Ministry and Aarhus Centers, with a call for the submission of objections, comments and suggestions.


In order to ensure the participation of public and NGOs in the preparation of laws, strategies and other acts, the Ministry of Sustainable Development and Tourism – Directorate for Environment published 15 open calls in 2014, and 7 open calls in 2015 for participation of NGOs in developing texts of laws and bylaws in the field of environment. However, during this period, NGOs applied to only one call (for the member of the Working Group for the development of the Law on Nature Protection). Also, no NGO applied during 2016.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

Ministarstvo održivog razvoja i turizma: http://www.mrt.gov.me/
Agencija za zastitu životne sredine: http://www.epa.org.me/
ARTICLE 6

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

Since 2008 the number of establishments that have to comply with general rules instead of rules laid down in individual permits has increased considerably. At this moment about 95% of the establishments in the Netherlands only have to comply with general rules. Establishments with activities that are mentioned in annex I, of the Aarhus Convention, remain subject to licensing.

In 2010, the General Provisions on Environmental Law Act” (Dutch: *Wet algemene bepalingen omgevingsrecht*) entered into force that streamlines licensing. This Act combines procedures concerning spatial and environmental law and has replaced the section of the Environmental Management Act concerning procedures. This means that procedures to gain a licence or permit for initiatives concerning spatial planning, building and environmental activities are combined in one decision. The application process is handled completely digitally. In short, the public participation is implemented in article 3.10 of the General Provisions on Environmental Law Act. In accordance with this article the uniform public participatory procedure mentioned in section 3.4 of the General Administrative Law Act applies in the process of granting a permit. The activities included in article 6, annex I, of the Aarhus Convention and the activities with a potentially significant environmental impact are mentioned in the General Provisions on Environmental Law Act (articles 1.1, paragraph 3, and 2.1, paragraph 1, under e), and article 2.1 and annex I, parts B and C, of the Decree on Environmental Law Act.

Measures taken to ensure that the public concerned (in the Netherlands: “everyone”) is informed in order to participate more effectively in the decision-making procedure, are implemented by article 3.10 of the General Provisions on Environmental Law Act and section 3.4 of the General Administrative Law Act (see article 3:12 ). This section contains general provisions on public participation in environmental decision-making, that apply when the application of this section is legally required, as in the case of granting environmental licences (see above). Article 3.12, paragraph 5, of the General Provisions on Environmental Law Act states that the public/an anybody can submit views on a draft-decision.

More specifically:

- Article 3:12 of the General Administrative Law Act contains requirements on the timely public announcement of the draft decision, requirements on the content of the announcement, and provisions on the relevant information that is available for the public. Article 13:2 of the Environmental Management Act contains special provisions concerning environmental impact assessments that have to be drawn up prior to a decision on a license.
Chapter 3 of the General Provisions on Environmental Law Act specifies the information that the applicant has to provide when applying for a license to set up or operate an establishment. This information is made available to the public pursuant to article 3:12 and 3:13 of the General Administration Law Act, mentioned above.

- Procedures for public participation that allow the public to submit comments (in writing or orally) are implemented by article 3:15 of the General Administrative Law Act.

- Articles 3:46 and 3:47 of the General Administrative Law Act state that decisions have to be well motivated and that the reasons are to be mentioned with the publication of the decision, which means that the results of the public participation should be discussed adequately.

- Article 3:41 of the General Administrative Law Act contains specific provisions on the publication of a decision directed at a concrete interested party. Article 3:42 provides for publication if the decision is not addressed to one or more interested parties. Article 3:46, requires that reasons be given for a decision and article 3:47 requires that these reasons be made public together with the decision.

- The legal system described above also applies to reconsideration or updating of the operating conditions for the activities listed in annex I.

- The Dutch Decree on Genetically Modified Organisms Environmental Management 2013 (Besluit ggo 2013) (based on EC Directives 90/219, 90/220, 98/81 and 2001/18) mainly aims to secure the safety of man and the environment. The procedural terms and conditions for decision-making with respect to genetically modified organisms (including public information, participation and access to justice) are regulated partly by the provisions of the General Administrative Law Act and partly by specific regulations in the Decree on Genetically Modified Organisms Environmental Management 2013. This legal system applies to decisions on the contained use of genetically modified organisms and deliberate release into the environment for other purposes. The Dutch system already complies with the guidelines on access to information, public participation and access to justice concerning genetically modified organisms.

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

To our knowledge, there are no major obstacles in the Netherlands in the implementation of the paragraphs of Article 6.

A party mentions that the public in the Netherlands is not yet sufficiently informed to participate more effectively in decision-making procedures.

Comment: the Dutch system has sufficient guarantees for effective participation as indicated in section 15.

17. 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.

Since 1 July 2010, the Dutch EIA legislation has changed. Mid-2013 a study on the effects of participation in the EIA regulations has been completed (see the link in paragraph 18. The main conclusion of this study is that participation is adequately secured with the current EIA legislation.

Some civil society organizations in the public consultation on the present report mention that they find that there is no extension of the opportunities for public participation for citizens and environmental organizations, while at the same time various possibilities have been introduced for the court to pass decisions of administrative bodies unchanged in appeal procedures (socalled “administrative loop”, relativity requirement, passing of defects).

Comment: The legislation indeed has been adapted. These changes comply with the Convention (see e.g. parliamentary documents on the Crisis- and Recovery Act and the Act on amendment of administrative law procedures; Kamerstukken II 2011/12, 33135, No. 7 and Kamerstukken I 2012/13, 33135, No. E, p. 2, and Kamerstukken I 2012/13, 32450, No. G).
A remark made in the participation calls attention for the proper motivation of decisions.

**Comment**: According to Article 3:46 GALA decisions are to be motivated and this is an ongoing concern in practice. The principle that decisions are to be motivated is one of the general principles of good governance; a decision is to be motivated in the spirit of the law. See e.g. article 3.6.1 of the Decree on spatial planning (Dutch: *Besluit ruimtelijke ordening*) based on the Spatial Planning Act (Dutch: *Wet ruimtelijke ordening*). In recently revised legislation - such as the Spatial Planning Act and the Infrastructure Act (Dutch: *Tracéwet*), more attention is paid to the motivation of decisions. These laws in fact require that account is given of the way in which citizens and civil society organizations are involved in decision-making, including a description of the results of the participation.

18. **Give relevant web site addresses, if available:**

www.rijksoverheid.nl


**ARTICLE 7**

19. **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.

The public participation regime in drawing up plans and programmes is laid down in the uniform public preparatory procedure mentioned in section 3.4 of the General Administrative Law Act (see the answer to article 6 above). The following plans and programmes relating to the environment are in any case subject to public participation:

- National, provincial and municipal environmental policy plans (Environmental Management Act, chapter 4 (plans and programmes));

- Water plans and water management plans at national and regional level (the Water Act);

- National nature conservation plans (Nature Conservation Act); among other things, the national nature vision (Article 1.5 Nature Conservation Act). Furthermore, there are various other nature plans, such as management plans and the (national) program approach to nitrogen.

- Binding spatial plans (zoning plans / integration plans) at national, provincial and municipal level (Spatial Planning Act).

In addition, Chapter 7 of the Environmental Management Act contains rules on the environmental assessment of plans and programs. When it comes to plans or programs that have or could have significant negative consequences for the environment, an environmental assessment with public participation is required. This applies, for example, to structural visions (Spatial Planning Act).

In more general terms, Dutch environmental policy aims at sustainable development and is based upon five ‘pillars’, one of which is to increase participation of citizens and companies in problem solving. These pillars have been incorporated in an environmental strategy, the National environmental policy plan.

The Dutch approach is based on the premise that environmental improvement requires a multi-stakeholder approach and places great emphasis on the responsibility of the government. The ministry with prime responsibility for the environment is the Ministry of Infrastructure and Environment, although other ministries are also involved.
Other ministries and decentralized authorities are also looking for similar ways of involving citizens in policy development. The then Dutch Cabinet pledged to allow for a greater public dialogue. Thereby, further reinforcing interest in interactive policy development.

Since 2013 all Dutch ministries are obliged to submit all regulations for internet consultation.

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

Generally, in the development of environmental policy civil society organizations and businesses are involved by giving them the possibility to discuss draft documents. In this way, already at an early stage support is sought for new policies.

Specifically, concerning the National Environmental Policy Plan Article 4.4 of the Environmental Management Act stipulates that interested institutions and organizations are involved in the preparation and furthermore that Section 3.4 of the General Administrative Law Act applies, so that everyone has the opportunity to submit views.

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

In their reaction to the draft report of 2007 Dutch NGOs indicated that the decision making process concerning environmental policy increasingly takes place at EU-level. They indicate that public participation on that level quite often is limited to internet consultation which is inadequate in their opinion. In their view participation is also hindered because of the required high level of technical knowledge. Acquiring necessary knowledge is difficult and quite often expensive. Furthermore, they observe a tendency of privatisation in the research sector, which can cause conflict of interests. The 2009 evaluation confirms this once more.

22. **Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.**

See this report.

23. **Give relevant web site addresses, if available:**

www.rijksoverheid.nl

www.internetconsultatie.nl. (For the preparation of specific legislation, the public is consulted through the internet).

http://www.platformparticipatie.nl/

**ARTICLE 8**

24. **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.**

Apart from the parliamentary procedure applicable to the preparation of acts (advice of the Council of State, an independent advisory body, followed by a parliamentary procedure in the Second and First Chamber), article 21, paragraph 6 (4) of the Environmental Management Act provides for extensive public participation in the preparation of decrees relevant to the environment. This implies that draft orders are presented to both houses of the States General and published in the Government Gazette. People are given the opportunity to submit written comments on the drafts to the Minister of Infrastructure and Environment within a period stated therein of at least four weeks. These comments have to be taken into account in the further procedure. Local authorities like councils and provinces have similar procedures for legislation within their competence.
25. Describe any obstacles encountered in the implementation of article 8.

To our knowledge, there are no major obstacles in the Netherlands in the implementation of the paragraphs of Article 8. Provincial and municipal governments on the basis of the Provinces Act and the Municipalities Act are obliged to develop a regulation on public participation. In such a regulation account is to be taken of the specific regional or local context of participation. The participation regulations are found via the websites of the relevant authorities and provide a basis for citizens in decision making. In addition, the basic level of participation in the Netherlands is anchored in the General Administrative Law Act. Specifically for environmental impact assessments the Environmental Management Act provides that not only stakeholders but anyone may submit an opinion.

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

In the Netherlands, the public is consulted on draft laws and regulations prepared by the government or parliament, through a system of internet consultation via the website www.internetconsultatie.nl.

The National Ombudsman in 2009 published a study on the quality of citizen participation in municipalities. The study finds a recognizable list of bottlenecks, such as politics has already decided, citizens become involved at a too late stage, input is ignored, the municipality does not provide information, due to a lack of information citizens' expectations do not correspond with reality, the municipality does not act conscientiously, the municipality does not want to talk with its citizens and the municipality provides unclear or incomplete information. At the same time the study finds that there are many initiatives to resolve these problems, with varying degrees of success.

27. Give relevant web site addresses, if available:

All local authorities have websites that supply local information. As mentioned under 9 the content of web sites can differ considerably.


Norway

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

Article 112 of the Constitution entitles the public to information about measures that have been planned or commenced, and thus lays down the principle that the environmental impacts of projects should be assessed in advance. The phrase “the public” is interpreted broadly.

Article 6 of the Convention is essentially implemented through the provisions of the Public Administration Act that lay down a general requirement to notify and inform the parties to a case, the provisions on environmental impact assessment in the Planning and Building Act, the Act relating to petroleum activities and the appurtenant Petroleum Regulations, the provisions in the Svalbard Environmental Protection Act and the appurtenant Regulation on environmental assessments and delimitation of the land use planning areas in Svalbard, and the provisions on permits in the Pollution Control Act and the appurtenant Pollution Regulations. There are also provisions on public participation in connection with the establishment of protected areas under the Nature Diversity Act, protection under the Cultural Heritage Act and applications for licences for electrical installations under the Energy Act and measures pursuant to the Water Resources Act and Act relating to Regulation of Water Courses, which partly refer to the Planning and Building Act and the Pollution Control Act, partly supplement these Acts. The development of
plans pursuant to the Planning and Building Act shall be publicly announced, and participation shall be provided for. In the event of procedural errors, the decision may be appealed pursuant to the Public Administration Act.

(a)-(j) Paragraphs 1 to 10

Most of the activities to which article 6 of the Convention applies come within the scope of the provisions on environmental impact assessment in the Planning and Building Act, and require a permit pursuant to the Pollution Control Act and permit and impact assessment pursuant to the Svalbard Environmental Protection Act. Both the environmental impact assessment (EIA) provisions in the Planning and Building Act and the rules of procedure in the Pollution Control Act and Pollution Regulations comply with the requirements of the Convention on public participation.

EC Directive 2008/1/EC of 24 September 1996 concerning integrated pollution prevention (IPPC) and Directive 2011/92/EU of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment have both been incorporated into the European Environment Agency (EEA) Agreement and have been implemented in Norwegian law. Thus, the activities listed in annex I to the Convention are explicitly listed in the law. The IPPC-Directive and some other Directives were replaced by Directive 2010/75/EU on industrial emissions. The implementation of this new Directive would require some amendments in Norwegian legislation. Directive 2003/35/EC on public participation is considered to be in accordance with Norwegian legislation.

As mentioned earlier, it is an offence to cause pollution unless an enterprise has a discharge permit issued by the pollution control authorities or the pollution is permitted pursuant to law or regulations. Chapter 36 of the Pollution Regulations deals with procedures for issuing discharge permits. It requires the authorities to ensure that the public have an opportunity to express their opinions on applications. It also states that prior notification of a proposal must give an account of what the proposal involves and contain any other information necessary to enable those who receive the notification to submit comments on the case. The parties, public bodies and authorities, and organizations representing relevant public interests shall be notified directly before a decision is made and be given an opportunity to make their opinions known within a specified deadline. If the application concerns an activity listed in Appendix I to Chapter 36 of the Pollution Regulations (see annex I of the IPPC Directive) and in other cases of importance for an indeterminate number of people, the Ministry shall, before making a decision, give the general public an opportunity to express an opinion within a time limit that should not normally be shorter than four weeks. A public hearing may be dispensed with in accordance with section 36-7, second paragraph, litra b, of the Pollution Regulations if the decision will only have a minor impact on the environment.

A notification must be published in a way that is suitable for drawing public attention to the matter, and the documents in the case have to be made available. The costs of this are to be paid by the person who is applying for or who holds a permit. The Norwegian Environment Agency regularly posts notifications on its website. Any comments received are public. It is not unusual for either the recipient or the sender to publishes such answers on the Internet in addition. Decisions on applications shall make it clear how the comments received were evaluated and how much weight was attached to them. According to section 36-11, the pollution control authorities shall publish their decisions.

Article 6, para. 10, which requires that the general public be given opportunities for participation when licences and permits are reconsidered or updated, has been implemented through section 17 of the Impact Assessment Regulations of 2009 no. 855. The Pollution Control Act and the Pollution Regulations also implement this provision. Section 36-1 of the Pollution Regulations makes it clear that the provisions also apply to the alteration of permits. A public hearing may be dispensed with in accordance with section 36-7, second paragraph, litra b, of the Pollution Regulations if the decision will only have a minor impact on the environment;

XVI. Obstacles encountered in the implementation of article 6.

No specific obstacles have been encountered.

XVII. Further information on the practical application of the provisions of article 6.

The reader is referred to the general text above.
XVIII. Web site addresses relevant to the implementation of article 6:
http://app.uio.no/ub/ujur/oversatte-lover/data/lov-19670210-000-eng.pdf
https://lovdata.no/dokument/NL/lov/1978-06-09-50?q=kulturminneloven (no updated version available in English)
https://lovdata.no/dokument/NL/lov/1981-03-13-6 (no updated version available in English)
http://app.uio.no/ub/ujur/oversatte-lover/data/lov-19900629-050-eng.pdf
http://app.uio.no/ub/ujur/oversatte-lover/data/lov-20001124-082-eng.pdf
http://app.uio.no/ub/ujur/oversatte-lover/data/lov-19171214-017-eng.pdf

ARTICLE 7

XIX–XX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes and opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7.:

The Planning and Building Act lays down that the public must be involved in decision-making processes for plans to which the Act applies. Section 5.1 and 5.2 of the Act requires the planning authorities to actively provide information and accommodate at an early stage of the planning process, and to give individuals and groups the opportunity to play an active part in the planning process. The Act and national guidelines for children and youth in planning processes, especially emphasizes the need to accommodate information to and participation of these groups as stakeholders and representatives of the sustainability perspective. The regional and local councils for elderly people and people with disabilities established pursuant to the Act provide their right to participate in public decisionmaking procedures to safeguard their interests directly. Central government plans, municipal master plans and local development plans shall as a general rule be subjected to two thorough public hearings, once at the beginning of the process and then again when a draft plan has been proposed. The same requirements apply pursuant to Section 50 of the Svalbard Environment Act. The provision on accommodating participation applies to anyone who proposes plans, whether public organs or private entities or persons.

As regards plans under the Planning and Building Act with substantial consequences for the environment, directive 2001/42/EC is applicable. The directive has been made part of the EEA-Agreement, and has been incorporated in Norwegian law through the provisions on environmental impact assessment in the Planning and Building Act in combination with provisions in the regulation relating to environmental impact assessment.

In addition to binding plans for land-use planning purposes under the Planning and Building Act, there are many other programmes and general decisions that can determine the framework and terms for later individual decisions. The Instructions for Official Studies and Reports laid down by the government apply to work carried out by or commissioned by central government agencies. To ensure that public participation is also possible in decision-making processes concerning more strategic programmes relating to the environment, this principle has been incorporated into section 20 of the Environmental Information Act. The phrase “plans and programmes” includes everything from municipal land-use plans and cultural heritage plans to national action plans for specific sectors. The plans need not have legally binding effect. The provision applies to national, county and municipal authorities.

According to subsection 1 of Section 20 of the Environmental Information Act, administrative agencies shall, in connection with the preparation of plans and programmes relating to the environment, make provision for participation by the public in these processes and ensure that there are real opportunities to influence the decisions
that are made. One way of complying with this requirement is to hold meetings to brief the public concerned. Another is to provide relevant information on the Internet. Information must be provided at a stage when there is still a real opportunity to influence the decisions that are made, i.e. as a general rule, early in the process. The time limits set must give organizations sufficient time to familiarize themselves with the subject matter and discuss the matter internally. The environmental impact of plans and programmes need not be significant for the provision to be applicable (see the use of the phrase “relating to the environment”). The term “environment” is intended to cover at least the same scope as in Article 2 (3) (a) of the Convention.

In the case of plans or programmes that may have a significant impact on the environment, subsection 2 of section 20 of the Environmental Information Act lays down that as a general rule, a public hearing shall be held well before a final decision is taken. It was considered logical to impose stricter requirements for plans or programmes that will have a more serious environmental impact. An assessment of whether a proposal will have a significant impact must be made on a case-to-case basis. If the proposal involves pollution, waste, energy, resource use, land use, transport or noise, the impact will generally be considered to be significant. An account of the environmental impact of the proposal shall be available at the hearing. In special cases, a public hearing may be dispensed of, see section 20, subsection 2.

Decisions taken on proposals to which this section applies must be made public. The grounds for a decision must make it clear how the requirements of the section have been met and how comments and other input from the public have been evaluated.

The provisions of section 20 of the Environmental Information Act do not limit the right to public participation in decision-making processes pursuant to other legislation.

XXI. Obstacles encountered in the implementation of article 7.

No specific obstacles have been encountered.

XXII. Further information on the practical application of the provisions of article 7.

National guidelines operationalizing procedures and possibilities set out in the Planning and Building Act have been developed. Among these are guidelines on children and youth in planning, registration of children's paths (by Norsk form and Statens kartverk) and guidelines on participation in planning (also in English).

The development of methods and tools for contribution and participation in planning pursuant to the Planning and Building Act promotes the practical implementation of Article 7. The Act and its sustainability perspective provides a framework for interplay between society and environment based on several dimensions of development such as health and quality of life. The authorities responsible for health cooperates with authorities responsible for transport, environment and planning respectively, and municipalities selected as pilots for an effort concerning local environment, which tries out methods for an improved knowledge based decisionmaking foundation in planning. Digital and map-based registration methods have also been developed. They focus on different behaviour in different areas as basis for decision inter alia in planning of environment friendly behaviour.

XXIII. Web site addresses relevant to the implementation of article 7:

Regulations concerning impact assessments (not available in English)
National guidelines for children and youth participation in planning (not available in English)
Guidelines for registration of children's paths (not available in English)
Thematic guidance on children and youth in planning (not available in English)
Participation in planning (not available in English)

ARTICLE 8
XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to Article 8.

Norway has a long tradition of encouraging public participation in the preparation of legislation and of taking into account the comments that are received. Chapter VII of the Public Administration Act contains provisions on the procedures to be followed in the preparation of regulations. Section 37 lays down a general requirement for administrative agencies to clarify a case as thoroughly as possible before a decision is made, and the second paragraph of this section requires public consultation. This provision requires that public and private institutions and organizations that the regulations concern or whose interests are particularly affected shall be given an opportunity to express their opinions. Opinions should also be obtained from others to the extent necessary to clarify all aspects of the case. These provisions are intended to ensure that decisions are taken on the best possible basis, and that all those whose interests are affected by the regulations have an opportunity to express an opinion and to have this taken into account when the legislation is drawn up. Section 38 of the Public Administration Act lays down that regulations must be published in the Norwegian Law Gazette, and they are also published electronically on Lovdata’s website. The Instructions for Official Studies and Reports contain more detailed rules on the preparation of acts and regulations and procedures for public consultation. According to these rules, the time limit for public consultation should not normally be less than three months. This is to ensure that as many people as possible are given the time and opportunity to prepare their comments on draft legislation.

If major changes in the legislation are being considered, a committee is often appointed to review various options and their consequences, and to propose new legislation on the basis of its review. Each committee is made up of experts drawn from the public authorities, NGOs and other bodies with the necessary expertise. It produces a report (in the series Official Norwegian Reports), and the relevant ministry organises a public consultation process.

Section 20 of the Environmental Information Act, discussed above under the implementation of article 7, applies to the preparation of legislation as well as to plans and programmes. Please see the previous section.

XXV. Obstacles encountered in the implementation of article 8.

No specific obstacles have been encountered.

XXVI. Further information on the practical application of the provisions of article 8.

The reader is referred to the general text above.

XXVII. Web site addresses relevant to the implementation of article 8:

No additional websites

Poland

15 Legislation, regulations and other measures implementing the implementation of the principle of public participation in decisions-making concerning special service activities included in Article 6

104. Pursuant to the Act on access to information about the environment, each and every person has the right to submit comments and requests in the proceedings requiring public participation. Administration authorities competent for issuing the decisions are required to properly provide the possibility of the participation of the public before issuance of these decisions or their change.

105. Established procedures refer to decisions issued for projects listed in Appendix 1 and I bis to the Convention.

106. On the basis of the Act on access to information about the environment, ecological organisations, which by invoking their statutory objectives, report a desire to participate in a specific proceedings requiring participation of the public, participate in such proceedings as a party, if they perform statutory activities with regard to environmental or nature protection, for minimum 12 months before initiation of this procedure. An ecological organisation has the right to file an appeal against a decisions issued in the proceedings requiring public participation, if it is justified by the statutory objectives of this organisation, and also in the event when such an
organisation did not participate in a specific proceedings requiring participation of the public, conducted by the first instance body. Filing an appeal is equivalent to declaring willingness to participate in such proceedings. In the appeal proceedings the organization participates having the rights of a party.

107. Ecological organization can use a complaint to the administrative court as to the decision issued in the proceedings requiring public participation, if it is justified by statutory goals of this organization, also in the event when it did not participate in the specified the proceedings requiring public participation.

Article 6, paragraph 1

108. The principles of preparation of environmental assessments are established in the Act on Publishing of Information on the Environment. The particular types of activities for which assessment is prepared is listed in the Regulation of the Council of Ministers of 9 November 2010 on Projects that May Significantly Affect the Environment, (Journal of Laws of 2016, item 71).

109. Pursuant to EPL, an installation whose operation, given the type and scale of the activity conducted therein, is likely to cause substantial pollution of the particular natural elements or the environment as a whole, requires an integrated permit. The Minister of the Environment determines the types of installation that could cause substantial of the particular natural elements or the environment as a whole.

110. The Act on access to information about the environment envisages that public participation is not carried out in relation to projects implemented in enclosed areas, if participation of the public could have unfavourable effect on the defence and security objectives of the state.

Article 6, paragraph 2

111. Pursuant to the Act on access to information about the environment, before issuing and changing decisions that require public participation, the authority competent for issuing the decision, without unnecessary delay, announces to the public information on:

• proceeding with the assessment of the impact of the project on the environment;
• initiating proceedings;
• the subject of the decision that is be issued in the case;
• authority competent for issuing the decision and authorities competent to issue opinions and conclude agreements;
• possibilities of familiarising with any necessary documentation of the case and the place where it is available;
• possibilities of submitting comments and requests;
• method of and the place for submitting the comments and the requests, at the same time indicating the 21-day time limit for their submission;
• authority competent for examination of the comments and the requests;
• the date and the place of a public administrative hearing, if the hearing is held;
• a proceeding on the cross-border environmental effect, if the proceeding is held.

Communication to the public is defined as:

a) publishing of information on the website of the Public Information Bulletin of the authority competent for the case,
b) announcement of the information, in the customarily adopted manner, in the seat of the authority that is competent for the case,

c) announcement of the information by way of notification in the customarily adopted manner at the place of the planned project,

d) in the case when the seat of the office of the authority competent for the case is located within the area of a gmina (commune) other than the gmina locally competent with regard to the subject matter of the proceedings – also by announcement in the press or in the customarily adopted manner in the town of or towns competent with regard to the subject matter of the proceedings.

The necessary documentation of a case includes the following: the application for issuing the decisions along with required appendices, as well as the requirements, required by the provisions, of the authority competent for the issuance of the decision and the stance of the other authorities, if the standpoints are available within the period of submitting comments and requests.

Article 6, paragraph 3

112. The deadline for submitting comments and requests to the planned decision requiring public participation is 21 days.

Article 6, paragraph 4

113. As indicated in the explanations relating to Article 6(2), procedure of public participation begins even before the issuance of the decision.

Article 6, paragraph 5

114. The legal provisions do not impose on the public authorities, nor on the investors an obligation to examine the scope of the public interest or to grant information prior to submission of the application.

Article 6, paragraph 6

115. Information on the application and the attached documentation can be accessed by means of publicly available data lists (see explanations concerning Article 5, paragraph 5). Pursuant to Article 33(1) point 5 of the Act on access to information about the environment, the necessary documentation of the case shall be rendered available at a place indicated by the authority competent for issuing the decision.

Article 6, paragraph 7

116. The comments and the requests can be submitted by each and every person in a written form, orally to be included in the records and by means of electronic communication, without signing them with a safe electronic signature.

117. Ecological organisations that by invoking their statutory objectives, report a desire to participate in a specific proceedings requiring participation of the public, if they perform statutory activities with regard to environmental or nature protection for at least 12 months before initiation of this procedure, participate in such proceedings as a party.

118. An ecological organisation has the right to file an appeal against a decisions issued in a proceeding requiring public participation, if it is justified by the statutory objectives of this organisation, and also in the event when such organisation did not participate in specific proceedings requiring participation of the public, conducted by the first instance body; filing an appeal is equivalent to declaring willingness to participate in such proceeding. In the appeal proceedings the organization participates having the rights of a party.

Article 6, paragraph 8

119. The authority conducting the proceeding examines the comments and the requests, and in the substantiation of the decision provides information on the public participation in the proceedings, and on how and to what extent the
submitted comments and requests submitted in connection with the public participation were taken into consideration.

Article 6, paragraph 9

120. The authority competent for issuing the decision announces the information on issuing the decision and the possibilities of familiarising with its content to the public.

121. According to CAP the notification should contain: the name of the public administration body, the date of issue, the name(s) of the party or parties, the legal authority referred to, a ruling, a factual and legal justification, an advisory notice as to whether and how an appeal may be brought and the signature, name and position of the person authorised to issue the decision. Any decision which may be challenged by a petition to the civil court or a complaint to the administrative court should contain an advisory notice that such a petition or complaint may be brought.

122. The Act on access to information about the environment states that the decision on environmental conditions requires substantiation. Additionally, the Act lists the necessary elements of such a decision. They, inter alia, include information on the conducted procedure requiring public participation, and how and to what extent the submitted comments and requests submitted in connection with the public participation were taken into consideration.

Article 6, paragraph 10

123. Conducting environmental impact assessments, under which participation of the public takes place is also required in the case of introducing changes in the decisions on environmental conditions.

Article 6, paragraph 11, Article 6a, Appendix I a

124. Provisions included in CAP define the issue of publishing information to parties in connection with the existing proceeding. The provisions of the Act on access to information about the environment with regard to the procedures concerning public participation envisage publishing of information in connection with a proceeding conducted by an authority. According to CAP the use of the aforementioned procedures is required upon issuing certain administrative decisions, namely the integrated permit, decisions issued on the basis of the Act of 22 June 2001 on genetically modified organisms and genetically modified micro-organisms (Journal of Laws of 2015, item 806), hereinafter referred to as "the GMO Act" or with regard to the decision on environmental conditions. Provisions that are included in the Amendment to the Aarhus Convention concerning the genetically modified organisms, are also reflected in the provisions of the GMO Act. At the same time, Article 14a of the GMO Act precisely determines the information regarding GMO that are subject to being published. The public has the right and a possibility to become familiar with the request and the documentation. This takes place by way of GMO registers that operate on the website of the Ministry of the Environment.

16 Identified difficulties in implementing Article 6

125. As a result of control conducted by the Supreme Chamber of Control it has been stated that there are incidental cases when administration authorities do not properly inform the public on conducting proceedings that require public participation.

126. As regards the method of notification of the public about conducted proceedings, the content and type of transferred information, communication channels used, and the date of notification occasionally provoke objections. There are some cases of providing untrue information and confirming events inconsistent with the actual condition. The authorities often do not use all the notification methods required by legal provisions, thus limiting the target group of the announcement and potential participants of the proceeding.

127. Non-governmental organisations indicate that, in their opinion, Article 6 of the Convention is not fully implemented into the Polish law in the Act of 18 July 2001 - Water Law (Journal of Laws of 2015, item 469, as amended). They claim that aquatic legal permits issued under this Act do not ensure public participation in decisions-making, in a sufficient degree. In particular, this applies to non-governmental organisations.
128. Non-governmental organisations claim that the Polish law in an inaccurate manner specifies that the
notification referred to in Article 6(2) of the Convention should be effective and timely.

129. According to NGOs, deadlines set by the amended Act on access to information about the environment (30
days) on submitting comments by the public may prove to be too short. They also claim that the 14 days provided by
the Act of 10 July 2008 on Extractive Waste (Journal of Laws of 2013, item 1136, as amended) limits the possibility
of the public participation in decision-making even more.

130. With regard to Article 6(5) of the Convention, non-governmental organisations claim that in the Polish law
there are no provisions that would obligate or encourage potential applicants to examine the scope of the public
interest, or to provide information on the planned project.

131. The NGOs indicate that provision of Article 33(2) of the Act on access to information about the environment
includes a closed catalogue of documents, about which the administration authority notifies before issuing and
changing of a decision. According to non-governmental organisations, this catalogue should be open.

132. According to non-governmental organisations, it is a mistake that in Article 38 of the Act on access to
information about the environment does not include the requirement for an authority to immediately inform about
issuing a decision. In practice for this reason they must use the access mode to information on the environment. In
addition, NGOs indicate that the authorities often when making an information on preparation of a document
publicly available, they usually begin public consultations of the draft document straightaway. In opinion of non-
governmental organisations it is a breach of Article 39(1) of the Environmental Protection Act.

133. The NGOs observed weaknesses in the application of the legal provisions relating to public participation in
decisions-making, in the course of conducted research.

134. The fact that the provisions do not state as who they are admitted to the proceedings is a problem for the NGOs.
For this reason, occasionally the NGOs are not aware of the fact that after the submission they can act as a party.

135. According to non-governmental organisations, their comments and requests, submitted during the
administrative proceedings are rarely reflected in the adopted decisions. Furthermore, according to these
organisations the responsible authority frequently does not enclose to the document a substantiation containing
information on the public participation in the proceedings, and how and to what extent the submitted comments and
requests submitted in connection with the public participation were taken into consideration. In the opinion of non-
governmental organisations, oftentimes the authority does not inform the public of adopting a document and the
possibilities to familiarise with its content, and justification and summary.

136. The NGOs claimed, that in their opinion, presentation of variants other than preferred by the investor was
aimed at fulfilment of formal requirements, provided for by legal provisions.

137. The NGOs believe that they were often not admitted to the proceedings for reasons not related to the legal
procedure and having little justification.

137 The non-governmental organisations indicate that there are problems with the lack of information on conducted
proceedings, especially at the level of regional and local administration. Information on conducted proceedings
frequently appears with a delay, or is provided at indefinite place or commonly inaccessible one (this applies both to
websites of the offices, including Public Information Bulletins, as well as information boards). The notion of "places
customarily adopted" as those where such information should be provided creates numerous problems for effective
information and for participants of the proceedings.

17 Further information concerning practical implementation of provisions of Article 6

138. Post-inspection conclusions of the Supreme Chamber of Control from 2010, addressed to local government
units, indicate the need for utilisation of all the informational channels for publishing data on conducted proceedings
and assuring proper time for preparation and active participation in the public proceedings.

18 Web addresses relating to the implementation of Article 6
139. www.gdos.gov.pl – the General Directorate of Environmental Protection
www.nik.gov.pl – the Supreme Audit Office

19 Practical and/or other conditions enabling social participation in developing plans and programmes concerning environmental matters in accordance with Article 7

140. The Act on access to information about the environment states that administration bodies competent to develop draft documents, in cases where legal regulations require provision of possibility of participation of society, provide the possibility of the society's participation accordingly prior to acceptation of these documents or their change.

141. The following drafts require strategic evaluation of influence on the environment, under which the participation of the society is carried out:

- the National Spatial Development Concept, study of conditions and directions for land planning in the municipal area, spatial development plans and regional development strategies,
- policies, strategies, plans or programs in the field of industry, energy, transport, telecommunication, water management, waste management, forestry, agriculture, fishery, tourism and land distribution developed or accepted by administration bodies defining frameworks for future implementation of undertakings that may significantly influence the environment;
- policies, strategies, plans or programs implementation of which may result in significant influence on the Natura 2000 site unless they are directly related to protection of Natura 2000 site or do not result from this protection.

142. Execution of strategic evaluation of influence on the environment is required also in the case of draft documents, if these set forth the frameworks for future implementation of undertakings that may significantly influence the environment or if implementation of provisions of these documents may result in significant impact on the environment. The authority may, in the case of development of certain documents requiring strategic evaluation of influence on the environment, having agreed with appropriate administration bodies, withdraw from its execution if the organ considers that implementation of provisions of a given document will not cause significant influence on environment. However, even then termination of execution of strategic evaluation of influence on the environment may apply only minor changes in relation to already existing documents.

143. In accordance with the Act on access to information about the environment the authority developing the draft document requiring public participation announces, without unnecessary delay, the information on:

- preparation of draft document and about its scope;
- possibilities of familiarizing with necessary documentation of the case and place, where it is available;
- possibilities of submitting comments and requests;
- method and place to report remarks and applications, at the same time indicating at least 21-day deadline for their submission;
- authority competent for examination of the comments and the requests;
- a proceeding on the cross-border environmental effect, if the proceeding is held.

144. Law making principles in Poland require provision of public participation in the process of legislation. In the case of draft acts and regulations it is mandatory to conduct public consultations and evaluation of effects of the regulation, in accordance with the principles of the governmental legislative process regulated in

145. The law requires participation of non-governmental organizations in numerous advisory bodies, also these taking part in the decision-making process related to development of plans and programs connected with the environment such as Polish State Council for Nature Protection and the Commission for GMO. Representatives of
non-governmental organizations are also invited to bodies making decisions on spending the funds on development of plans and programs connected with the environment.

146. The deadline for submission of remarks to the draft document requiring public participation shorter amounts to at least 21 days.

147. Procedure of public participation starts even before the development of a document requiring public participation, since as it is stated in Article 39, passage 1 of the Act on Provision of Information on the Environment, the authority developing the document announces, without unnecessary delay, preparation of draft document and its scope.

148. The authority developing the draft document requiring public participation considers the remarks and applications and also attaches to the adopted document a reasoning containing information on the participation of society in the proceedings and on how the remarks and applications submitted under the participation of the society have been taken into account. What is more, the authority must inform the society about acceptation of the document and about opportunity to read its content along with the reasoning and summary.

20 Possibilities of social participation in development of policies relating to environment in accordance with Article 7

149. The obligation to conduct strategic evaluation of influence on the environment, under which the participation of the society will be conducted also applies to the development of policies.

21 Identified difficulties in implementation of Article 7

150. Non-governmental organizations indicate that deadlines stipulated in the Act of 27 March 2003 on spatial planning and development (Journal of Laws of 2016 item 778, as amended, for submission of remarks are too short (14 and 21 days). However, it should be noted that these are the minimum deadlines and they may be longer.

151. In the case of spatial development plans non-governmental organizations stated that public consultations of these documents rarely bring any changes of their content postulated by these organizations.

22 Further information concerning practical implementation of provisions of Article 7

152. Participation of the society in development of plans, programs and policies is widely applied in public administration, which results from the obligation to conduct social consultations.

153. Minister of the Environment ensures participation of the society in development of plans, programs and policies for which participation of the society is required. What is more, the Minister of the Environment, to the extent allowed by national and supranational regulations and organizational possibilities, provides participation of the society in making strategic decisions with regard to international agreements concluded by the Republic of Poland.

154. Apart from the possibility to report remarks in writing and electronically, consultations are also conducted with interested non-governmental organizations and organizations of entrepreneurs. Submitted remarks are considered. Information about the results of consultations is available in documentation of the projects and on the web site of the office. It is also sent to interested partners.

155. The society is provided with participation in development of plans, programs, policy and strategy concerning ecological education at different levels, management of Natura 2000 and protection of endangered species.

156. General Directorate for Environmental Protection introduced information and communication platform (PIK) to support development of plans of protection tasks of Natura 2000 areas, including implementation and service of social consultations.
Participation of the society in development of various kinds of strategic documents is also provided, among others, by all central administration bodies developing strategic documents for which strategic evaluation of the impact on environment is concluded.

23 Web addresses related to implementation of the Article 7

158.

www.ekoportal.gov.pl – the Ministry of the Environment

www.mos.gov.pl – the Ministry of the Environment

www.pzo.gdos.gov.pl – General Directorate for Environmental Protection

24 Efforts taken in order to promote effective social participation in the decision making process by public authorities and in the establishment of commonly binding standards that can have a significant influence on environment in accordance with Article 8

159. Both general provisions concerning establishment of legal acts and the Act on Provision of Information on the Environment state the participation of the society in development of executive regulations and other commonly binding standards. Public opinion, including non-governmental organizations, must be informed about planned solutions – about the current stage of the project, about its subsequent versions and remarks thereto. Participation of the society in the process of development of normative acts is guaranteed in numerous legal acts, as well as voluntarily adopted practices concerning implementation of general principle to conduct public consultations by central administration bodies, self-government administration and the Sejm.

160. Principles of social participation in the process of development of government documents, in particular draft normative acts were codified in the Act of 7 July 2005 on lobbying activity in the lawmaking process (Journal of Laws of 2005, item 1414, as amended) and in regulations concerning organization of government works. Offices are obliged, among others, to publish programs of legislative works or draft legal acts along with reasoning and assessment of effects of the regulation. Administration offices also prepare their own, detailed principles in this respect.

161. Acts governing principles of functioning of local government of all levels stipulate consultations with the inhabitants on issues important for a given area and also define the procedure and principles of consultations.

162. Representatives of non-governmental organizations have the right to participate in meetings of the commission and parliamentary sub-committee. Non-governmental organizations, which are interested in a given matter, are invited to delegate their representatives. Other organizations may apply for participation of their representatives in the meeting. In practice, non-governmental organizations actively participate in meetings of most parliamentary sub-committees preparing draft legal acts, asking questions, commenting analysis, and presenting proposals of new solutions.

25 Identification of difficulties in implementation of Article 8

163. Non-governmental organizations indicate that the terms for public consultations of normative acts provided in provisions of laws may prove to be too short.

164. In the opinion of non-governmental organizations, public authorities rarely take into account remarks reported during the social consultations. In their opinion, such actions can discourage society to this legal institution.

165. The organizations believe that public consultations often do not fulfil their role, as the legislator assumes in advance certain option of solutions and does not want to accept corrections proposed by these organizations.

166. Non-governmental organizations draw attention to the fact that there were cases where information on concluded public consultations was not sufficient. They also believe that in some cases such consultations were intentionally not concluded. Deputy draft laws, which are not subject to consultations are the problem for non-
governmental organizations, while terms of works in commissions often make it difficult for these organisations to participate in the legislative process.

26 Further information concerning practical implementation of provisions of article 8

167. The Ministry of the Environment applies three main methods of consultation of draft legal acts:

a) simultaneously with interministerial arrangements draft acts are sent out for consultation to interested entities (administration bodies, trade unions, business alliance and non-governmental organizations). Drafts are also consulted with representatives of local governments, in particular with local administration party of the Joint Commission of the Government and Local Government;

b) draft legal acts along with reasoning and evaluation of influences of the regulation are provided on the website of the Ministry of the Environment or on a website of the Governmental Legislative Process with the information about the deadline within which remarks shall be submitted and address of a person conducting the case. After concerning the remarks the Ministry of the Environment develops summary of remarks along with reasoning of these cases, in which remarks have not been approved;

c) if necessary, other forms of consultations are applied such as debates or seminars, for which the interested parties are invited or admission to them is free.

168. Representatives of some non-governmental organizations constantly participate in meetings related to the legislative process in the Sejm. Upon their request, a number of solutions have been admitted to the law system.

27 Web addresses related to implementation of the Article 8

169.

http://orka.sejm.gov.pl/projustall6.htm - website of the Sejm containing draft legal acts;


http://legislacja.rcl.gov.pl/ - the Governmental Legislation Process

Portugal

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Answer:

Article 6, paragraph 1

Environmental impact assessment

As mentioned in previous reports, it has been sought through the processes of EIA of certain projects to continue to ensure the effective participation of citizens in decision-making on specific activities and promote the right to consultation and access to information on the environment. The entities responsible for managing these public participation processes are APA and the CCDR, with various other public bodies participating depending on the type of project and its implementation location.

New legislation about EIA was published in 2013 (Decree-Law No. 151-B/2013 of 31 October - amended by Decree-Law No. 47/2014 of 23 March and Decree-Law No. 179/2015 of 27 August) which, in line with previous legislation, confirms that the public concerned holds the right to participate in public consultation (cf. article 28 - article 31), reviewing the time limits for such – making them of shorter duration. (cf. article 15).

Environmental Impact Assessment (ElmpA)
EimpA is a process that requires periods of public consultation, which is legally framed by the following legislative instruments:

- Decree-Law 215-B/2012 of 8 October is applicable to power plants that use renewable energy sources. In this case the EimpA is coordinated by the respective CCDR. In this context, the compulsory public consultation, provided for in point 5 of article 33 S of said diploma, is 20 days;

- Decree-Law No. 49/2005 of 24 February, which implements the first amendment to Decree-Law No. 140/99 of 24 April (subsequently also amended by Decree-Law No. 156-A/2013 of 8 November), establishes that “the actions, plans or projects not directly related to the management of a site on the national list of sites, a site of Community Interest, a special conservation area or a special protection zone, and which are not necessary for that management but likely to affect this area significantly, individually or in combination with other actions, plans or projects, should have their environmental impacts assessed in relation to the conservation objectives of the said zone”. According to Article 10(7) of the Decree-Law, this procedure is preceded, where appropriate, by public consultation.

Participatory Budgets (OP)

At the local level, there has been a generalisation of participatory processes and the involvement of the population at the initiative of municipalities and some parish councils, with the OPs being the stand out initiative of recent years. In the OP, interventions in the field are decided and determined by popular will. In the context of this Report, a questionnaire was sent for the first time to the 308 Portuguese municipalities through the National Association of Portuguese Municipalities (ANMP). 36 municipalities answered the questionnaire. Among these, 10 refer to the OPs as an example of participation and citizenship already implemented, in addition to the processes mandatorily established in legislation, i.e. instruments of land management, public meetings of the executive council, etc.

Chemicals

The REACH and CLP Regulations envisage, in many cases, the sharing of information among stakeholders and the European Chemicals Agency (ECHA), set in motion by the ECHA referring to proposals for:

- Testing on vertebrate animals for harmonised classification and labelling,
- The identification of substances of very high concern (SVHC),
- Recommendation of the inclusion of substances in Annex XIV (list of substances subject to authorisation),
- Authorisation requests and
- Proposals for restrictions (inclusion in Annex XVII).

Stakeholder consultation at national level under the REACH Regulation is also envisaged through the REACH Advisory Committee (CCREACH).

Prevention of Serious Accidents

The setting up and modification of facilities covered by Decree-Law No. 254/2007 of 12 July (amended by Decree-Law No. 42/2014 of 18 March) requires the approval of APA relative to the Assessment of Compatibility of the Location (ACL).

In the case of establishments subject to EIA, this procedure is integrated in the EIA procedure and public participation is made through public consultation, in accordance with EIA legislation.

For establishments whose projects are not covered by EIA, Decree-Law No. 254/2007 of 12 July (amended by Decree-Law No. 42/2014 of 18 March), states that the request for an ACL opinion is presented to APA for review and decision within 30 days, and APA may, within that same period, undertake a public consultation. This procedure has not been implemented, notably for limiting the time period for issuing the opinion. It is being revised in the
drafting of new legislation that will ensure the transposition into national law of Directive 2012/18/EU of the European Parliament and the Council of 4 July, the provisions of which shall come into force on 1 June 2015.

Article 6, paragraphs 2 to 6

The current legislation for EIA, SEA, IPPC, GMO, etc., provides that the public concerned is informed in an effective, timely and appropriate manner from the beginning of the decision-making process; that the deadlines are reasonable; that such run when all options are open, the public concerned is identified and it is provided the requested information free of charge. State Administration bodies at national, regional and local levels have been modernised in order to reach citizens more effectively and efficiently, who in some way, directly or indirectly, are expected to be affected by interventions with a territorial impact. In this sense it is customary to resort to traditional public notices, advertisements in newspapers and websites, more recently using "social media" and other forms of communication under the scope of Web 2.0.

The Ministry of the Environment, aware of the need to achieve greater involvement from citizens in the processes of public participation and, consequently, in decision-making regarding environmental issues that concern the general public, has made the PARTICIPA portal http://participa.pt available, since July 2015. The purpose of Participa is to (i) facilitate the access of citizens and stakeholders to consultation processes, (ii) encourage informed participation; (iii) improve process management efficiency. It is an innovative initiative where, for the first time, all public consultation processes are concentrated by the Ministry of the Environment in a single place of consultation. The existence of this portal, where the processes in public consultation are available, permitted simpler, more agile and more efficient participation.

At the local level, the response to the questionnaire made among the municipalities indicates that, among the 36 respondents, almost all of them state that if there is any activity/intervention that has a significant impact on the environment - at the initiative of the Municipality, other public entities or the general public is informed and/or consulted duly in advance. The method of disclosure is based primarily on the respective websites and associated social media, in addition to the traditional public notices. The way to participate is based on the mechanisms for doing so at the municipal level: municipal parliaments, public meetings of the executive, in addition to traditional mail or e-mail.

Article 6, paragraphs 7 to 10

Nothing to report on these paragraphs of article 6. Compliance with the various specified requirements is confirmed (cf. for EIA http://www.apambiente.pt/index.php?ref=17&subref=146&sub2ref=485).

Article 6, paragraph 11

See Chapters XXXIII - XXXVII (Genetically Modified Organisms).

XVI. Obstacles encountered in the implementation of article 6

Nothing to report on this item.

XVII. Further information on the practical application of the provisions of article 6

Chemicals

The ECHA published in 2014 public consultations on 47 proposals for harmonised classification and labelling, 14 proposals for identification of SVHC, 38 proposals for decisions on authorisation requests and 7 restriction proposals. In 2015, public consultations were ongoing in relation to 42 proposals for harmonised classification and labelling, 9 proposals for identification of SVHC, 13 proposals for decisions on authorisation requests and 4 restriction proposals. A consultation on the recommendation for inclusion of substances in Annex XIV has been published per year. In 2016, up to July 2016, public consultations had been initiated in relation to 30 proposals for harmonised classification and labelling, 4 proposals for identification of SVHC, 13 proposals for decisions on authorisation requests and 2 restriction proposals.
Genetically Modified Organisms

In the period from 2014 to 2016, 3 notifications for deliberate release into the environment of GMOs were submitted to APA under Decree-Law No. 72/2003 of 10 April. The respective public consultations pursuant to Article 11 of the legislation in question had been taken into account. The 3 notifications were submitted in 2016.

XVIII. Website addresses relevant to the implementation of article 6

www.apambiente.pt
http://participa.pt

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

The Strategic Environmental Assessment (SEA) is a tool to support decision making that seeks to promote sustainable development. In accordance with national and Community legislation it contributes to the integration of environmental considerations into the preparation and adoption of plans and programmes with the involvement of public and environmental authorities.

Portuguese SEA legislation, which arises from the transposition of Directive 2001/42 and dates from 2007, is very flexible, focusing on procedural transparency and the responsibilities of the entities that develop plans or programmes. The Ministry responsible for the Environment assumes a regulatory role, while APA's role is to monitor the implementation of legislation and disseminate information, ensuring dialogue with the European Commission.

Public participation in the preparation of plans and programmes is formally ensured by the corresponding national legislation. Decree-Law No. 232/2007 of 15 June, amended by Decree-Law No. 58/2011 of 4 May, outlines the institutional reference framework for SEA at national level. The option was taken in relation to land management instruments (IGT) to maintain the pre-existing procedures under the land management and urban planning policy, adjusting them to the requirements of the SEA through Decree-Law No. 80/2015 of 14 May, which establishes the legal regime of IGT, defines and regulates the public participation process for each type of instrument, as well as access to information under the policy of land and urban planning.

Participation is open to the general public, including - in addition to associations and NGOs - all citizens "who may somehow have an interest or be affected" by the approval of plans and programs or for future approval of projects encompassed by such.

The public consultation lasts at least 30 days and is advertised by electronic means of communication, including by publication on the website of the entity responsible for preparing the plan or programme and by publishing adverts in at least 2 successive issues of a regional or national newspaper, when the scope of the plan or programme warrants such.

During the duration of the consultation, the draft plan or programme and the respective environmental report are available to the public at the locations indicated by the entity responsible for its preparation and in the municipalities of the area covered, or the CCDR in the case of national plans. Electronic means of publication may also be used if this is standard practice.

Approved plans or programmes, accompanied by the respective Environmental Statements are available to the public on the web pages of the entities responsible for their preparation. The results of further evaluation and control are also available to the public in the same way, at least on an annual basis.

APA is responsible for the overall processing of information relating to the environmental assessment. It holds a primary position in the dissemination of information on SEA through the website http://apambiente.pt/index.php?ref=17&subref=147.
A Good Practice Guide for Strategic Environmental Assessment was published in 2007 
http://apambiente.pt/index.php?ref=17&subref=147&sub2ref=652, which includes recommendations that the 
communication strategies adopted ensure active involvement by different target groups that may be strategic in the 
successful implementation of the plan or programme. This guide was revised and updated in 2012 based on the 
experience of the first years of implementation of the legal framework, having focused on presenting practical 
aspects to promote good practices in order to contribute to improving SEA quality.

The website http://apambiente.pt/index.php?ref=17&subref=147&sub2ref=659 also contains the Environmental 
Statements, other technical guides and examples of good practice.

The first assessment of the SEA in Portugal, published by APA in December 2010 
http://apambiente.pt/index.php?ref=17&subref=147&sub2ref=657, highlights the strengths and weaknesses of the 
enforcement of the law and the implementation of the recommended good practices. The most interesting findings 
show that in environmental assessments conducted at the beginning of the enforcement of national legislation the 
concern was to meet the legal requirements, but this did not always translate into good practices. There is still some 
way to go until Portuguese society makes the most out of this tool, the potential of which is beginning to be traced 
out. In this field APA has been developing initiatives to promote good practices and improve articulation between 
entities.

The PARTICIPA portal (see reply to Article 6) also envisages public consultations under the SEA.

XX. Opportunities for public participation in the preparation of policies relating to the environment 
provided pursuant to article 7

Several examples of public discussions of strategies, plans and programmes in the period covered in this report are 
presented:

Strategies and plans in the areas of energy and climate change

In 2015, the political and institutional response on climate policy was updated and developed in a process marked 
not only by the involvement of relevant policy sectors but also by the participation of civil society and citizens. The 
proposals for the Strategic Framework for Climate Policy (QEPiC), the National Programme for Climate Change 
(PNAC 2020/2030) and the National Strategy for Adaptation to Climate Change (ENAAC 2020) were in public 
consultation in May and June 2015, and were subsequently approved by Council of Ministers Resolution No. 
56/2015 of 30 July.

The Strategic Framework for Climate Policy (QEPiC) establishes an articulated framework of climate 
policy instruments for the 2020/2030 horizon, of which PNAC 2020/2030 and ENAAC 2020 stand out. Portugal has 
established as an objective of its climate policy, within this framework, an emissions reduction path that aims to 
achieve a reduction between 30% and 40% in GHG emissions in 2030, compared to 2005 (reductions between 18- 
23% in 2020, compared to 2005). This objective is in line with the ambition of the EU and with that established in 
the Paris Agreement.

QEPiC also provides for the establishment of the Inter-ministerial Commission for Air and Climate Change 
(CIAAC), a political body for monitoring climate policy and sectoral policies with an impact on national air and 
climate change objectives, taking into account existing synergies between these two areas.

QEPiCc envisages the creation of a National System of Policies and Measures (SPM), with a view to streamlining 
the assessment of progress in the implementation of sectoral mitigation policies and measures, enhancing 
involvement and reinforcing sectoral accountability in the integration of the climate dimension in sectoral policies. 
This system was created by Council of Ministers Resolution No. 45/2016 of 26 August.

PNAC 2020/2030 has the following goals:

i. Promote the transition to a low-carbon economy, generating more wealth and employment, contributing to 
green growth;
ii. Ensure a sustainable path to reduce national greenhouse gas (GHG) emissions in order to reach a target of -18% to -23% in 2020 and -30% to -40% in 2030 compared to 2005, thus guaranteeing compliance with national mitigation commitments and placing Portugal in line with European objectives;

iii. Foster the integration of mitigation objectives into sectoral policies (mainstreaming).

The preparation of the PNAC relied on the involvement of civil society in order to promote a coordinated response to climate change related issues.

The National Strategy for Adaptation to Climate Change (ENAAC), approved in 2010 by Council of Ministers Resolution No. 24/2010 of 1 April, aims to promote the increase of the levels of awareness of the impacts of climate change, to enable the update and availability of scientific knowledge in this area and strengthen the measures to be taken by Portugal in order to control its effects. The first phase of ENAAC’s work took place between 2010 and 2013 with the following four structural objectives:

i. Information and knowledge;

ii. Reducing vulnerability and increasing capacity to respond;

iii. Promotion of participation, awareness raising and dissemination; and

iv. Development of international cooperation.

The work of the various sectoral groups has been developed and a progress report produced highlighting the strategic nature of the work carried out and identifying constraints in the implementation of the strategy.

Intervention priorities have also been defined which have led to the design of the AdaPT Programme and its development guided by the terms set out in the Memorandum of Understanding between Portugal, Norway, Iceland and Liechtenstein under the European Economic Area Financial Mechanism (MFEEE/EEA -Grants). The operator of the programme is APA as manager of the Portuguese Carbon Fund (FPC), the financial instrument created by the Portuguese government to support climate policy. The partner of the donor country programme is the Direktoratet para Samfunnssikkerhet og Beredskap (DSB), a Norwegian body responsible for civil protection and climate change. The Programme started in 2013 with a total budget of EUR 3,529,412 (EUR 3,000,000 MFEEE + EUR 529,412 FPC) and it will last until 2017 after the completion of its eight projects of adaptation to climate change:

- Climate Portal - systematisation of information on climatic scenarios for Portugal;
- ClimAdaPT.Local - training of local administration agents for the development of Local Strategies for Adaptation to Climate Change;
- Climate@EduMedia - integration of climate change teaching in pilot schools;
- ACT - method for integrating adaptation to climate change in the tourism sector;
- AdaptForChange - improving the success of reforestation in semi-arid areas: adaptation to the climate change scenario;
- adaptIS - collaborative platform for adopting measures to adapt to climate change in the industrial and services sector;
- GestAqua.AdaPT - adaptation to climate change in the management strategy of reservoirs in Alentejo;
- SOWAMO - sowing water on the mountain of Monchique (refilling of aquifers).

Its revision was promoted based on the experience gained with ENAAC, filling the gaps and capitalising on the identified strengths and opportunities. Council of Ministers Resolution No. 56/2015 of 30 July approves ENAAC 2020, inserting it into the QEPiC, which establishes the vision and the objectives of the national climate policy for
the 2030 horizon, reinforcing the focus on the development of a competitive, resilient and low carbon economy, contributing to a new paradigm of development for Portugal.

In this way, the ENAAC 2020 vision is taken as: "A country adapted to the effects of climate change, through the continuous implementation of solutions based on technical-scientific knowledge and good practices". The ENAAC 2020 defines a model of organisation where the link between the various sectors and stakeholders is clearly fostered, with a view to pursuing priorities in certain thematic areas and the three objectives of the strategy:

- Improve the level of knowledge about climate change;
- Implement adaptation measures;
- Promote the integration of adaptation into sectoral policies.

The Inter-ministerial Commission on Air and Climate Change (CIAAC) ensures the political follow-up of the ENAAC by the sectoral authorities and the regional governments of the Azores and Madeira.

The Thematic Areas (TA) promote coherent vertical integration of the different scales required for adaptation (from international to local) and horizontal integration (among the different sectors) through the coordination and development of specific multi-sectoral work. The six ENAAC 2020 TA have the following purposes:

- Research and innovation: promotes national science and knowledge in relevant areas for coherent implementation of ENAAC 2020.
- Finance and implement adaptation: focused on prioritising and pooling the funds and resources available for coherent financing of the options and adaptation measures needed to implement ENAAC 2020 and establishing effective reporting mechanisms, including those concerning international obligations.
- International cooperation: promote cooperative work with other countries on the topics necessary for the implementation of ENAAC 2020 and equivalent strategies in those countries and regions of the world, focusing on priority countries for Portuguese cooperation.
- Communication and disclosure (National Adaptation Platform): support the development, systematisation and dissemination of the information necessary for decision-making.
- Integrate adaptation into spatial planning: promote the introduction of the adaptation component in land policy and management tools, including the training of sectoral actors in the territorial integration of specific adaptation measures.
- Integrate adaptation into water resources management: promote the introduction of the adaptation component in the policy instruments, planning and management of water resources, including the training of sectoral actors in the management of water resources.

Horizontal integration is fostered through the development of activities and specific work in nine priority sectors through sectoral working groups (WG). Each WG is chaired by the relevant central body(-ies) of the central administration which galvanize the involvement of the various sectoral agents. Taking into account the vision, objectives and TA of ENAAC 2020, each WG has the following responsibilities:

- Identify impacts, vulnerabilities and adaptation measures;
- Integrate the adaptation into sectoral policies;
- Identify knowledge needs and failures;
- Promote sectoral studies, identify funding sources and monitoring mechanisms;
- Prepare plans and activity reports;
- Contribute to the work of the Thematic Areas; Articulate, when necessary, with the other WG.

The 2016 PNAEE carries forward a good part of the measures established in the 2008 PNAEE, adding to or removing some of the actions envisaged, depending on their stage of implementation and potential cost. This Plan also includes measures established under the EU Energy Efficiency Directive. The main objective of the 2016 PNAEE is to plan new actions and targets for 2016, in conjunction with the 2020 PNAER, integrating concerns relating to the reduction of primary energy consumption in 2020, established by the Energy Efficiency Directive, based on three action areas:

- Adjustment of the energy efficiency measures to the current economic and financial context;
- Monitoring methods in accordance with European guidelines and the creation of a macro view of the impact of the National Energy Efficiency Programme;
- Redefining the governance model of PNAEE.

The 2016 PNAER includes six specific areas: Transport, Residential and Services, Industry, State, Behaviour and Agriculture. These areas encompass ten programmes that integrate various measures to improve energy efficiency, oriented at energy demand.

The 2020 PNAER seeks to match energy supply with demand and revise the goal of every source of renewable energy in the national energy mix, taking into account, in particular, the maturity of the technology and its competitiveness. It establishes the paths for the introduction of renewable energy sources (RES) in accordance with the pace of implementation of the measures and initiatives planned in each of these sectors: i) electricity, ii) heating and cooling and iii) transport.

The lines of action of the 2020 PNAER focus on meeting the goal of 10% in the Transport field as well as identifying the technologies that should be given priority to supply the system if additional power is required to that from the RES.

Full implementation of the 2016 PNAEE will mean attaining the objectives of the Plan itself, as well as the goals set under the 2020 PNAER, namely 31% incorporation of RES in gross final energy consumption and 10% of RES in the Transport sector.

The current review of the PNAEE and PNAER takes into account the energy efficiency measures and promotion of renewable energy sources already listed in the National Climate Change Programme (PNAC), approved by Council of Ministers Resolution No. 104/2006 of 23 August, revised by Council of Ministers Resolution No. 1/2008 of 4 January.

Portugal started a set of works in 2011 that have materialised in a National Low Carbon Roadmap (time horizon to 2050). This document was available for public discussion in 2012. This initiative seeks to undertake a serious and systematic reflection on the implications in the medium and long term of a path towards a competitive and low-carbon economy, exploring trajectories consistent with the long term objectives of the European Union in this area.

Strategy for Air

The National Air Strategy (ENAR 2020), approved by Council of Ministers Resolution No. 46/2016 of 26 August, aims to improve air quality for the protection of human health, the quality of life of citizens and the preservation of ecosystems.
During the ENAR 2020 drafting process, a number of consultations were held with entities with specific responsibilities, namely DGAE, DGE, DGU, GPPA of the Ministry of Agriculture and the Sea, IMT, as well as the regional bodies with competences in the area of air (CCDR and DRA). In the phase for gauging measures, stakeholders were consulted on the ENAR 2020 proposal and on the set of actions that will contribute to Portugal achieving the objectives and targets for emissions and air quality by 2020. ENAR 2020 was publicly presented on 20/04/2015 and public discussion took place until 11/05/2015. The comments and suggestions collected during this period, included in the public consultation report, were analysed and considered in the corrections and improvements made to the final documents (cf. http://www.apambiente.pt/index.php?ref=16&subref=82&sub2ref=1174).

Waste plans and programmes

The drafting of the National Waste Management Plan (PNGR) http://www.apambiente.pt/index.php?ref=16&subref=84&sub2ref=108 was accompanied by an environmental impact assessment procedure which resulted in an Environmental Report. Both documents were in public consultation for a period of about a month and a half. 11 contributions from individual citizens, associations, public and private entities were received, which are compiled and analysed in the Public Consultation Report. Opinions were requested of entities with specific environmental responsibilities in 2 separate stages of the environmental assessment, according to current legislation.

The PNGR is a tool for planning waste management policy setting strategic objectives of national scope and establishing the guiding rules to be defined by specific, necessarily more detailed, sectoral plans for waste management policy. The draft PNGR is presently being updated.

The specific waste management plans implementing the PNGR in each specific area of activity are, in the horizon under consideration, at the following phases of SEA:

- The Draft Strategic Plan for Hospital Waste (PERH 2011-2016), and the Environmental Report were under public consultation which ran from 15 March to 26 April 2010. 10 contributions were received and prepared in accordance with the Public Consultation Report and the Environmental Statement, which culminated in the adoption of the Plan in 2011 (Ordinance No. 43/2011, of 20 January);
- The Strategic Plan for Industrial Waste Management (PESGRI), which defines the main strategy for the management of this type of waste in Portugal, is at the implementation phase.
- The National Industrial Waste Prevention Plan (PNAPRI) is also being implemented.
- The drafting of the Strategic Plan for Urban Waste 2014-2020 Waste (PERSU II 2020) was accompanied by an environmental assessment procedure. Both the draft Plan (PERSU 2020) and the Environmental Report underwent public consultation in 2014. The entities that constitute the plan’s monitoring committee were asked for an opinion on the progress of the environmental assessment and the preparation of the draft Plan. PERSU 2020 was approved in 2014 and it can be viewed at: http://www.apambiente.pt/index.php?ref=16&subref=84&sub2ref=108&sub3ref=209.
- The Urban Waste Prevention Programme 2009-2016 (PPRU), approved by Ministerial Order No. 3227/2010 of 22 February, was made available on the APA website in advance to collect opinions, in addition to direct consultation with various bodies holding responsibilities in the waste area. It was consequently reassessed after analysis. The implementation of the PPRU poses significant challenges for the Public Administration, as the entity responsible for fostering the implementation of policies and defining its legal and administrative framework, as well as other instruments necessary for its implementation, and also for the other actors in this process, whether these are entities responsible for waste management or other operators directly or indirectly active in the production-consumption chain. In this context, a Collaboration Agreement between APA, EGF, EGSRA and the Urban Waste Management Systems was signed on 27 November 2009, establishing the contributions and obligations of each party in this area. This agreement aims to strengthen the prevention aspect in the implementation of the Action Plans of the Systems, comprising the first step towards the implementation of urban waste management, seeking to
contribute to the reduction of waste generation and to minimise the negative impacts of waste management. Other avenues of collaboration and partnership will also be sought, such as protocols / voluntary agreements to be concluded between APA and other public and private entities - including NGOs - to achieve these goals. Cooperation agreements were signed in 2010 under the PPRU between APA and the General Directorate for Economic Activities (DGAE), the Portuguese Association of Distribution Companies (aped) and the Association for Consumer Protection (DECO).

The referred plans and programmes were subject, prior to their approval, to consultation with CAGER - Waste Management Monitoring Commission, which has the responsibility, among others, of monitoring the implementation and reviewing the plans for waste management.

All the environmental assessment draft plans, plans and documents are available on the APA website for viewing.

Water resources plans and programmes

The Water Law (Law No. 58/2005 of 29 December, republished by Decree-Law No. 130/2012 of 22 June), supplemented by Decree-Law No. 77/2006 of 30 March, and other regulatory instruments, transpose to national law Directive No. 2000/60/EC (the Water Framework Directive - WFD), governing the way in which the planning and management of water resources should be developed http://www.apambiente.pt/index.php?ref=16&subref=7&sub2ref=9. The following programmes and plans are to be highlighted in the period covered in this report:

- The main goal of the National Programme for the Efficient Use of Water 2012-2020 (PNUEA) is to promote efficient water use in Portugal, especially in the urban, agricultural and industrial sectors, helping to minimise the risk of water shortage and to improve environmental conditions in water resources without jeopardising the needs and the quality of life of populations, as well as the socio-economic development of the country. It associates the improvement of water use efficiency with the consolidation of a new water culture through which this resource is increasingly valued not only for its relevance to human and economic development but also for the preservation of the natural environment, in a perspective of sustainable development and respect for future generations. It also aims to achieve the reduction of the pollutant loads returned to water resources and the reduction of energy consumption, aspects that are highly dependent on water use. Public consultation occurred between 13 June and 31 July 2012, 13 contributions were received http://www.apambiente.pt/index.php?ref=16&subref=7&sub2ref=9&sub3ref=860

- The River Basin Region Management Plans (PGRH) are tools for planning water resource management aimed at the environmental, social and economic protection and enhancement of water in river basins integrated into river basin districts under the responsibility of APA. The planning of water resource management is structured in six-year cycles, under the WFD and the Water Law. The first PGRH drafted under this framework are in force for the period 2009 to 2015. The programmes of measures should be reviewed and updated by 2015 and then subsequently every six years. http://www.apambiente.pt/index.php?ref=16&subref=7&sub2ref=9&sub3ref=834. At the end of December 2012, the 2nd cycle of development of the PGRH began, starting with the public consultation of the works calendar and plan. Council of Ministers Resolution No. 52/2016 of 20 September, republished by Council of Ministers Resolution No. 22-B/2016 of 18 November, approves the River Basin Region Management Plans of Mainland Portugal for the period 2016 -2021 http://www.apambiente.pt/index.php?ref=16&subref=7&sub2ref=9&sub3ref=848.

- Public Water Reservoirs Spatial Plans, Estuaries Spatial Plans and the Coastal Spatial Plans are special plans for land use planning. Public participation in their drafting is made according to the legal scheme of land management instruments (Decree-Law No. 80/2015 of 14 May). Throughout the preparation of the plans the relevant information is made available to all stakeholders through the APA website, and the current status of development of the different plans may be checked http://www.apambiente.pt/index.php?ref=16&subref=7&sub2ref=10&sub3ref=96, http://www.apambiente.pt/index.php?ref=16&subref=7&sub2ref=10&sub3ref=95 and http://www.apambiente.pt/index.php?ref=16&subref=7&sub2ref=10&sub3ref=94.
Internationally, the management of shared basins is governed by the Convention on Cooperation for the Protection and Sustainable Use of Water from Portuguese-Spanish River Basins, signed by the two countries on 30 November 1998, hereinafter called the Reservoirs Convention. The aim of this is to define the framework for cooperation between the two countries for the protection of surface and ground waters and the terrestrial and aquatic ecosystems directly dependent on them, and the sustainable use of water resources of the Portuguese-Spanish river basins (cf. www.cadc-albufeira.eu/pt). Four specific working groups were set up under the Commission for the Implementation and Development of the Convention (CADC). The most significant of these was Exchange of Information and Public Participation, due to its importance in the context of the Aarhus Convention, in addition to a secretariat for technical support.

The National Water Council (CNA) is the independent consultative body of the Portuguese Government for the planning and sustainable management of water, created by Decree-Law No. 45/94 of 22 February. The structure and operating means of the Council were redefined by Decree-Law No. 84/2004 of 14 April. Represented on the CNA are the Public Administration and the most representative national scientific, economic, professional and non-governmental organisations in the various uses of water, ensuring the involvement and coordination of the government and civil society (cf. http://conselhonacionaldaagua.weebly.com/). The main objective of the CNA is to rule on the preparation of plans and projects with special emphasis on the uses of water and water resources, providing a forum for discussion of the planning of national water resources policy and the strategic options for its implementation, from an integrative perspective of the environmental values and the sectoral and territorial economic interests. The CNA discussed and approved in plenary, between 2014 and 2016:

- The action strategy for the Portuguese coast;
- PENSAAR 2020 - Strategic plan for water supply and wastewater treatment 2020;
- National Water Plan (PNA);
- River Basin Region Management Plans for the period 2016-2021;
- Reorganisation of water services management systems.

Strategies, plans and programmes for the coastal zone.

The National Strategy for Integrated Coastal Zone Management (ENGIZC) establishes the strategic framework for the global, integrated and participatory management of the coastal zone, in order to guarantee sustainability conditions for its development. Provides the framework for the development and implementation of plans, programmes and strategies with a focus on the coastal zone. Presents the vision for 2029 to achieve a harmoniously developed and sustainable coastal zone, based on a systemic approach and enhancing the value of its resources and identity assets based on scientific knowledge and managed according to a model that articulates institutions, coordinates policies and instruments and ensures the participation of the different actors involved. The strategy development process started in 2006 with the preparation of the document "Bases for the Integrated Coastal Zone Management Strategy", which was opened to public discussion in early 2006 and disclosed in 2007. ENGIZC was also the subject of a public discussion process. The strategic environmental assessment of ENGIZC was developed based on the principles defined in Decree-Law No. 232/2007 of 15 June. ENGIZC was approved by Council of Ministers Resolution No. 82/2009 of 8 September.

Law no. 31/2014 of 30 May was published in 2014, which establishes the general bases of the public policy of soils, land use and urban development planning, which classifies the coastal programmes, as special programmes, as instruments of national scope. Article 3 enshrines citizens' participation as a general principle, strengthening access to information and their intervention in the procedures for drafting, implementing, evaluating and reviewing land programmes and plans. Article 49 establishes the right to information and participation. Decree-Law No. 80/2015 of 14 May develops the bases of the public policy of soils, land use and urban development planning, defining the coordination system of national, regional, inter-municipal and municipal scope of the land management system, the general legal scheme for land use and the system of preparation, approval, performance and assessment of land management instruments. Article 5 states that all stakeholders have the right to be informed about land
management policy and, in particular, about the preparation, approval, monitoring, implementation and assessment of the land programmes and plans.

Strategy, plans and programmes for the sea

The National Strategy for the Sea (ENM 2013-2020) is the public policy instrument that presents the vision of Portugal for the period 2013-2020 in relation to the development model based on the conservation and sustainable use of marine ecosystem resources and services, indicating a long-term path to smart, sustainable and inclusive economic growth based on the maritime component. It revised and updated the first version of the ENM 2006-2016 (RCM No. 163/2006 of 12 December), “taking into account the increase of national interest for the Ocean as a strategic vector, as well as the paradigm shift, marked both internally and externally, by an institutional context geared to sustainable development”. The absence of an action plan for the implementation of the previous ENM hindered its monitoring and evaluation, which prevented the impartial verification of development and the effectiveness of the scope of the plans and programmes. The implementation and results of this cross-cutting and multi-sectoral policy depends on the involvement of public and private agents, so their participation in the formulation of the ENM was crucial. After an extended period of public discussion that took place between 1 March and 15 June 2013, during which more than twenty public meetings were held on the mainland and in the Autonomous Regions, and 118 contributions made in writing weighed up (cf. http://www.dgpm.mam.gov.pt/Documents/Relatorio%20da%20Ponderacao%20Discussao%20Publica_final.pdf), the ENM 2013-2020 resulting from the analysis undertaken during that period, was presented at the 10th meeting of the Inter-ministerial Committee for Sea Affairs (CIAM), created by RCM No. 62/2012 of 13 June (cf. http://www.dgpm.mam.gov.pt/Documents/CIAM.pdf). At that 10th meeting, held on 16 November 2013, National Maritime Day, the ENM 2013-2020 was discussed and approved. The final details are available on the DGPM website, including the text of Council of Ministers Resolution No. 12/2014 of 12 February http://www.dgpm.mam.gov.pt/Pages/ENM_2013_2020.aspx. The implementation of ENM 2013-2020 is being made through the Sea-Portugal Plan, which integrates a set of Action Plans and Projects covering a wide range of fields, which has been updated periodically http://www.dgpm.mam.gov.pt/Pages/ENM_2013_2020_jan.aspx.

Law No. 17/2014 of 10 April was published in 2014, which establishes the bases of the Policy for Planning and Management of the National Maritime Space. Article 12 of that law enshrines the information and participation rights of all stakeholders in the process of preparation, alteration, revision and suspension of the instruments for the planning of the national maritime space. Decree-Law No. 38/2015 of 12 March develops Law No. 17/2014 of 10 April, specifically in Article 7 on the right to information and Article 8 on the right to participate. The terms of participation in the preparation of the Situation Plan (Article 17) and public consultation of the proposed contract for management (Article 32) are also defined in the scope of the allocation plans. This law also makes the Situation Plan (Article 13) subject to environmental assessment, under the terms of law, and makes the Allocation Plans equivalent to projects, for the purposes of applying the legal scheme for environmental impact assessment (Article 23).

Aquaculture production area of Central Portugal - public participation processes between 24 March and 11 April 2014, pursuant to paragraph 5 of Ordinance No. 4222/2014 of 21 March.

Aquaculture production area of Tavira - public participation processes between 24 March and 11 April 2014, pursuant to paragraph 5 of Ordinance No. 4223/2014 of 21 March.

Biodiversity and nature conservation strategy, plans and programmes

The National Strategy for the Conservation of Nature and Biodiversity (ENCNB) for the 2001 to 2010 period, adopted by Council of Ministers Resolution No. 152/2001, is under review. The review of the ENCNB is based on its own timetable and implementing provisions and aims to update and expand the national policy framework for nature conservation and biodiversity in light of the current and prospective challenges of Portuguese society in global and EU contexts, and the requirements of development and competitiveness of the national economy, in a sustainable and efficient perspective of the use of resources, ensuring the resilience of ecosystems and the conservation of the components of the biodiversity that support them. The strategy for implementing the nature
and biodiversity conservation policy in the coming years should have its options anchored in the global commitments made in 2010 by Portugal, the EU and the other Member States in the UN Convention on Biological Diversity and translated into its Strategic Plan 2011-2020, contributing to the consolidation of the UN post-2015 sustainable development agenda. Within the EU framework, Portugal's biodiversity policy will take into account the 2020 Biodiversity Strategy and the commitments of the 7th Environmental Action Programme, which are the basis for the national pursuit of the goals for smart, sustainable and inclusive growth, arising from the Europe 2020 strategy. The ENCNB review project, coordinated by the ICNF, was the result of the work carried out by the Interministerial Coordination Commission and developed between 2014 and 2015 (cf. http://www.icnf.pt/portal/icnf/docref/encnb). The public consultation of the ENCNB review took place between 29 June 2015 and 27 July 2015. Other plans, such as the Iberian lynx (PACLIP) and Iberian wolf action plans (PACLOBO, in finalization) were also submitted to processes with broad public consultation and participation.

The Legal Scheme for Nature Conservation, RJCN (cf. Decree-Law No. 142/2008 of 24 July), envisages that the nationwide classification of protected areas is necessarily preceded by a period of public discussion aimed at gathering comments and suggestions on the classification as a protected area. The procedure and time limits of this public discussion are stipulated in paragraphs 5 and 6 of Article 14 of that Decree-Law. According to paragraph 3 of Article 14 of that law, paragraphs 4 to 6 of that same article 14 also apply to the classification of protected regional or local areas.

The RJCN (cf. paragraph 5 of Article 23 of Decree-Law No. 142/2008) establishes that the procedures for preparation, approval, implementation and assessment of management plans for protected areas shall apply to the provisions of legal instruments for land management, protecting the right of public participation in the preparation, modification, revision, implementation and assessment of land management instruments.

According to the legal scheme of the Natura 2000 network (sub-paragraph (a) of paragraph 3 of Article 7 of Decree-Law No. 49/2005), the Natura 2000 network management plans are preceded by public consultation, which follows the procedures provided in the legal scheme of land management instruments for special land management plans.

Strategy and plans in the forests area

The National Forest Strategy, adopted by Council of Ministers Resolution No. 6-B/2015 – cf. http://www.icnf.pt/portal/icnf/docref/enf -, as well as the 21 Regional Forest Management Plans (PROF) – cf. http://www.icnf.pt/portal/florestas/profs/obj, were prepared according to procedures that included and guaranteed public participation, as established in legislation (Decree-Law No. 16/2009 of 14 January, amended by Decree-Law No. 114/2010 of 22 October). The PROF are currently in the process of revision, being reduced from 21 to 7, according to procedures also subordinated to public participation, as established by the aforementioned legislation.

Legal scheme for Forestation and Reforestation (RJAR) and Legal scheme for the Harvest, Transportation, Storage, Processing, Import and Export of pine cones - both were the subject of extensive public participation initiatives, mainly centred on thematic seminars and discussion forums based on the ICNF website. A similar process also took place with Regulation 995/2010 of the EU Parliament and the Council of 20 October, laying down the obligations of operators who place timber and timber products on the market, namely the preparation of additional implementing rules.

Forest Management Plans (PGF) relating to State-owned land, land in Forest Intervention Areas (ZIF) or integrating community land (wasteland) are mandatorily the object of public consultation and participation prior to their approval. In the period in analysis such land exceeded 650,000 ha for a total of about 200 PGF.

The Operational Programme of Forest Health (POSF) approved by Council of Ministers Resolution No. 28/2014 - http://www.icnf.pt/portal/florestas/prag-doe/posf - establishes the bases of intervention for the reduction of risks of introduction, spread and damage caused by harmful biotic agents. It has been designed by a multidisciplinary and interinstitutional team of forestry technicians and researchers with different specialised skills, representing a wide range of public and private entities covering the fields of forestry production research, forest-based industries and service providers. It also underwent consultation prior to its publication.
National Action Program to Combat Desertification (PANCD)

The PANCD review process began in January 2010, more than a decade after the entry into force of PANCD 1999. It meets the obligations and necessary alignment with the guidelines of the United Nations Convention to Combat Desertification (UNCCD) following the adoption of the Ten Year Strategy 2008/2018, which defines new strategic and operational objectives, expected impacts and global and national indicators to be complied with by national programmes for the period in question. These strategic objectives include the sustainable management and recovery of ecosystems of the susceptible areas and the articulation and promotion of synergies with the processes related to climate change and biodiversity in these fields.

The new PANCD was approved by Council of Ministers Resolution No. 78/2014 of 24 December, for the 2014-2020 horizon. The PANCD underwent public discussion before its approval and adoption. That discussion encompassed strategic guidelines for the development of the fight against desertification in its direct issues, but also as is apparent from the UNCCD in areas associated with soil degradation and drought, as well as combating poverty and depopulation (cf. http://www.icnf.pt/portal/naturaclas/ei/unccd-PT/pancd). The PANCD was also the object of a Strategic Environmental Assessment process, which included a process of public discussion.

Strategy for Tourism

Turismo de Portugal (TdP) fostered a national debate on the Strategy for Tourism 2027 (ET 27) that began on 24 May 2016. It is expected to be a comprehensive and open public consultation process for the construction of ET 27, which is intended to be a long-term framework for Tourism, and which will also include the next Community Support Framework 2021-2027. ET 27 will identify priorities and options, promote the integration of sectoral policies that influence tourism activity, and ensure stability in public tourism policies to 2027. It is based on five strategic axes and ten action challenges, where sustainability can be highlighted as a means of ensuring the preservation and enhancement of the natural heritage, one of the most important resources of tourism activity (cf. http://estrategia.turismodeportugal.pt/) At the start of 2009, Turismo de Portugal initiated a comprehensive project aimed at generating positive impacts on sustainability, not only domestically but also in the tourism sector. In 2011, TdP published its 3rd Sustainability Report, analysing the evolution of performance of the main activities, establishing commitments and strengthening its role as an example of good practices (cf. http://www.turismodeportugal.pt/Português/turismodeportugal/publicacoes/Documents/Relatorio%20de%20Sustentabilidade%202011.pdf).

Also of note is the fact that at the local level, the response to the questionnaire sent to the municipalities indicates that of the 36 respondents, the majority (86%) affirmed that citizens and their organisations are called upon to collaborate in drawing up municipal plans and programmes in the environmental area. The websites of the municipalities and the associated social media are the main informational vehicles, besides the traditional public notices. The means of participation are those foreseen in the municipal organisation (municipal parliaments, public meetings of the executive), but mainly the traditional mail or e-mail. In relation to current municipal environmental policy, 67% of the respondents consider that an opportunity has been given to the local population to participate in its preparation.

XXI. Obstacles encountered in the implementation of article 7

The main difficulty found in terms of public participation relating to the preparation of plans, programmes and policies on the environment, as well as other environmental policy instruments, is the feeble public involvement. Besides generalised low citizen involvement in participatory processes, there is an overload of information available via various media, in particular audiovisual media. Public services have been making efforts to improve the quality of relevant information and make information available by electronic means, facilitating their access to all interested parties. However, the situation on the ground means that there is a need to complement the information tools (e.g. website) with other effective tools for dissemination and raising awareness, to provide greater visibility of both the informational tool or the opportunity that the participatory process itself provides.

XXII. Further information on the practical application of the provisions of article 7

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Nothing to report on this item.

XXIII. Website addresses relevant to the implementation of article 7

http://participa.pt

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Waste

The Strategic Plan for Urban Waste (PERSU 2020) prepared in 2013 and 2014 underwent an environmental assessment procedure. Accordingly, an opinion on the Environmental report was requested from entities with specific environmental responsibilities, which may be interested in the environmental impact resulting from the implementation of PERSU 2020. The PERSU 2020 Project and its Environmental Report were also jointly submitted to a public consultation procedure. 14 contributions were received from local public administration entities, urban waste management systems, companies, associations, environmental non-governmental organisations and one private citizen. These contributions were integrated into the respective Environmental Assessment and Plan whenever considered relevant.

APA promoted public participation and consultation in the preparation of the draft legislation that gave rise to Decree-Law No. 79/2013 of 11 June. This legal instrument establishes rules regarding the restriction of the use of certain hazardous substances in electrical and electronic equipment (EEE) with the aim of contributing to the protection of human health and the environment, including the environmentally friendly recovery and disposal of EEE waste, and transposing into national law Directive 2011/65/EU of the European Parliament and the Council of 8 June, on the restriction of the use of certain hazardous substances in EEE, amended by Delegated Directives 2012/50/EU and 2012/51/EU, both of the European Commission of 10 October.

APA promoted a broad consultation concerning the transposition of Directive 2012/19/EU of 24 July on the waste of electrical and electronic equipment (WEEE), which involved the key entities involved in the management of WEEE [the Autonomous Regions; inspection entities; ERSAR; EGF and EGSRA; associations representing the economic sector of EEE, EEE sales and waste management operators; the confederation of environmental protection associations (CPADA); entities managing WEEE and the entity for the registration of producers], as well as the CCDR. Contributions were received from 16 entities, including from CPADA, which was represented by Quercus. The proposals contained in the draft legislation were generally approved.

At the local level, all the 36 municipalities that answered the questionnaire sent out to evaluate the implementation of the Aarhus Convention consider that consultation of the population is envisaged during the drafting of regulations and other normative instruments of municipal scope.

XXV. Obstacles encountered in the implementation of article 8

Nothing to report on this item.

XXVI. Further information on the practical application of the provisions of article 8

Nothing to report on this item.

XXVII. Website addresses relevant to the implementation of article 8

http://participa.pt

Romania

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in 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;

Article 6 of the Convention refers to environmental decisions/permit for proposed activities listed in Annex I of the Convention. Romanian legislation ensure a public participation in decision making since transposition in 2002, under Government Decision no.918 on establishing the framework procedure for environmental impact assessment of certain public and private, of Directive EIA.

Government Decision no. 445 of 2009 was adopted in 2009. This regulation strengthens all the requirements regarding public participation in decision making on specific activities as required under Directive 2003/35/EC incorporating Pillar II of the Aarhus Convention into the community legislation.

The national EIA legislation provides the public participation principle that needs to be implemented whenever the public authority applies the procedure for proposed activities subject to the EIA procedure (Annex I and II of the EIA Directive, as amended).

Under Article 8 (1) letter a) of GD 445/2009, this regulation does not apply to projects of national defence, if the Ministry of Environment decides, together with the Ministry of National Defence, on a case by case analysis, that such application of the procedure would negatively impact the purpose.

Transposition of the relevant definitions of Article 2 of the Convention was provided in Article 2 of GD 445/2009.

Under the national legislation in force, public participation is an integral part of the regulatory procedure of all projects/activities that might have a significant environmental impact.

(b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in paragraph 2;

In regard to paragraph 2 of Article 6 of the Convention:

Article 16 par. (1) of GD No.445/2009 provides that the public concerned shall have the possibility to participate timely and effectively in the environmental impact assessment procedure, to prepare and submit comments and opinions to the competent environmental authority when all the options are open and before taking the decision to issue/ reject the environmental agreement.

Thus, according to Article 15 (2) letter a) of GD No.445/2009, in the environmental impact assessment procedure, the competent environmental authorities shall inform the public on time, and by the time the information can be reasonably provided at the latest, by a public announcement and by posting on their own website, the following:

- any request for environmental agreement;
- the fact that the project is subject to the environmental impact assessment procedure, indicating, as applicable, whether the project is covered by the provisions regarding assessment in a cross-border context;
- the contact data of the competent authorities in issuing/rejecting the environmental agreement, of the authorities where relevant information can be obtained, of the authorities where comments or questions can be submitted, and the deadline for such submissions;
- the nature of potential decisions or, if applicable, the draft decision;

- The fact that the information obtained in the scoping step of the assessment and the preparation of the environmental impact assessment report are made available to the public;

(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3;

The public can participate in the public debate (public hearing) and can submit comments.

Before the public hearing, the project and the EIA report are made available to the public for a period of 30 working days. During this time, the public may submit comments and opinions to the competent environmental authority and to the developer. The project and the EIA report are subject to public hearing. The public may submit comments during the public hearing. The competent environmental authority is obliged to take into account all public comments received during the procedure, or submitted in writing before the public hearing, as well as those expressed during the public hearing.

The provisions of Order No. 135/84/76/1284 of 2009 approving the environmental impact assessment methodology for public and private projects comply with the requirements regarding public participation and the time periods.

The legislation in force provides for determined time frames for the different public opportunities to participate in the decision making process.

(d) With respect to paragraph 4, measures taken to ensure that there is early public participation;

According to the national legislation in force, the public is informed early in the environmental decision making process when all the options are open, with the first step being the announcement of application submittal.

For projects requiring environmental impact assessment (EIA), the application must also include a non-technical summary. This ensures that the public has an adequate basis for effective consultations. At this point in time, no decision will have been taken by the competent authority on the project’s eligibility for approval.

Following the public announcement of an environmental agreement application submittal, the public has the opportunity to send comments or opinions regarding the application and the supporting documents.

Under Article 9 (4) of GD No.445/2009, the public is informed on the decision of the screening stage and has the possibility to consult the decision.

The public concerned is consulted during the scoping stage. They can express comments and opinions regarding the developer’s request and these are taken into consideration in the development of the scoping report. The report is made available to the public under Article 12 (3) of GD No.445/2009.

The public concerned has also the possibility to consult and sent comments on the EIA report (Article 14 (3) of GD No.445/2009: “The EIA Report is subject to interested public comments, and the proposals/recommendations shall be taken into account in the review stage."

The report is subject to public hearing. The competent authorities publish the decision to issue/reject the environmental agreement and makes available to the public the content of the environmental agreement (including all the conditions it contains), the main reasons and considerations on which the decision to issue/reject it is based, where necessary, of the main measures to prevent, avoid, reduce and, where is possible, compensate/offset the significant adverse effects.

We consider that timely public participation assumes providing the interested public an opportunity to contribute when they can influence the environmental assessment of the project.

Following the public announcement of an environmental agreement application submittal, the public has the opportunity to send comments or opinions regarding the request and the supporting documents. The public
involvement in the scoping stage (in order to draw up the scoping report) helps the competent environmental authority in focusing on the most important aspects that need to be assessed from the environmental protection.

The consultation of the public concerned during the review stage contributes to an effective impact assessment of the proposed project. As a result, the final decision (the decision to issue or reject the environmental agreement) will be better documented and the chance of being challenged are reduced.

(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;

The Ministerial Order No.863/2002 approving the EIA guidelines developed by the European Commission recommends that the developers must promote their projects among the public concerned and encourages them to provide project presentations before the application for a final decision/permit. The guidelines are published in the Official Journal of Romania (Official Journal no.52/2003 and are available for developers.

(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;

As mentioned above, the competent public authorities make available to the public concerned all the relevant information for the decision-making process. The documentation available to the interested public contains information about the proposed location, the non-technical summary, the potentially significant environmental effects of the proposed activity, the investigated alternatives, etc.

Under GD No.445/2009, the developers have the obligation to provide the EIA report, which is a public document and it is available to the public for comments. The environmental report includes information, inter alia, about:

- a description of the project, including site data, proposed technical solutions and the size of the project;
- a description of the measures envisaged in order to avoid, reduce and, if possible, remediate significant adverse environmental impacts;
- the necessary data to identify and assess the main effects which the project is likely to have on the environment;
- a general presentation of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;
- a non-technical summary.

Under GD No.445/2009, in the environmental impact assessment procedure, the competent environmental authorities must inform the public on time, and by the time the information can be reasonably provided at the latest, the EIA Report for comments from the public, which shall be considered in the review stage. The competent environmental public authority shall make a public announcement and shall post on its website the information gathered during the scoping and the review stages.

(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;

The procedure for public participation allows the public to submit comments, information and analyses related to the proposed activity. The public may participate in the public hearing and express opinions as they consider relevant to the proposed activity.
The public may submit written opinions in every step of the EIA procedure and especially comments on the EIA report may be submitted in order to be discussed during the public hearing. Such provisions are present in the methodology of the applying for EIA procedure, adopted by subsequent legislation.

(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;

The legislation in force establishes that the competent authority must take into account the outcome of the public participation in the decision-making process. EGO No.195/2005 on environmental protection establishes the principle of public participation in the decision-making process. It also states that the specific procedures must be provided in special regulations.

For example, the Romanian legislation (GD No. 445/2009), requires the EIA decision will take into account the outcomes of the consultations and all the information obtained in accordance with this procedure.

(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;

The public is informed about the decision taken by announcements posted on the website of the public authority and of the owner of the project. The announcements must contain the text of the decision, including the main reasons and considerations it was based on.

The owner of the project must make the announcement regarding the decision taken in national/local newspapers (MO No.135/84/76/1284 of 2009), while the environmental authorities must publish the decision on their website, including the content and reasons thereof.

Article 21 (1) of GD No.445/2009 provides the implementation of the requirement of paragraph 9 of the Convention. Moreover, this article provides the transposition of article 9 of Directive 2003/34/EC as well.

(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;

MO 135/84/76/1284 of 2009, provides that, when the public authority revises a decision taken, public participation must be included. Thus, Article 47 provides that:

“(1) Reviewing the screening decision, environmental permit or Natura 2000 approval, is done, by the issuing environmental competent environmental authority by taking the following steps:

within 10 days of the decision to revise, going through the following procedural steps:

a) recording mentions and/or amending the initial content of the document issued by the competent environmental authority or rejection of the application, as applicable;

b) drawing -up the public announcement, according to the template provided in Annex No. 21;

c) publication of the announcement on its own website and posting at its offices;

d) transmission of the public announcement drafted according to the template provided in Annex No. 22 to the developer, for publication within 3 days, in the national or local media, at its offices and on its website, as well as on the investment identification board mounted on the site.

(2) The interested public may send to the competent environmental authority comments/opinions/observations regarding the decision of the competent environmental authority within 10 days of this posting.

(3) Within 5 days of the deadline provided under para. (2) expiry, the competent environmental authority shall conduct the following activities:
a) review the justified comments/opinions/observations of the interested public;

b) send to the project titleholder the revised screening decision/ environmental agreement. Natura 2000 endorsement for rejection of the application, as applicable. "

(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.

Emergency Government Ordinance No.43/2007 regarding deliberately introduction on the environment and on the market of genetically modified organisms contains provisions on public participation and information, in its Article 6 para.(4) and Article 17.


Romania has accepted the GMO amendment of the Aarhus Convention by the adoption of Law No. 24/2008.

XVI. Obstacles encountered in the implementation of article 6

Sometimes, lack of financial resources may be an obstacle.

XVII. Further information on the practical application of the provisions of article 6

The public hearing is mandatory within the EIA procedures undertaken for projects and takes place in every county (there are 42 counties in Romania). Such hearings are organised by the local environmental protection agencies (LEPA) with support from the developer.

In order to promote public participation in decision making processes, the provisions of the environmental legislation in force on regulatory document issuing procedures are applied: public announcements in the mass-media, institution website, developer website, posting at the mayor’s office, titleholder’s office public hearings.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

The participation of the public during the preparation of plans and programmes relating to the environment was established by the transposition into national legislation of European Directives 2001/42/EC and 2003/35/EC.

GD No. 1076/2004 for setting up the Environmental Assessment Procedure of certain Plans and Programs transposes the provisions of Directive 2001/42/EC. Public information and participation to the environmental assessment procedure is reflected in Section 4 of GD No. 1076/2004.

GD No. 564/2006 providing for public participation in respect of the drawing up certain plans and programmes relating to the environment transposes Directive 2003/35/EC. This Government Decision was issued in the application of Article 7 of the Aarhus Convention and, together with GD No. 1076/2004, implements the provisions of Article 7 of the Aarhus Convention. GD No. 564/2006 transposes the definition of the term public under the Aarhus Convention.

Article 4(1) of GD No.564/2006 stipulates that “the public shall participate effectively and in a timely manner, having the opportunity to consult the documentation and submit comments, questions, or opinions before a decision is taken, and when all options for the development of a plan or program or for the modification or review of a plan or program are still open.”
Accordingly to Article 5 of GD No. 564/2006, the public is informed, inter alia, regarding the initiation of the planning process of a plan or programme and on their right to participate in the decision-making. Public participation includes a mandatory public hearing for the plan/program, subjected to this regulatory act.

Article 9 (1) and (3) of GD No. 564/2006 stipulates that the public authority shall take into account the outcome of the public participation and shall inform the public accordingly. Article 2(2) of GD No.564/2006 provides for the transposition of the non-discrimination requirement as follows: any natural person, without discrimination as to citizenship, nationality or residence and, in the case of the legal persons, without discrimination in regard to the place of office registration or actual place of business.

GD No. 1076/2004 provides the definition for the term public as contained in the Aarhus Convention. GD No.1076/2004 provides that, in the consultation process, together with the submission of the plan/program to the environmental authority, in order to decide if it will undertake the strategic environmental assessment, the public is informed by public announcements and shall have access to the plan/program draft. This is done in a timely manner, as required by GD No.1076/2004, early, from the beginning of the plan/programme.

Moreover, the draft plan or programme and environmental report are subject to public hearing. Before the public hearing, the public is once again informed by public announcements and has access to the documentation at least 45 days in advance.

Article 2, letter b) defines the environmental assessment as the preparation of the environmental report, the consultations of public and of the public authorities interested by the environmental effects of implementing the plans or programmes, taking into account the environmental report and the results of the consultations in the decision making process and providing the information on the decision.

However, usually the public is more interested in the EIA procedure, where the level of detail is higher and it is easier to understand what are the possible immediate changes within the environment, instead of the SEA procedure which is established for a strategic level, and where one has to look into perspectives.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

The policies of the Government related to the environment are materialise in strategies, plans or programs. These documents are subject to GD No. 1076/2004 or GD No. 564/2006.

XXI. Obstacles encountered in the implementation of article 7

The fact that the public is not aware of the environmental problems, for various reasons: standards of living, information vehicles, age, education, occupational interest, etc.

XXII. Further information on the practical application of the provisions of article 7

Romania has undertaken the SEA procedures, including public participation phase, including in public hearing meetings for all the sectoral operational programs developed for 2013-2020. Further, for the future programming period 2017-2020 ME will apply the SEA procedure, including the public participation step, to all the sectoral operational programmes and other plans/programs/strategies in the areas of: transport, economic competitiveness, waste, climate change, agriculture, forestry, energy, industry, mining of mineral resources, waste management, water management, telecommunications, tourism, regional development.

XXIII. Website addresses relevant to the implementation of article 7

www.anpm.ro

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

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Public participation in developing legislation/regulations is provided under Law No.52/2003 on decisional transparency in public administration, as amended, which stimulates the active citizen participation in the process of elaboration of normative acts or regulations and to the decision making process. Law 52/2003 establishes the obligation for public authorities to inform and submit to public debate normative acts, to ensure the access to the decision making process and to the public debate results.

The public authority has the obligation to publish the announcement of regarding the drafted normative acts on its website, to post it at its offices and, as appropriate, to send it to the local or central media.

Website publications include draft regulations, decisions, ordinances, giving the public an opportunity to actively participate in developing them.

On written request, the public authority shall send a copy of the normative act to the concerned citizen.

The announcement must be published at least 30 days in advance of the submission of the normative act to approval, adoption, or endorsement.

The public authority have the obligation to establish a period of a minimum 10 days in which to receive public comments.

A public hearing on the proposed normative act may be organised by the public authority at the request of at least one person. Order No.1325/2000 on public participation, during the preparation of plans, programmes, policies and legislation relating to the environment establishes a dialogue between the environmental public authorities and NGOs, through a working group.

XXV. Obstacles encountered in the implementation of article 8

Insufficient legally trained personnel in the public institutions.

XXVI. Further information on the practical application of the provisions of article 8

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:


Serbia

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

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

Answer

The Law on Environmental Impact Assessment (LEIA) is the principal piece of legislation regulating the participation of the public in the process of making decisions on activities listed in Article 6 of the Aarhus Convention. The following bylaws elaborate the Law on Environmental Impact Assessment:

- Decree establishing the list of projects for which an impact assessment is mandatory and the list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08);
- Rule book on the content of requests for evaluating the need of developing impact assessments and on the contents of requests for specification of scope and contents of the environmental impact assessment studies (Official Gazette of the Republic of Serbia No. 69/05);

- Rule book on the content of the environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05);

- Rule book on the content, layout and methods of managing a public register on conducted procedures and adopted decisions related to environmental impact assessment (Official Gazette of the Republic of Serbia No. 69/05);

- Rule book on the work of the Technical commission for environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05);

- Rule book on the procedure of public access, presentation and public debate on the environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05).

Moreover, the participation of the public in the process of making the decisions regarding activities listed in Article 6 of the Aarhus Convention is regulated through the provisions of other pieces of legislation:

- Law on Environmental Protection;
- Law on Waters;
- Law on Integrated Environmental Pollution Prevention and Control (Official Gazette of the Republic of Serbia No.135/2004 and 25/15); (LIPPC)
- Decree on types of activities and plants for which an integrated license can be obtained (Official Gazette of the Republic of Serbia No. 84/05);
- Law on Planning and Construction,
- Law on Genetically Modified Organisms (Official Gazette of the Republic of Serbia No. 41/2009) (LGMO)

Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer

The LEP and the LEIA contain definitions of the following notions: “public”, “public concerned” and “competent authority” (LEP: Article 3. Items 26, 28 and 29a; LEIA Article 2. Items 1, 7 and 2).

The LEIA also defines the meaning of other notions that can be of importance for the implementation of provisions of Article 6, such as: “project developer”, “authorities and organisations concerned”, “Environmental impact assessment study”, etc.

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;

Answer

- Please refer to the LEIA: Article 4, Paragraph 1, Item 1, and Article 5 (the obligation to obtain approval of an EIA study from the competent authority) and the Decree on establishing the list of projects for which the impact assessment is mandatory and a list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08) – “List I”. The rules of public participation procedure apply to the projects that are found in the List of projects requiring mandatory environmental impact assessment.
- Please refer to the LIPPC: Article 4 (Types of activities and installations for which an integrated permit shall be granted) and the Decree on Types of Activities and Plants for Which an Integrated License Can be Obtained. The law defines the entire procedure of public participation in issuing integrated permits for plants to which the LIPPC refers.

(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;

Answer

- Please refer to LEIA: Article 4, Paragraph 1, Item 2; Article 5 (the obligation to obtain the approval of the EIA study from the competent authority). The environmental impact assessment procedure applies equally to the projects that are not featured in “List I”, if the competent authority makes a decision to that effect, namely, if the projects in question are deemed to have potentially significant impact on the environment. The list of projects for which environmental impact assessment is not mandatory is defined in the Decree on establishing the list of projects for which the impact assessment is mandatory and the list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08) – “List II”.

(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;

Answer

- Articles 10, 11, 14, 15, 20, 25, 27, 29, 32 of the LEIA regulate the participation of the public concerned. Article 10 of this law specifies that the competent authority shall inform the public, as well as the authorities and organisations concerned about the submitted application for a decision on the need for an impact assessment within ten days from the date of receipt of a complete application.

- Articles 3, 6, 11, 12, 14, 15, 23 and 24 of the LIPPC regulate the participation of the public concerned. Article 11 specifies the procedure of informing the authorities, organisations and the public about the receipt of an application for an integrated permit.

- LW in Article 38 regulates the participation of public concerned in the preparation and adoption of a water management plan. Article 142 (LW) prescribes that the National Conference for Water is composed of the representatives of local self governments, representatives of water users' and associations.

(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3;

Answer

- The LEIA, namely, Articles 10, 11, 14, 15, 20, 21, 23, 24, 25, 27, 28 specify the deadlines for or related to the participation of the public in different stages of the environmental impact assessment procedure.

- Articles 11, 12, 14 and 15 of the LIPPC stipulate the deadlines for the participation of the public in different stages of the procedure of issuing integrated permits.

(d) With respect to paragraph 4, measures taken to ensure that there is early public participation;

Answer

- Article 10, Paragraph 1 of the LEIA specifies that the competent authority shall inform the public, as well as the authorities and organisations concerned about the submitted application for a decision on the need for an impact assessment within ten days from the date of receipt of a complete application. Paragraph 3 of this article states that members of the public concerned may submit their opinions within ten days from the date of receipt of the notice referred to in Paragraph 1 of this Article. Paragraph 4 specifies that the competent authority shall decide on the application within 15 days from the expiry of the period set out in par. 3 of this Article, taking into account the
opinions of the authorities, organisations and the public concerned. Then the competent authority delivers its
decision to project developers and informs the authorities, organizations and the public concerned about it within
three days from the date when the decision was adopted (Paragraph 7).

- Please refer to Article 11 of the LIPPC regulating the procedure of informing the authorities, organisations and
the public about the receipt of an application for an integrated permit, while Articles 12 and 15 regulate the
obligation of providing information about the draft of the permit and the issuance of an integrated permit,
respectively. At the request of other authorities and organisations and the public concerned, the competent authority
shall deliver a copy of the application for an integrated permit, as well as a copy of the draft permit. The competent
authority shall inform other authorities and organisations and the public concerned through public media, by
publishing information in at least one local newspaper covering the territory that will be affected by the impact of
activities and plants. The information is to be made available via the Internet, as well.

(e) With respect to paragraph 5, measures taken to encourage prospective applicant to identify the public concerned,
to enter into discussions, and to provide information regarding the objectives of their application before applying for
a permit;

Answer

No special measures aimed at motivating the applicants to recognize the public concerned, take part in discussions
or provide information as to the goals of application before applying for a permit are planned.

(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;

Answer

a)

- Please refer to the LEIA: Article 10, Paragraph 2; Article 12, Paragraph 2.

- Article 20, Paragraph 1 of the LEIA stipulates that the competent authority shall make the EIA study available to
public and arrange for a public presentation and public debate on the study. Article 17 of the same law specifies the
content of the environmental impact assessment study, namely, the content of all relevant information made
available to the public. The Rule Book on Environmental Impact Assessment Study (Official Gazette of the
Republic of Serbia No. 69/2005) gives a more detailed specification of the prescribed content of certain elements
stated in Article 17 of the LEIA.

b)

- The public concerned is granted access free of charge to all relevant information specified in Article 17, namely,
the Rule Book on Environmental Impact Assessment Study. Please, refer also to Article 33 of the LEIA stipulating
that project developer shall cover the costs, including those relating to the participation of the public.

- Please, refer to Article 3 of the LIPPC stating the basic principles of integrated environmental pollution prevention
and control, including the principle of public character of work. Article 6 of the LIPPC defines that the competent
authority shall provide, among other things, for public access to the contents of permit granting application, issued
permits and monitoring results;

(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;

Answer
- Please, refer to the LEP: Article 81, Paragraph 4; LEIA: Article 10. Paragraphs 2, 3; Article 14. Paragraph 2; Article 20; Article 21. Paragraphs 1, 2; Article 23; Article 32. Paragraphs 2, 4;
- Please, refer to the LIPPC stipulating that other authorities and organisations and representatives of the public concerned may submit to the competent authority their opinions within 15 days from the date of receipt of the notice. During the draft permit elaboration, the competent authority shall consider the opinions of other authorities and organisations and the public concerned (Article 12.).

(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;
Answer
- LEIA: Article 14, Paragraph 3; Article 21, Paragraphs 1, 2; Article 32. Paragraph 4.
- Please, refer also to Article 15 of LIPPC stipulating that the competent authority shall decide on permit granting on the basis of the operator’s application, the attached documentation, reports and evaluation of the technical commission, as well as on the basis of the opinions obtained from other authorities and organisations and the public concerned.

(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;
Answer
- Article 25 of the LEIA specifies the obligation to inform the public about the decision, including the reasons for the decision. See also Article 196 of the Law on General Administrative Procedure stating the form and elements of a decision.
- Please, refer to Article 15 of the LIPPC stipulating that the competent authority shall deliver to the operator the decision on granting permit, or refusal of the application for granting the permit and inform accordingly other authorities and organisations and the public concerned within eight days from the date of passing the decision. The competent authority shall deliver the written notice to other authorities and organisations. Article 31 defines that the responsible person in the competent authority shall pay a fine for a range of offences, including failure to inform other authorities, organisations and public in the prescribed way (Article 23);

(j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsider 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
Answer
- Article 3. LEIA specifies that an environmental impact assessment is carried out in case of planned projects and projects being implemented, changes in technology, reconstruction, extension of capacity, termination of operations, and the removal of projects that may have significant impact on the environment. The procedure defined by law accordingly applies to projects that involve changes in technology, reconstruction, extension of capacity, termination of operations, etc.
- Please, refer also to Articles 18, 28 of the LEIA
Article 18 of the LIPPC defines the review procedure and the situations when a review procedure is carried out. The procedure itself is the same as when granting a permit.

(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

In accordance with Article 15 of the Law on Genetically Modified Organisms (LGMO) (informing to the public), following the receipt of the application, the MAEP shall make available to the public the contents of the application in at least one daily newspaper distributed on the entire territory of the Republic of Serbia, and through electronic media. The MAEP shall organize and hold a public debate lasting up to 30 days from the day when the application contents were made available to the public.

The opinion of the Expert Council and the final decision with a rationale shall be published by the Ministry in at least one daily newspaper distributed on the entire territory of the Republic of Serbia and through electronic media.

Please, refer also to Article 63 of the Law on Food Safety specifying that upon placing genetically modified food and genetically modified feed on the market, including quantities in bulk, the business operator concerned shall provide the recipient of such food or feed the with the prescribed data in writing.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

- The existing institutional and other capacities of the MAEP and the competent local self-government bodies are not sufficiently developed; therefore it is necessary to implement the measures aimed at their strengthening. The reactions of citizen’s associations indicate that insufficient capacity, especially at the local level, is often taken advantage of in order to push less than well-argumented studies through and obtain permits (this most often occurs in the context of hydro-electric power plants).

- The abuses related to the transparency of procedure aiming to obstruct decision making by failing to make the best use of the opportunities to influence the decisions of other competent authorities.

- The requirements to provide copies of the entire documentation constitute infringement of copyright of project designers/consultants.

- Low public participation in the EIA procedures at the level of the autonomous province. The absence of the obligation to inform the public concerned about the assessments in writing may be one of the factors contributing to that. Certain non-governmental organizations states that participation of citizens is low because decisions are adopted regardless of the adequate comments.

- Conspicuously low level of participation of the bodies and organizations concerned (except professional organizations, such as organization focusing on the protection of the environment).

- The fact that the LEIA has not been harmonized with the Aarhus Convention (the provisions regulating “the assessment of impact of the current status”) and that the Law on Planning and Construction does not contain the provisions requiring environmental impact assessment, were recognized as problems in the course of the public debate.

- The most frequent obstacles and problems in the implementation of regulations related to public participation in decision-making affecting environmental impact assessments are insufficient public participation due to being uninformed, uninterested, late inclusion in the course of the case after the deadlines for the right to complaint have expired, as well as lack of trust in the work of the competent body regarding the protection of their interests (City of Niš).

- The problems that occur relate to lack of citizen satisfaction regarding the choice of location for planning the implementation of projects subject to the environmental impact assessment procedure (City of Novi Sad).
- The most frequent problem and obstacle related to public participation in decision making regarding environmental impact assessments is that the interested public, despite regular notifications in accordance with regulations, as well as notifications by the Community Councils of territories wherein project implementation is planned, is insufficiently interested for participation in the procedure throughout all phases of project implementation (City of Kragujevac).

- Certain non-governmental organizations states that: majority of the Environmental Impact Assessment Studies does not contain cumulative impacts, alternative scenarios are not developed; complex projects are being cut into small projects to avoid large adverse effect; developers of the Study are at the same time the employees of the company; there is no evaluation as to whether the Study is prepared well or not, what is important is that it satisfies the Rulebook on the contents of the impact assessment study, hence there is no possibility of license withdrawal; there are no reviews in cases where there is documented massive reporting by citizens on destructive effects of a certain project; Impact assessments are not carried out for the significant amendments to the existing projects – facilities; the mechanism of approving the as-is state is still being exercised, construction commences without an impact assessment carried out or a study developed, and afterwards everything that has been built is “legalized” by way of subsequent procedures.

- Certain non-governmental organizations states that decision on the necessity to prepare impact assessment for the list II projects is underspecified; in practice, it boils down to the discretion of the impact assessment department.

- Certain non-governmental organizations states that the impact assessments do not clearly specify the deadline for implementation of environmental protection measures; hence there is no monitoring of the implementation thereof and, in addition to the conditions, protective measures need to be updated as well.

- Certain non-governmental organizations states that most of the Environmental Impact Assessment Studies have been rejected due to formal deficiencies, not one of them was rejected due to the comments given, poorly prepared study or citizen dissatisfaction.

- Within the public consultation on the III National Report on Aarhus Convention implementation, the Association of Young Researchers Bor has, together with the partner CSOs, organized the consultations, through the Environmental Civil Society Support Programme - CSOnnect, as well as a special meeting and public discussion with citizens, where the following comments and suggestions were adopted as a contribution to preparation of the final wording of the III Report: „Invitation for public review on the request for preparation of environmental impact assessment study, strategic impact assessment and integrated protection, the requests and decisions are being published on the website of the Ministry in charge for environmental issues. Public review may be performed in the premises of the Ministry. The link is provided on the website where documentation can be inspected, but, most often, there is no such documentation. However, all the projects subject to public review are being implemented in a local environment. The public and the public concerned that is or may be affected most often does not have the opportunity to come to the ministry and perform the public review, hence, in practice, the implementation of this provision is impossible. It is necessary to organize and capacitate the local administrations to implement the procedure of public review and public consultations, of course, under the supervision of the ministry to avoid problems arising due to projects implementation. Copy of the documentation should be sent to local administrations and organize the review and consultations locally. A positive example of such practice is the implementation of the project for the construction of smelter and sulphuric acid plant in Bor, when public review was possible in the competent municipal service; public consultations were organized for various structures (scientific-expert public, public enterprises and institutions, education and health institutions, employed and retired persons, local community offices) and, at the end, a collective public consultations were organized, and a significant part of suggestions and comments was incorporated in the impact assessment. All of this was covered by local media which communicated the relevant information in a timely manner. After the commencement of project implementation, “open doors” were organized once a week, attended by the project implementation managers and contractors, where citizens were informed on the progress of the project and of the application and implementation of the measures envisaged by the environmental impact assessment study.
XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

a)  
- In 2014 the MAEP passed decisions for 90 requests on the need to conduct environmental impact assessment, 13 requests to determine the scope and content of the environmental impact assessment study, 27 requests for approval of issuing environmental impact assessment studies; gave 60 opinions/instructions related to the enforcement of the Law on Environmental Impact Assessment (competence for the procedure, study updating, interpretation of provisions, project list, response to information of public importance, etc); and passed 3 conclusion on rejection of application (due to formal incompleteness or no need for initiation of procedure).

- In 2015 the MAEP passed decisions for 145 requests on the need to conduct environmental impact assessment, 42 requests to determine the scope and content of the environmental impact assessment study, 52 requests for approval of issuing environmental impact assessment studies; gave 108 opinions/instructions related to the enforcement of the Law on Environmental Impact Assessment (competence for the procedure, study updating, interpretation of provisions, project list, response to information of public importance, etc); and passed 19 conclusion on rejection of application (due to formal incompleteness or no need for initiation of procedure).

- In 2016 the MAEP passed decisions for 42 requests on the need to conduct environmental impact assessment, 8 requests to determine the scope and content of the environmental impact assessment study, 28 requests for approval of issuing environmental impact assessment studies; gave 40 opinions/instructions related to the enforcement of the Law on Environmental Impact Assessment (competence for the procedure, study updating, interpretation of provisions, project list, response to information of public importance, etc); and passed 21 conclusion on rejection of application (due to formal incompleteness or no need for initiation of procedure).

- In 2014, the SUPCEEP conducted 202 environmental impact assessment procedures, out of which: Phase I – deciding whether it was necessary to conduct the environmental impact assessment: 55 cases; Phase II – determining the scope and content of the environmental impact assessment study: 26 cases; Phase III – deciding on the approval of the environmental impact assessment study: 26 cases, study updating: 4 cases. The public participated in only one of all procedures conducted, while authorities and organizations concerned participated in passing of final decisions in 40 cases (Institute for Nature Conservation of the Autonomous Province of Vojvodina and Local Self-Government of the Autonomous Province of Vojvodina, etc).

- In 2015, the SUPCEEP conducted 106 environmental impact assessment procedures, out of which: Phase I – deciding whether it was necessary to conduct the environmental impact assessment: 48 cases; Phase II – determining the scope and content of the environmental impact assessment study: 13 cases; Phase III – deciding on the approval of the environmental impact assessment study: 43 cases, study updating: 2 cases. The public participated in only two of all procedures conducted, while authorities and organizations concerned participated in passing of final decisions in 34 cases (Institute for Nature Conservation of the Autonomous Province of Vojvodina, Public Enterprise National Park Fruska Gora, , Local Self-Government of the Autonomous Province of Vojvodina, etc).

- In 2016, the SUPCEEP conducted 26 environmental impact assessment procedures, out of which: Phase I – deciding whether it was necessary to conduct the environmental impact assessment: 17 cases; Phase II – determining the scope and content of the environmental impact assessment study: 2 cases; Phase III – deciding on the approval of the environmental impact assessment study: 2 cases. Neither the public nor authorities and organizations concerned did not participate in passing of final decisions.

- At the Secretariat for Environmental Protection of the City of Belgrade (SEPCB), under procedures for environmental impact assessment for projects, within the remit of the Department for Environmental Impact Assessment of Projects:
  
  - In 2014, the number of requests and completed procedures for environmental impact assessment of projects was 299.
  
  - In 2015, the number of requests was 301, with 260 requests resolved, and 41 procedures ongoing.
In 2016 (by the end of April) the number of received requests was 64, with 30 resolved, and 34 procedures ongoing.

During the above period, citizens expressed interest in providing opinions in a total of 12 impact assessment procedures.

The following was registered under the right of complaint:

- In 2014 there were 11 complaints filed, all by project bearers, while the interested public filed no complaints;

- In 2015 there were 20 complaints, 6 filed by project bearers, and 14 by citizens (of this number, one citizen filed 10 complaints against SEPCB decisions regarding the setup of mobile telephony base stations at 10 different locations);

- In 2016 (by the end of April) there was 1 complaint filed by the interested public.

Regarding public participation in procedures for issuing permits for the treatment, and/or storage and reuse of waste in plants within the territory of the City of Belgrade, SEPCB notifies the public on submitted requests and adopted decisions, and organizes public review of the available documentation, in accordance with the law. During the observed period (1 January 2014 - 30 April 2016), representatives of the public failed to respond to the call for participation in the public review procedure for implemented procedures, nor were there opinions submitted or complaints filed by representatives of the public. Regarding the issuing of permits for the treatment, storage and reuse of waste:

- In 2014 the number of requests and completed procedures for issuing permits for the treatment, and/or storage and reuse of waste was 20;

- In 2015, the number of requests was 15, with all 15 requests resolved;

- In 2016 (by the end of April) the number of received requests was 6, with 3 resolved, and 3 procedures ongoing.

The following was registered under the right of complaint:

- In 2014 there was 1 complaint by the operator - submitter of the request;

- In 2015 there was 1 complaint by the operator - submitter of the request;

- In 2016 (by the end of April) there were no complaints filed against the adopted administrative acts.

- In 2014, in the Environmental Protection Office of the City of Novi Sad, there were 39 cases related to environmental impact assessment, in 2015 were 74 cases related to environmental impact assessment, and in 2016 (until May 25th) were 16 cases related to environmental impact assessment. Throughout these period 10 (ten) members of the public showed interest in giving their opinion regarding impact assessment procedures. There were no complaints coming from citizens or associations regarding impact assessment procedures, namely, breaching environmental regulations.

- In the City Administration for Economy, Sustainable Development and Environmental Protection Office, in Nis the number of environmental impact assessments completed for 2014 was 70 cases, as follows: the number of cases of deciding on the need for an environmental impact assessment was 51 cases; the number of cases of deciding on issuing approval for an impact assessment study was 18, with one case of updating a study. The number of environmental impact assessments completed for 2015 was 60 cases, as follows: the number of cases of deciding on the need for an environmental impact assessment was 40 cases; the number of cases of deciding on issuing approval for an impact assessment study was 20 cases. The number of environmental impact assessments completed for 2016 was 7 cases, as follows: the number of cases of deciding on the need for an environmental impact assessment was 6 cases; the number of cases of deciding on issuing approval for an impact assessment study was 1 case. There was no
interest among citizens for providing opinions on the environmental impact assessments for 2014, 2015 and 2016, while those by the project bearers, interested bodies and organizations and other legal persons amounted to 20 cases. There were no citizen or non-governmental organization complaints against the environmental impact assessment procedure due to failure to observe environmental regulations in the period 2014, 2015 and 2016. During the above period there were 5 complaints filed by project bearers.

- In the city administration for spatial planning, urban planning, construction and environmental protection (Kragujevac) the number of environmental impact assessments in 2014 was 41 cases, in 2015 it was 49 cases and in 2016 it was 3 cases. During the implementation of the environmental impact assessment procedure there were five submitted opinions, mostly by interested persons who were against the setting up of mobile telephony base stations in their immediate vicinity. No association showed interest in providing opinions on the environmental impact assessment nor filed complaints against the procedure of implementing the environmental impact assessment process. For the two previous years (2014 and 2015), and during the current year of 2016, there were two complaints filed by the interested public, and the cases were referred to the second degree body - MAEP, with the procedures ongoing. There was very little citizen interest in providing opinions during the implementation of environmental impact assessment procedures.

b

- The Aarhus Centre Subotica has organized a great number of public debates on the environmental impact assessment studies for projects and public consultations on different documents such as the Strategy of Local Sustainable Development of Subotica, Law on GMO, Law on Waste Management, inviting citizens and professional organizations to participate in decision-making process. In cooperation with the TERRA’S association, objections were already filed against a case with the explanation that it is not under the remit of the municipal administration, but the provincial secretariat, since it relates to hazardous waste where the law prescribes the competence of provincial institutions.

- In cooperation with the Aarhus Centre of South and East Serbia, during the period 24 June - 14 September 2014, the OSCE Mission to RS implemented a project aimed at establishing an environmental council in five municipalities in south-eastern Serbia (Merošina, Lebane, Knjaževac, Bor and Leskovac), and the selection of proactive members of environmental civil society organizations to participate in the work of the newly formed environmental councils. The project raised awareness and knowledge among the interested public regarding their rights and mechanisms for their stronger participation in environmental management at the local level. The knowledge of local authorities on ways to successfully engage civil society and the media in resolving local environmental protection problems was also improved.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

a) See the list of website addresses related to Article 4.

b)

http://www.eko.minpolj.gov.rs/obavestenja/MAEP

http://www.ekourb.vojvodina.gov.rs/

Secretariat for Urban Planning, Civil Engineering and Environmental Protection of the Autonomous Province of Vojvodina

http://www.beograd.rs/index.php?lang=cir&kat=beoinfo&sub=1720094%3F

Secretariat for Environmental Protection of the City of Belgrade

www.environovisad.org.rs

Environmental Protection Office of the City of Novi Sad

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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, pursuant to article 7.

- Law on Strategic Environmental Impact Assessment;
- Law on Environmental Protection: Article 10; Article 14, Paragraph 1, Item 3; Article 35; Article 81, Paragraph 1, Item 1 and Paragraph 2; Law on Planning and Construction: Article 16, Article 33, Paragraphs 3. and 4; Article 41; Article 42; Article 43 Paragraph 3, Article 45; Article 50 and 51; Law on Air Protection: Article 37, Paragraph 3; Law on Waters: Articles 37-39; Article 25, Item 7; Law on Nature Protection: Article 54, Paragraphs 6-8; Articles 115 and 116; Law on Forestry: Article 21; Law on Energy: Article 5, 6; Law on Agriculture and Rural Development (Official Gazette of the Republic of Serbia No. 41/09): Article 5; etc.

Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9

The Law on Strategic Environmental Impact Assessment (LSEIA) contain definitions of the following notions: “public” and “public concerned” (Article 3, Item 5 and 6) that can be said to have been harmonized with the definitions in the Aarhus Convention.

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

- Article 81 of the LEP states that the participation of the public regarding strategic impact assessment shall be ensured by opening spatial and urban plans, i.e. any other plan or programme from Article 35 of this law to the public scrutiny. The strategic environmental impact assessment is developed for certain plans, programs and principles in the domain of spatial and urban planning or land utilization, agriculture, forestry, fishing, hunting, energy, industry, traffic, waste management, water management, telecommunications, tourism, infrastructure systems, protection of natural and cultural resources, flora and fauna and their habitats etc., and is an integral part of the plan, program or basis (Article 35). The strategic environmental impact assessment must be harmonized with other environmental impact assessments, as well as with environmental protection plans and programmes and is carried out in accordance with the procedure set out in a special law. Autonomous province or local self-government units, within their rights and responsibilities, define the types of plans and programmes for which the strategic impact assessment will be developed.

- Article 19 of the LSEIA specifies that public participation is an integral part of the decision-making process. Prior to submitting the request for approval of the strategic assessment report the competent authority responsible for preparation of plans and programs shall provide for public participation in reviewing the strategic assessment report. The public shall review the report within the process of displaying the plans and programmes for public scrutiny and during public debate, unless otherwise provided by law. The competent planning authority informs the public about the method and deadlines for reviewing the content of the report and submission of opinion, as well as the time and venue of holding the public debate, in accordance with the law regulating the procedure of adoption of plans and programmes. The competent planning authority compiles the report on the participation of interested bodies, organisations and the public, which shall encompass all the inputs referred to in Article 18, Paragraph 2 of this law,
as well as the inputs submitted during public scrutiny and public debate on the plans and programmes, and the strategic assessment report referred to in Article 19 of this law. The report is compiled within 30 days from the date of completion of public debate and includes explanations on all the accepted or rejected opinions (Article 20). According to Article 22, based on the evaluation in Article 21 of this law, the competent environmental protection authority grants approval to the strategic assessment report or rejects the request for granting approval. The deadline for issuing approval is 30 days from the day of receipt of the request submitted by the competent planning authority. The authority competent for preparing the plan or program cannot submit the plan or program for further adoption without having obtained approval of the report on the strategic assessment, issued by the authority competent for environmental protection. The Ministry responsible for environmental protection shall conduct the exchange of information on transboundary impact of plans and programmes on the environment (Article 23). Article 24 stipulates that the strategic assessment report and the results of participation of the authorities, organisations and public concerned and other states in the cases of transboundary impact shall become an integral part of the documentation that provides the basis for plans and programmes. The competent planning authority shall provide access to the data referred to in Paragraph 1 of this Article after the adoption of plans and programmes, under the conditions set forth by law.

-The Law on Planning and Construction specifies that strategic environmental impact assessment is an integral part of the spatial plan of the area used for special purposes (Article 22). The decision on developing planning documents also includes, the obligation, or absence thereof, of producing the strategic environmental impact assessment (Article 46). The Law on Planning and Construction stipulates that public participation, as regards urban and spatial planning, takes place during public discussion, meaning that the strategic impact assessment report is reviewed at the same time. According to Article 41, planning documents with annexes must be accessible for public scrutiny during the period of validity of the documents, in the premises of the entity of the decision-maker. The planning document is displayed for public scrutiny takes place after technical review is completed and is announced in a daily and local newspaper (Article 50). The display of the planning document for public scrutiny is overseen by the Spatial Planning Agency of the Republic of Serbia i.e. the body of the local self-government unit responsible for spatial and urban planning. The responsible body, i.e. the Committee for plans, compiles a report on the conducted public scrutiny of the planning document, which contains information on the completed public scrutiny process, with all the remarks and decisions on account of every remark. The report is submitted to the developer of the planning document, who is obliged to act upon these decisions within 30 days from the day of delivery of the report. Moreover, in the event that, following public insight into the draft planning document, the responsible agency, i.e. the Committee for plans establishes that the adopted remarks fundamentally alter the planning document, it can make a decision instructing the developer of the planning document to prepare a new draft, or concept of the planning document, within a deadline which cannot exceed 60 days from the day on which the decision was adopted (Article 51).

- Law on Local Self-Government prescribes that a municipality (city) through its bodies, in accordance with the Constitution and the law, ensure the protection of the environment, adopt programs for use and protection of natural resources and environmental protection programs, local action and recovery plans, in accordance with the strategic documents and their interests and specific, and determines specific charges for the protection and improvement of the environment (Article 20, item 11)

- Article 37 of the Law on Air Protection stipulates that the government adopts a four–year National Programme for Gradual Reduction of Maximum Annual Emissions of Pollutants and that the public and the public concerned must have access to the programme,

- Article 37 of the Law on Waters specifies the obligation of carrying out the environmental impact assessment for the Strategy and water management plan and special water management plan in accordance with the legislation regulating the field of environmental protection. Articles 38 and 39 regulate the participation of the public in the preparation of the water management plan and the procedure for actions to be carried out following public remarks, respectively. Article 25, Item 7 states that the public has the right on information about the state of waters and the work of competent authorities responsible for water management and to participate in the processes of preparation and adoption of water management plans and control of their implementation.
- Article 43 of the Law on Nature Protection states that the competent authority provides public scrutiny and organizes a public debate about the draft of a protected area designation document, as well as about the supporting documents provided by experts – the protection study with the accompanying maps. According to Article 54, Paragraphs 6-8 of the Law on Nature Protection, the management of a protected area shall inform the public about the proposed plan for managing the protected area. Informing the public means also providing public scrutiny of the proposed plan. Article 116 states that public participation shall be provided in accordance with this law in the course of developing regulations and documents designating a protected area, protected area management plans and plans for utilization of natural resources.

- Article 21 of the Law on Forests specifies that the Forest Development Plan i.e. plan of forest development in a national park (as a document determining the directions of forest and forestry development, with a plan of implementation in the forest region) shall include, among other things a strategic environmental impact assessment report.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

- Incompatibility of sectoral regulations that provide the basis for the adoption of plans and programmes with the LSEIA (since the strategic impact assessment is performed for plans and programmes from different sectors and not only those that refer to spatial and urban planning, a problem with public participation occurs for plans and programmes of different sectors where the laws applying to these sectors, based on which such plans and programmes are adopted, do not provide for public participation).

- Limited possibilities of protecting the right to equal treatment in administrative and judicial procedures because the public participate only in the third phase (phase I – preparation, phase II – development of an expert evaluation, phase III – decision on the strategic impact assessment report).

- Some associations consider that public participation in designing strategic state documents and processes related to drafting laws, by-laws and rule books is not at a satisfactory level. The role of the media, namely, media coverage of environmental issues is also unsatisfactory.

- Some associations consider that Strategic impact assessments in relation to Spatial Plans are being systematically breached and they do not at all have the role they should have, but are only documents resting in the drawers.

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

- In the period 2014-2016, the MAEP approved 19 strategic impact assessment reports. No data is available about the total number of strategic impact assessments carried out at the level of local self-government units.

- In 2014 the SUPCEEP held 90 procedures regarding strategic environmental impact assessments, namely: providing opinions on decisions on not initiating the drafting of a strategic environmental impact assessment - 70 requests, providing opinion on the decision on drafting a strategic environmental impact assessment - 7 requests, providing opinion on the Report on the Strategic Environmental Impact Assessment - 9 requests and providing approval to the Report on the Strategic Environmental Impact Assessment - 4 requests.

- In 2015 the SUPCEEP held 103 procedures regarding strategic environmental impact assessments, namely: providing opinions on decisions on not initiating the drafting of a strategic assessment - 72 requests, providing opinion on the decision on drafting a strategic environmental impact assessment - 20 requests, providing opinion on the Report on the Strategic Environmental Impact Assessment - 8 requests and providing approval to the Report on the Strategic Environmental Impact Assessment - 3 requests.

- In 2016 the SUPCEEP held 30 procedures regarding strategic environmental impact assessments, namely: providing opinions on decisions on not initiating the drafting of a strategic environmental impact assessment - 25 requests, providing opinion on the decision on drafting a strategic environmental impact assessment - 3 requests and providing opinion on the Report on the Strategic Environmental Impact Assessment - 2 requests.
Pursuant to the provisions of the Law on Planning and Construction ("Official Gazette of RS", no. 72/09, 81/09 - corrigendum, 64/10 - CC, 24/11, 121/12, 42/13 - CC, 50/13 -CC, 98/13 – CC, 132/14 and 145/14), the Law on the Strategic Environmental Impact Assessment ("Official Gazette of RS", no. 135/04 and 88/10) and other relevant regulations, during the period 2014-2016 there were public reviews held for 12 draft spatial plans for special purpose areas (hereinafter: spatial plans) and reports on the strategic environmental impact assessment of spatial plans for special purpose areas (hereinafter: SIA reports), namely:

1. The draft Spatial Plan for the Special Purpose Area of the regulation of part of the banks of the City of Belgrade - the area of the banks of the river Sava for the “Belgrade Waterfront” project and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan for the Special Purpose Area for the regulation of part of the banks of the City of Belgrade - the area of the banks of the river Sava for the project “Belgrade Waterfront”.

2. The draft Spatial Plan for the Special Purpose Area of the multifunctional environmental corridor of Tisa and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan of the Special Purpose Area of the multifunctional environmental corridor of Tisa;

3. The draft Spatial Plan for the Special Purpose Area of the cultural landscape of Bač and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan of the Special Purpose Area of the cultural landscape of Bač;

4. The draft Spatial Plan of the Special Purpose Area of the Infrastructural corridor of the oil pipeline from the collection-dispatch station Turija North to the oil refinery Novi Sad with elements of detailed regulation and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan of the Special Purpose Area of the Infrastructural corridor of the oil pipeline from the collection-dispatch station Turija North to the oil refinery Novi Sad with elements of detailed regulation;

5. The draft Spatial Plan for the Special Purpose Area of the Viminacium archaeological find and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan of the Special Purpose Area of the Viminacium archaeological find;

6. The draft Spatial Plan for the Special Purpose Area of the “Selova” accumulation basin and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan of the Special Purpose Area of the “Selova” accumulation basin;

7. The draft amendments to the Spatial Plan for the Special Purpose Area of the Kopaonik national park and the Report on the Strategic Environmental Impact Assessment of the amendments to the Spatial Plan of the Special Purpose Area of the Kopaonik national park;

8. The draft Spatial Plan for the Special Purpose Area of the infrastructural corridor of the high-voltage power line 2x110 kV Kraljevo 3 - Novi Pazar 1 and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan for the Special Purpose Area of the infrastructural corridor of the high-voltage power line 2x110 kV Kraljevo 3 - Novi Pazar 1;

9. The draft Spatial Plan for the Special Purpose Area of the regional centre for the training of units for multinational operations - Base “South” and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan for the Special Purpose Area of the regional centre for the training of units for multinational operations - Base “South”;

10. The draft Spatial Plan for the Special Purpose Area of the infrastructural corridor of the high-voltage power line 110 kV no. 113/x from TS Niš 1 to Vrle III and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan for the Special Purpose Area of the infrastructural corridor of the high-voltage power line 110 kV no. 113/x from TS Niš 1 to Vrle III;

11. The draft Spatial Plan for the Special Purpose Area of the infrastructural corridor of the main gas line Niš-Dimitrovgrad with elements of detailed regulation and the Report on the Strategic Environmental Impact...
Assessment of the Spatial Plan for the Special Purpose Area of the infrastructural corridor of the main gas line Niš-Dimitrovgrad with elements of detailed regulation;

12. The draft Spatial Plan for the Special Purpose Area of part of the distribution gas line RG 11-02 Leskovac-Vranje, section from the block station “Velika Kopašnica” to the border of the territory of the municipality Vladičin Han and the City of Vranje and the Report on the Strategic Environmental Impact Assessment of the Spatial Plan for the Special Purpose Area of part of the distribution gas line RG 11-02 Leskovac-Vranje, section from the block station “Velika Kopašnica” to the border of the territory of the municipality Vladičin Han and the City of Vranje.

The advertising and presentation for public review of the above draft spatial plans and SEIA reports was under the competence of the Ministry of Construction, Transport and Infrastructure (2015 and 2016), i.e. the Republic Agency for Spatial Planning (2014), in cooperation with local self-government unit public authorities competent for urban and spatial planning affairs. The draft spatial plans and SEIA reports were presented for public review for a duration of 30 days during the advertised periods (in the daily paper “DANAS” for 2015 and 2016, i.e. the daily paper “POLITIKA” in 2014), in the seats of local self-government units encompassed by the above spatial plans, as well as on the website of the Ministry of Construction, Transport and Infrastructure (2015 and 2016), i.e. the Republic Agency for Spatial Planning (2014). All further information on the place of presentation, as well as required explanations, could be obtained in the services tasked with urban and spatial planning affairs in the local self-government units. Public presentations of the above draft spatial plans and SEIA reports were held at the seats of local self-government units encompassed by the above spatial plans. Natural and legal persons could submit their objections to the draft spatial plans and SEIA reports for the duration of public review in writing to the Ministry of Construction, Transport and Infrastructure (2015 and 2016), i.e. the Republic Agency for Spatial Planning (2014). At the same time, opinions were collected during the public review from interested public authorities and organizations, and the public, in accordance with the provisions of the Law on the Strategic Environmental Impact Assessment. Upon the completion of public review, public sessions of the Commission for the implementation of the procedure of public review of the draft spatial plans and SEIA reports (hereinafter: Commission) were held in the seats of local self-government units encompassed by the spatial plans, deliberating on the objections of natural and legal persons submitted during the public review. During the above public sessions, natural and legal persons could publicly elaborate on their objections. Closed sessions of the Commission produced final opinions on each individual objection submitted by natural and legal persons, and/or interested bodies and organizations, and the public. Pursuant to the provisions of the Law on the Strategic Environmental Impact Assessment, opinions of the ministry competent for environmental protection affairs were collected for the above SEIA reports.

In accordance with the Law on the Strategic Environmental Impact Assessment, under the procedure of preparing and adopting the Strategy for the Development of Water Transport in the Republic of Serbia 2015-2025, the Report on the strategic environmental impact assessment of the Strategy of the Development of Water Transport was publicly presented on 12 December 2014, in Belgrade, in the offices of the Directorate for Waterways. The presentation was attended by twenty-five interested participants from various institutions and associations. MAEP issued approval number: 350-02-114/14-16 on 23 December 2014 for the Report on the Strategic Environmental Impact Assessment of the Strategy for the Development of Water Transport of the Republic of Serbia 2015-2025. The initial goal during the drafting of the Strategy for the Development of Water Transport in 2014 was to provide a high degree of environmental protection and contribute to the integration of the requirements of water transport with the principles of environmental protection when drafting projects, and/or adopting plans, programmes and the strategy itself. The development of the Strategy for the Development of Water Transport was aimed at the promotion of sustainable development and environmental protection in the Republic of Serbia. The goal of the Strategic Environmental Impact Assessment of the Strategy for the Development of Water Transport in the Republic of Serbia 2015-2025 was establishing mandatory, hierarchically harmonized guidelines, and/or defining measures for the protection and improvement of the state of the environment and creating conditions for the sustainable development of water transport in the Republic of Serbia by 2025. Ministries, special organizations, public enterprises and institutions competent for affairs of environmental protection, nature protection and cultural monument protection, agriculture, water management, economy, regional development and local self-government submitted their data and suggestions during the drafting the Strategy for the Development of Water Transport in the Republic of Serbia, taken into consideration during the drafting of the Strategic Environmental Impact Assessment.
The opinion of the Institute for the Protection of Cultural Monuments of Serbia - Belgrade and the opinion of the Provincial Institute for Nature Conservation were additionally included. The broader public was included from the very start of the process of drafting the Report on the Environmental Impact Assessment of the Strategy for the Development of Water Transport in the Republic of Serbia 2015-2025, and all suggestions and objections were included in the Report in a timely manner.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

a) See the list of website addresses related to Article 4.

b) http://www.rapp.gov.rs/
Agency for Spatial Planning of the Republic of Serbia
http://www.ekourb.vojvodina.gov.rs/
SUPCEEP

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

- Article 77 of the Law on State Administration stipulates that a ministry and a special organisation shall be obliged to undertake public debate in the procedure of preparation of a law which essentially changes the legal regime in one field or which regulates issues of particular relevance for public. The procedure of conducting a public debate in the preparation of a law shall be regulated in detail by the Rules of Procedure of the government.

- Please, refer to Article 41-45 of the Rules of Procedure of the government (Official Gazette of the Republic of Serbia No. 30/13). A similar provision is to be found in the Rules of Procedure of the National Assembly of the Republic of Serbia. A uniform legislative methodology is applied in the process of preparing legislation adopted by the National Assembly (Official Gazette of the Republic of Serbia No. 21/10).

- Several environmental regulations allow for the possibility of participation of the public in the preparation of regulations. Thus, for example Article 116 of the Law on Nature Protection stipulates that the participation of the public in accordance with this law is planned in the process of drawing up regulations and documents designating protected natural resources and those regulating the plans for managing protected areas and the plans for using natural resources. Article 6, Item 20 of the Law on the Protection against Ionising Radiation and on Nuclear Safety expressly states that the agency shall provide public scrutiny in the course of the implementation of this law and “in the process of adopting by-laws”. Article 10 of the Law on Food Safety states that “Public debates shall be held in the course of drafting, appraisal and amendment of the food legislation in accordance with current regulations, with direct or indirect participation of all interested parties, except in emergencies when this would be impossible.”

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

- The obligation of ensuring that the public participation procedure is carried out is not incorporated in all pieces of legislation that may be of importance for the field of environment.

- Although competent authorities carry out different activities aimed at informing the public concerned and collecting opinions of members of the public during the process of preparing and adopting environmental legislation or regulations that may be of importance for the filed of environment, some associations maintain that this procedure is not implemented consistently and that the public does not have enough possibilities to influence the adoption of regulations.

- Relatively low interest of the public to participate in the procedures related to drafting legislation.

- Insufficient knowledge of the public concerned as to how, when and to whom to submit their opinions.
XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

- MAEP posts all draft legislation on its website (www.eko.minpolj.gov.rs) and members of the public concerned can submit their comments and participate in the process of adopting regulations.

- The working group for developing the draft Law on the Environmental Liability is also comprised of representatives of non-government organizations, such as the non-government organization “Belgrade Open School”, referring the draft Law to a large number of other non-government organizations and collecting their suggestions and comments.

- As from 2013, MAEP has begun to periodically hold meetings with representatives of the associations in order to include them in all activities and establish the partnership with them.

- The first public consultations on Draft Law on the Environmental Liability were held with Economic Operators, NGOs, and public concerned in the Chamber Commerce of Serbia on 16th March 2015, with support of the PLAC project („Policy and Legal Advice Center”).

- Second Public consultations on Draft Law on the Environmental Liability for Economic Operators, NGOs, and public concerned on the Draft Law on the Environmental Liability were held in Aarhus center of the city of Novi Sad on 24th April 2015, with support of the PLAC project.

- Third Public consultations of Draft Law on the Environmental Liability for Economic Operators, NGOs, and public concerned on the Draft Law on the Environmental Liability were held, in cooperation with Aarhus center of the South and East Serbia, in the Chamber of Commerce of the city of Nis on 19th May 2015, with support of the PLAC project.

- Fourth Public consultations of Draft Law on the Environmental Liability Economic Operators, NGOs, and public concerned on the Draft Law on the Environmental Liability were held, in cooperation with Aarhus center of the city of Kragujevac, in the Chamber of Commerce of the city of Kragujevac on 20th May 2015, with support of the PLAC project.

- In May 2015 a special Working Group was formed for developing the draft Rulebook on amendments to the Rulebook on the declaration and protection of wild species of plants, animals and fungi, where in addition to representatives of MAEP and professional organizations (nature conservation institutes), a representative of the Society for the Protection and Study of the Birds of Serbia took active part, as the civil sector.

- The representatives of civil society were officially appointed and members of the Working Group for the Review of the Biodiversity Strategy (2011-2018).

- During this three-year period, the Environmental Protection Committee of the National Assembly of the Republic of Serbia has, through various mechanisms, allowed public participation in its work. Through the Green Chair mechanism, the representatives of the civil society organisations were provided with a place at the Committee meetings, where the representatives of the civil society organisations had the opportunity to raise questions to the parliamentarians and public authorities, to participate in the discussions and to make their suggestions. The Committee has enabled the public participation in the legislative procedure also by organising public hearings.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

http://www.eko.minpolj.gov.rs/cir/dokumenti/predlozi-i-nacrti

MAEP


Ministry of Justice

http://www.srbatom.gov.rs/srbatom/zakonska-regulativa.htm
Slovakia

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Answer:

Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended,

Act No. 543/2002 Coll. on nature and landscape protection as amended,

Act No. 364/2004 Coll. on water and on the amendment to Act of the Slovak National Council No. 372/1990 Coll. on offences as amended (Water Act) as amended,

Act No. 442/2002 Coll. on public water supply systems and public sewer systems and on the amendment to Act No. 276/2001 Coll. on regulation in network industries as amended,

Act No. 7/2010 Coll. on flood protection as amended,

Act No. 355/2007 Coll. on public health protection, support and development and on the amendment to certain acts,

Act No. 2/2005 Coll. on noise assessment and control in external environment and on the amendment to Act of the Slovak National Council No. 272/1994 Coll. on human health protection as amended,

Act No. 139/2002 Coll. on fishery as amended,

Act No. 409/2011 Coll. on certain measures in the field of environmental damage and on the amendment to certain acts - an association with legal personality which has been active in the field of environmental protection or protection of environmental components at least for one year as at the day on which the written notification was submitted pursuant to Section 5, is a party to the proceedings regarding the appointment of the obliged person pursuant to Article 5, proceedings on approving the plan of work pursuant to Article 8 and proceedings on completing the implementation of the plan of work pursuant to Article 9 if such association so requests.

Act No. 137/2010 Coll. on air as amended,

Act No. 469/2002 Coll. on environmental labelling of products as amended by the amendment to Act No. 351/2012 Coll. on environmental verification and registration of organisations in the European Union scheme for environmental management and audit and on the amendment to certain acts,

Act No. 128/2015 Coll. on prevention of major industrial accidents and on the amendment to certain acts,

Act No. 79/2015 Coll. on wastes and on the amendment to certain acts effective from 1 January 2016 and the implementing decrees replaced the original Act No. 223/2001 Coll. on wastes and on the amendment to certain acts as amended, and in Article 27 (4) (i) it introduced the information duty of the manufacturer of selected product in relation to end users of the selected product.

Act No. 39/2013 Coll. on integrated environmental pollution prevention and control and on the amendment to certain acts as amended, in Article 10 (a) - (c) it defines the term "the public concerned".

Act No. 541/2004 Coll. on peaceful use of nuclear energy (Atomic Act) and on the amendment to certain acts as amended,

Act No. 359/2007 Coll. on prevention and remedy of environmental damage and on the amendment to certain acts as amended.

In amendment to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended from 2014, represented by Act No. 314/2014 Coll. effective from 1 January 2015, the original term "the
public interested” was replaced by the term “the public concerned”. The change of the term was introduced for the reason of identical terms in the act and in the directive. Pursuant to Article 3 (s), the public concerned means "the public affected or likely to be affected by, or having an interest in, the procedure concerning the environment; non-governmental organisations promoting environmental protection and meeting any requirements under this act shall be deemed to have an interest in such procedure,“. Article 6a and Articles 24 and 25 also regulate the rules for the participation of the public and of the public concerned in assessment of impacts of strategic documents.

According to the European Commission (the Commission), main defects of Act No. 24/2006 Coll. on environmental impact assessment as amended before the amendment - Act No. 314/2014 Coll. - included the consequences of insufficient link between the process of assessment of the impacts of proposed activities and the subsequent permitting procedures because it created room for disobedience to the results of the impact assessment process, where full assurance of the rights of the public concerned participating in the procedure or interested in the result of decision-making in environmental matters could not be guaranteed. Thus, the problem of implementation within the legal order of the Slovak Republic of a part of several requirements of the Aarhus Convention, which the EIA Directive implements (Articles 6, 7, and 9), was opened.

Amendment No. 314/2014 Coll. includes: the binding character of the outputs of screening and impact assessment process, the issuance of the subsequent permit is conditioned by observing the state and result of the procedures, the procedure of official verification of conformity of the project document submitted to the permitting procedure with the result of the procedures through the binding opinion of the EIA body that made decision on the result of assessment of environmental impacts of the proposed activity, and finally also new legal remedies intervening into the current perception of this tool and its links to participation in the first-stage procedures. The second circle of changes concerns the elaboration of the impact assessment subject and procedure of screening performance.

The term "the public concerned" was also added to the act. The supplemented letter (s) was put immediately after the general definition of the term "the public". The definition of "the public concerned" is in compliance with the definition of this term in the EIA Directive. So, the public concerned is named identically both in the act and in the directive. The previously used term "the public interested" caused ambiguities in some cases as it was not clear whether the term is identical with the term "the public concerned" mentioned in the directive. The definition of the term "the public interested" in the valid wording of the act is different from the term definition of the "public concerned" mentioned in the EIA Directive.

The provisions regulating the participation of the public and of the public concerned in the procedure and subsequent permitting procedures were reworked to a considerable extent. Therefore, amendment Item 14 contains a complete wording of Sections 24 and 25.

The procedural position of the public and of the public concerned (the public interested according to the current wording of the act) was not weakened at all. A new element is introduced - the possibility of the public to apply an extraordinary legal remedy in the procedure according to this act in the case when the public was not a party to the procedure. The non-party to the procedure can contest the result of the procedure - decision - through subsequent legal remedies. This supplementation ensures consistent transposition of Article 11 (1) of the EIA Directive; this reservation was included in the formal notification of the Commission to the Slovak Republic.

The original provisions of Article 24 to 28 contained relatively complicated definitions of "the public interested" and who belongs to it and under what conditions they become party to the subsequent permitting procedure.

By defining the terms "the public" and "the public concerned", the draft wording already in Article 3 replaces the previous rather complicated definitions. Thus, the previous provisions have been changed in favour of a more detailed regulation of the procedural position of the public and of the public concerned in procedures according to this act and also in subsequent permitting procedures. Article 24 (4) regulates the mentioned possibility to deliver an appeal to a decision that is not in legal force yet also by en entity that was not a party to the screening procedure or environmental impact assessment. Thus, another way of claiming one's right to the position of the public concerned within the procedure is regulated.
All the amendments were carried out in compliance with the requirements of the Commission's formal notification and also with the requirements of the Aarhus Convention, which was ratified by the Slovak Republic in a prescribed way and to which the Slovak Republic is a party. Regarding this, the duties of the Slovak Republic also include the modification of national law in compliance with the requirements of the Aarhus Convention and with the rights conferred upon the public in relation to the specified environmental procedures.

The current regulation contains the information duty of the competent body in relation to the public; communication channels include in particular the website or official board. In this connection we call attention to the fact that not every competent authority has its own official board accessible to the public at any time (e.g. the MoE SR does not have any), therefore, in terms of information provision during the specified period without time limitation, we consider the websites of respective authorities as the most suitable. Section 2 provides the public concerned with the right to participate in procedures according to this act as well as in the subsequent permitting procedures pursuant to special regulations. The pre-condition for participation in the procedure is that somebody from the public gets involved in the procedure by submitting one of the forms of written opinion also containing details pursuant to Sect. 4, so that it is possible to identify the carrier (creator) of the written opinion as the particular public which subsequently becomes party to the procedure.

The provisions defining in more detail the citizens’ initiative as one of the members of the public are more or less taken over from the previous wording of the act. However, the provisions about the way of creating a representative of the citizens' initiative, the possibility of their resignation, recall and replacement are extended and specified more precisely.

With respect to the specific position of the public concerned as a party to the procedure, Section 1 specifies the procedural position of the public concerned as a party to the procedure in conformity with the current state as regards the subsequent permitting procedures. The consent of the public concerned to the discontinuance of procedures initiated by the applicant is not required exactly for the reason of the specific position of the public enforcing its requirements in terms of environmental impacts of the proposed activity and because the discontinuance of the procedure mostly concerns the facts connected only with the applicant. In case of participation of a great number of entities (more than 20) on the part of the public concerned in the procedure, it is permitted to deliver the documents to the public concerned through a public decree. The way of delivery through a public decree is also regulated.

The position of the public in the environmental impact assessment process has been changed significantly in particular by amendment No. 145/2010 Coll. with effect from 1 May 2010 and subsequently by the last mentioned amendment No. 314/2014 Coll. with effect from 1 January 2015. Under the prescribed conditions, the natural person, legal entity (including the non-governmental organisation) or citizens' initiative can hold the position of party to the procedure in administrative procedures conducted according to this act as well as in the subsequent permitting procedure conducted pursuant to a special regulation. Till 31 April 2010, these persons held the position of participating person in the subsequent permitting procedures. Amendment No. 145/2010 Coll. with effect from 1 May 2010 and subsequently amendment No. 408/2011 Coll. with effect from 1 December 2011 considerably strengthened the right of the public to participate in the decision-making process (e.g. the right to lodge a legal remedy), and the last amendment No. 314/2014 Coll. with effect from 1 January 2015 defined the public concerned in compliance with the respective definition of the EIA Directive.

Pursuant to Article 82 (3) of Act No. 543/2002 Coll. on nature and landscape protection as amended (new regulation by Act No. 408/2011 Coll. effective from 1 December 2011): 'The natural person, citizens' initiative113a) or legal entity, to which such position results from a special regulation, is party to the procedure pursuant to this act.113b) The association with legal personality,114) the scope of activity of which for at least one year has included nature and landscape protection (Article 2 (1)), and which submitted a preliminary request for participation pursuant to Section 6, is party to the procedure, unless this status already results from the previous sentence, if such association confirms its interest to become a party to the pending administrative procedure in writing or electronically; the confirmation shall be delivered to the competent nature protection authority within a time frame given by this authority which was published together with the information on the initiation of this procedure as a procedure, within which nature and landscape protection interests protected by this act can be affected pursuant to Section 7.
113a) Article 25 of Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended.

113b) Articles 24 and 25 of Act No. 24/2006 Coll. as amended.

114) For example, Article 18 to 20a and Article 20f to 21 of the Civil Code, Act No. 83/1990 Coll. on association of citizens as amended."

Pursuant to Article 82 (6) to (8) of Act No. 543/2002 Coll. on nature and landscape protection as amended (legal regulation of Sect. 6 and 7 by amendment to Act No. 408/2011 Coll. effective from 1 December 2011):

"(6) The association pursuant to Section 3 can submit a preliminary written application to the nature protection body for participation in not explicitly specified administrative procedures, which will be carried out by this body in the future or are pending, within which nature and landscape protection interests protected by this act can be affected. The application shall include the name of the association, its registered office, identification number, name and surname of the person authorised to act on behalf of the association, and the specification of the procedure about the start of which the association wants to be notified; the application must be accompanied by the by-laws proving the subject of activity pursuant to Section 3.

(7) The nature protection body shall publish information on the initiation of each administrative procedure, within which nature and landscape protection interests protected by this act can be affected, at its website, with the exception of procedures pursuant to Sect. 8, no later than within three business days from the commencement of the procedure; the above-mentioned information shall include the time limit specified for the delivery of a written or electronic confirmation of the interest in becoming party to the pending administrative procedure pursuant to Sect. 3; this time limit shall not be shorter than five business days from the day the information was made publicly available.

(8) The provisions of Section 3 of the third sentence and Section 6 and 7 shall not apply to procedures pursuant to Article 44 (2), Article 61e, procedures mentioned in Article 81 (2), procedures on offences and other administrative delinquencies pursuant to Article 90 to 93, and procedures on seizure of individuals of protected species pursuant to Article 96."

Pursuant to Article 11 (6), (7) and (8) of Act No. 137/2010 Coll. on air, the public shall be familiarised with the draft programme for air quality improvement, has the right to submit written comments and participate in public negotiations. Pursuant to Article 18 (5) and (6) of Act No. 137/2010 Coll. on air, the public has the right to submit written comments on the published application for permitting a construction of waste incineration plant, waste cofiring facility, and their modification. The comments can be submitted no later than during the public negotiation of the application. The comments of the public are taken into account in issuing the permit.

Pursuant to Article 2 (2) of Act No. 351/2012 Coll. on environmental verification and registration of organisations in the European Union scheme for environmental management and audit and on the amendment to certain acts, the parties (including the public) are familiarised with the application of an organisation for the registration in the EMAS scheme through the website of the competent authority (www.emas.sk), and pursuant to Article 2 (4) of Act No. 351/2012, the public can raise objections to the published application within 15 days from its publishing.

Act No. 2/2005 Coll. on noise assessment and control in external environment and on the amendment to Act of the Slovak National Council No. 272/1994 Coll. on human health protection as amended allows making accessible the strategic noise maps and information on harmful effects of noise to the public, negotiating the draft action plans with the public, and informing the public on the adopted conclusions and measures (Article 5 (2) (e)).

Act No. 514/2008 Coll. on mining industry waste management and on the amendment to certain acts allows the participation of the public in permitting repositories (Article 8). The competent body shall publish without undue delay and for the period of 15 days at its website or on its official board information pursuant to Article 8 (3) (a) to
(d) related to details of the application for permitting a disposal site and the details on ensuring public participation in the procedure. Pursuant to Article 8 (2) of this act, the public interested that notified in writing of its interest in participating in the procedure, shall have the position of a participating person in the procedure pursuant to Article 7 (Permitting of disposal sites).

Pursuant to Article 20 (4) (x) of Act No. 258/2011 Coll. on permanent storage of carbon dioxide in the geological environment and on the amendment to certain acts, the district mining authority makes information on storage available to the public. The provision of Article 19 defines the need to establish the information system regarding storage in order to ensure data collection and information provision as part of the information system of general government. The information system is made accessible for the needs of state authorities, general government and local government bodies in permitting activities that can affect storage or can be affected by storage, and also serves to collect, store and disseminate environmental information pursuant to Article 4 of Act No. 205/2004 Coll., as well as to make it accessible pursuant to Act No. 211/2000 Coll.

Act No. 128/2015 Coll. on prevention of major industrial accidents and on the amendment to certain acts harmonises the part regarding the hazardous substances with legislation in the area of chemical substances. It improves public participation in the decision-making process as well as public access to information on safety.

Pursuant to Article 14 (5), public participation in the decision-making processes regarding the enterprises covered by this act are sufficiently regulated by special regulations. Article V of the act, with the objective to strengthen this provision, adds a new provision to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended, based on which each proposed activity covered by the act on prevention of major industrial accidents must be subject to environmental impact assessment.

Pursuant to Article 15 (2), the operator of the enterprise covered by this act is obliged to provide permanent public access to information according to Annex No. 2 to the act, including the electronic form at its website. It is an active form of making information available to the public, not only to the public affected by a major industrial accident but in general, too. Sections 3 to 5 lay down information provision to the public likely to be affected by a major industrial accident, including the public of other State in case of accidents with cross-border effects.

The Information System of Major Industrial Accident Prevention (Article 16) is another important element in this area; its objective is to collect comprehensive data and provide information both to the public and central government http://www1.enviroportal.sk/seveso/informacyj-system.php.

Act No. 359/2007 Coll. on prevention and remedy of environmental damage and on the amendment to certain acts as amended allows, under certain conditions, public participation within the proceeding about imposing the duty to carry out preventive or mitigation measures, and the proceeding about imposing the task to adopt and implement measures to remedy environmental damage:

Article 25

Parties to the proceeding

(2) A party to the proceeding pursuant to Article 27 and 28 can also be

a) the owner, administrator, or tenant (renter) of a real estate affected by environmental damage or which will be subject to precautionary or remedy measures,

c) a natural person or legal entity whose rights or interests protected by law may be directly affected by environmental damage.

(3) A party to the proceeding pursuant to Article 27 can also be a civil association or any other organisation established pursuant to special regulations, the aim of which – pursuant to its statutes, establishment charter, foundation charter, or their amendments valid at least for the period of one year – is environmental protection (hereinafter referred to as the "non-governmental organization") that submitted the notification pursuant to Article
26 (1), and, at the same time, announced in writing its interest in participating in the proceeding no later than within seven days from the day of the notification delivery pursuant to Article 26 (5).

Article 26

Notification

(1) The owner, administrator, or tenant of a real estate which has been or may be affected by environmental damage, a legal entity or a natural person whose rights or interests protected by law or obligations may be directly affected by environmental damage, a non-governmental organization (hereinafter referred to as the “notifying entity”) are entitled to notify the competent body of the facts indicating that environmental damage has occurred.

The provision of Article 20 also defines the need to establish the information system of prevention and remedy of environmental damage for storage and collection of data and information provision. The information system is made available to central government bodies, general government bodies, local government bodies and operators of working activities listed in Article 1 (2) and (3) of the act, which can cause an imminent threat or environmental damage, and also serves to collect, store and disseminate environmental information pursuant to Article 4 of Act No. 205/2004 Coll., as well as to make them accessible pursuant to Act No. 211/2000 Coll. for activities of competent authorities.

Ad a)

(i) Parties to the authorization/permitting procedure for activities listed in Annex I to the Aarhus Convention are members of the public concerned who participated in the process of environmental impact assessment under Act No. 24/2006 Coll. on environmental impact assessment.

(ii) Acts No. 117/2010 Coll. and No. 408/2011 Coll. amended Article 82 (3), (6) and (7) of Act No. 543/2002 Coll. on nature and landscape protection, which strengthened the position of the public in proceedings pursuant to this act.

"(3) ”The natural person, citizens' initiative113a) or legal entity, to which such position results from a special regulation, is party to the procedure pursuant to this act.113b) The association with legal personality, the scope of activity of which for at least one year has included nature and landscape protection (Article 2 (1)), and which submitted a preliminary request for participation pursuant to Section 6, is party to the procedure, unless this status already results from the previous sentence, if such association confirms its interest to become a party to the pending administrative procedure in writing or electronically; ...”.

Footnotes No. 113a) 113b) refer to a special regulation, which in this case is Act. No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended and which enables that also a natural person or legal entity (other than an NGO supporting nature and landscape protection), or citizens’ initiative can become parties to the proceedings pursuant to Act No. 543/2002 Coll. had they submitted written comments and thus taken part in the environmental impact assessment procedure according to Act No. 24/2006 Coll.

"(6) The association pursuant to Section 3 can submit a preliminary written application to the nature protection body for participation in not explicitly specified administrative procedures, which will be carried out by this body in the future or are pending, within which nature and landscape protection interests protected by this act can be affected.

(7) The nature protection body shall publish information on the initiation of each administrative procedure, within which nature and landscape protection interests protected by this act can be affected, at its website, except for the procedures pursuant to Sect. 8, no later than within three days from the commencement of the procedure; the above-mentioned information shall include the time limit specified for the delivery of a written or electronic confirmation of the interest in becoming party to the pending administrative procedure pursuant to Sect. 3; this time limit shall not be shorter than seven days from the day the information was made publicly available.

Ad b)
The Slovak Republic ensures that the public is informed already at the beginning of the decision-making process in compliance with Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended.

The national legislation in the area of impact assessment ensures that the public is informed from the very beginning of the process in an adequate, timely, and efficient way.

The commencement of the environmental impact assessment process is published at the website of the MoE SR and at websites of district offices and municipalities.

During the procedure, the party to the procedure can get involved in the decision-making process by inspecting the file, submitting procedural proposals and writing comments, and before issuing the decision, each party to the procedure has the right to comment on the background documents of the decision and the way of its achievement as well as to propose a supplementation. Once the decision has been issued, each party to the procedure can file a legal remedy against the first-stage decision. The second-stage procedure accordingly follows the provisions on the first-stage procedure with all rights and duties of the party to the procedure. If the party to the procedure is convinced that their rights in the administrative process have been infringed, within the applicable time limit they can file a complaint with the court in order to examine the lawfulness of the administrative decision.

Ad c)

The time frame respects Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended. The time frame (time limits) for the public are exactly specified in the Act on EIA/SEA. During the subsequent permitting procedure, the time frame for the public is determined by time limits pursuant to special acts or, if they do not specify such time limits, they shall be determined in accordance with the administrative rules.

Ad d)

At all stages of assessment in accordance with Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended, the public can get familiarised and comment on the proposed activity or the strategic document in time.

The national legislation in the area of environmental impact assessment ensures public participation in the decision-making procedure from its beginning (i.e. from the day the notification of the activity or strategic document was made publicly available), that means at the time when all alternatives are open.

Ad e)

The discussion with the public concerned is entered by the applicant still before the process of activity permitting or before the decision on siting is made or during the preparation of the strategic document or before it has been approved, within the environmental impact assessment process pursuant to Act No. 24/2006 Coll. as amended (EIA), if the public concerned gets involved in the process by submitting their written comments.

The applicant can be called after they have filed a notification or plan and instructed about the public if necessary, within the steps of the process. The discussion can be part of "consultations or public negotiation" - specified by Act No. 24/2006 Coll. on environmental impact assessment.

Ad f)

(i) Competent bodies shall provide the public concerned with all information related to the decision-making processes pursuant to Section 6 which are available at a given stage of the decision-making procedure, namely at the stage of environmental impact assessment or administrative procedure.

Pursuant to Act No. 24/2006 Coll. on EIA, the public has free access to the project documentation at individual stages (phases) of the environmental impact assessment process - notification, plan or notification of change,
decision based on screening, scope of evaluation, assessment report, final statement. The documentation is available in the affected municipality and at the same time, at the website of the MoE SR.

Within the EIA/SEA process (which, however, is not a permitting process), the public concerned shall have access to all information on the activity or strategic document under assessment just like the bodies concerned, permitting body departmental body, municipalities concerned and other entities. Moreover, in the process of screening and in the process of environmental impact assessment for the proposed activity, which are conducted as administrative procedures pursuant to the administrative rules, the public concerned has stronger rights than the central government authorities concerned, because in these procedures the public concerned has the position of a party to the procedure. As a party to the procedure, they can appeal against the decisions from the screening procedure and against the final statement from the assessment process, and subsequently, they can also file a complaint with the court.

All mandatory information about the EIA/SEA process is compulsorily published at http://www.enviroportal.sk/sk/eia. In the permitting process (in general, it is an administrative procedure), the public in the position of a party to the procedure has the same rights in finding all relevant information related to the background documents for decision-making as the other entities in the permitting procedure. These rights of the public result from the administrative rules.

(ii) The complete documentation is accessible and published in accordance with the national legislation. In the environmental impact assessment process, the public concerned is provided with all available information at each step of assessment pursuant to the Act on EIA. The respective bodies of environmental impact assessment provide the public concerned with information in compliance with Act No. 24/2006 Coll. on environmental impact assessment before the decision-making processes.

In the permitting procedure process, information is provided to the public concerned in compliance with the principles of administrative procedures according to the administrative rules.

Ad g)

Pursuant to Act No. 24/2006 Coll. on environmental impact assessment, the public has access to the project documentation or strategic document at individual stages (phases) of the environmental impact assessment process (notification, notification of change or plan, decision based on screening, scope of evaluation, assessment report, final statement), and it is also provided with the possibility to comment on the project or strategic document at each stage (phase) of the environmental impact assessment process by sending positions and participating in public negotiations or consultations, by filing at the registry, in electronic way via the internet, in writing through Slovenská pošta (Postal Service), to the minutes during public negotiations.

In the process of permitting procedure, the public has the possibility submit comments based on the principles of administrative procedure according to the administrative rules or according to the provisions of special regulations (by filing at the registry, in electronic way via the internet, in writing through Slovenská pošta (Postal Service), to the minutes during public negotiations, consulting).

Ad h)

To provide the public with information on the way of public comments treatment, the permitting body shall immediately disclose to the public the content of the decision and the conditions stipulated therein, the main reasons based on which the decision was made, including information on public participation, and main measures for preventing, reducing and, if possible, compensating serious adverse impacts of the proposed activity or its change.

In the decision, the permitting body shall state the way of processing of the objections raised by the entities of the public concerned in the position of a party to the procedure, and why their particular comments or objections were refused. This applies to all procedures for permitting activities with significant environmental impacts that are subject to the environmental impact assessment process (activities in Annex I of the Aarhus Convention), as well as activities with significant environmental impacts that are permitted pursuant to Act No. 543/2002 Coll. on nature and landscape protection, when the entities of the public interested are in the position of a party to the permitting procedure.
Ad i) The entities of the public concerned are informed about the decision from the permitting procedure by direct (addressed to the particular person) delivery of the decision or by decision delivery through a public decree.

The public is informed about all steps taken pursuant to Act No. 24/2006 Coll. at http://www.enviroportal.sk/sk/eia. It is also informed about certain documents on the portal of legal regulations https://www.slov-lex.sk/domov.

The Nuclear Regulatory Authority of the Slovak Republic publishes their decisions immediately at www.ujd.gov.sk and on the electronic official board situated at the registered office of the Authority and accessible for 24 hours a day.

Ad j) Measures in case that a state authority reconsiders or updates the operating conditions for the activity listed in Sect. 1 include mainly instructions and regulations applied in accordance with the provisions of Sections 2 – 9 and essential changes with reference to Section 10 shall also be performed, if necessary.

Ad k) By Council Decision No. 2006/957/EC of 18 December 2006 the European Community approved amendments to the Convention on access to information, public participation in decision – making process, and access to justice in environmental matters on behalf of the European Community (EU OJ L 386/46, 29 December 2006) that were adopted at the second meeting of the Contracting Parties to the Convention (25 to 27 May 2005, Almata, Kazakhstan).


Merely the provision of Sect. 2 of Annex 1a to the Convention was transposed to Act No. 151/2002 Coll. on using genetic technologies and genetically modified organisms as amended which, in our opinion, constitutes a slightly more detailed regulation than the one in the Directive.

This was caused by the need to simplify the repeated introduction into the environment and to accelerate and simplify the proceedings in matters where it is necessary to give repeated consent to the launch of a product to the market while maintaining the public rights to be informed.

The texts of Article 34 (3) and Article 35 (3) of Act No. 151/2002 Coll. constitute an application of Council Decision No. 2006/957/EC approving the amendment to the Convention.

XVI. Obstacles encountered in the implementation of article 6

In this respect we would like to draw attention to one of the decisions of the European Court of Justice C-240/09 dated 8 March 2011 as a result of a preliminary ruling in the matters of civil associations participation in the proceedings regarding nature and landscape protection in connection with the application of Art. 9 (3) of the Aarhus Convention. The result of the ruling was the impetus for the adoption of the amendment to Act No. 543/2002 Coll. on nature and landscape protection (amendment No. 408/2011 Coll. effective from 1 December 2011), which changed the position of civil associations in administrative procedures from a participating person to a party to the procedure. In administrative procedures, the party to the procedure holds a wider scope of rights than the participating person.

The Nuclear Regulatory Authority of the Slovak Republic perceives for example nuclear power plant construction, during which construction changes are carried out, as an obstacle in the implementation of Article 6 of the Aarhus Convention. However, the Convention does not specify unambiguously, when environmental impact assessment including the public participation in the procedure is necessary for a change of construction. Such changes are usual during construction of nuclear power plants and the practice shows that a separate procedure with public participation for each change of construction is inappropriate because not each change of construction is qualified as change of activity as such.

XVII. Further information on the practical application of the provisions of article 6

Decree of the Ministry of Agriculture, Environment and Regional Development of the Slovak Republic No. 357/2010 Coll. was replaced by Decree of the MoE SR No. 231/2013 Coll. on information submitted to the European Commission, on requirements for keeping operating records, on data notified to the National Emission Information System and on the set of technical operating parameters and technical organisational measures.

Any process of changes of the activities already permitted in relation of nuclear installations (Note: The processes described in relation to permitting changes of licences for nuclear installations are also similar for all areas, in which other specialised bodies make decisions pursuant to special regulations. The Slovak Republic selected this approach in order to clearly prove the compliance with the Aarhus Convention in the particular simulated case, in which the ACCC stated non-compliance.) can take place materially either in the regime of Atomic Act No. 541/2004 Coll. as amended or only in the regime of Building Act No. 50/1976 Coll. as amended, or in the regime of both the acts. Procedurally, these proceedings are always subject to Act No. 71/1967 Coll. on administrative procedure as amended. The regime, which the changes are subject to, depends on their technical character, scope, nature etc. The environmental protection body shall determine whether the change has such an adverse impact that environmental impact assessment (EIA) must take place. The general public has the right to participate in this process. Notice of starting the change procedure shall be published, and the public can comment on it.

In most cases (except small exceptions – the area of safety supervision), the change permitting procedure is commenced on the proposal from a party to the procedure. After the delivery of the application and prescribed documentation, the Nuclear Regulatory Authority of the Slovak Republic will commence the procedure and notify the commencement at its website and on the electronic official board. In the cases specified by law, it notifies them also through a public decree in the municipalities, in the cadastre of which the nuclear installations are situated, which are the subject of the change procedure. The Nuclear Regulatory Authority of the Slovak Republic requests the submission of the position of the MoE SR to whether the proposed change requires the EIA process or not before the decision is made on it. If the party does not submit it, the NRA SR will interrupt the procedure and call upon the party to submit this position. If the party to the procedure fails to fulfil the duty of submitting the position of the MoE SR within the required period during procedure interruption, the NRA SR will stop the procedure.

XVIII. Website addresses relevant to the implementation of article 6

https://www.slov-lex.sk

www.enviro.gov.sk

www.enviroportal.sk

http://www.enviroportal.sk/sk/eia
The measures for public participation in the process of preparing plans and programmes related to the environment (strategic documents) are defined in the individual steps of the strategic environmental assessment (SEA) pursuant to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended. In addition to the assessment of environmental impact of strategic documents, buildings, facilities, the act also regulates other proposed activities or projects. The act and its amendments take into account the EC directives related to the assessment of strategic documents. Moreover, the act reflects the requirements resulting from the Protocol on SEA for the UNECE Convention on environmental impact assessment in a transboundary context (Espoo Convention) and the Aarhus Convention. The measures include e.g. public hearing, consultations, information published in the press and other media, possibility to send comments in writing, making documentation publicly available on the internet.

The entities of the public and of the public concerned in the assessment of impacts of strategic documents (plans) are defined in Article 6a of Act No. 24/2006 Coll. on environmental impact assessment, and for the process of assessment of proposed activities (projects), they are defined in Article 3 (s) and Articles 24–25 of this act.

Furthermore, the public is involved in the preparation of documentation related to nature protection and in the preparation of decrees on protected areas that are consulted with the public. The above area is regulated by Article 54 (21) to (24) of Act No. 543/2002 Coll. on nature and landscape protection as amended:

1. The nature protection body obtaining the nature and landscape protection documentation is obliged, before the documentation is approved, to negotiate the written comments of the civil association, whose objective according to the by-laws or their amendments valid for at least one year is to protect nature and landscape (Article 2 (1)), delivered to the body no later than 30 days before the expected date of its approval.

2. The civil association pursuant to Section 21 may ask the nature protection body obtaining the nature and landscape protection documentation to notify the association in writing of the documentation being obtained and the expected deadline of the approval process. The association's application shall include in particular the name of the civil association, its registered office, identification number, name and surname of the person authorised to act on behalf of the civil association, and the type of documentation to which the application for notification relates; the annex to the application shall include the registered by-laws of the association and their amendments. The nature protection body, to which such an application was delivered, is obliged to notify in writing the civil association about the nature and landscape protection documentation being obtained and the expected deadline of the approval procedure within seven days from the day of application delivery.

3. The nature and landscape protection documentation shall be a basis for the elaboration of land-use planning documents, plans, or projects pursuant to Article 9 (1) and for the activity and decision-making of nature protection bodies.

4. The nature and landscape protection documentation is available to the public.

In the area of waste management pursuant to Article 9 (4) of Act No. 79/2015 Coll. on wastes and on the amendment to certain acts, the environmental department of district office is obliged to submit, within three months from the approval of the programme of the Slovak Republic, a draft programme of region for assessment pursuant to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended. After
the environmental impact assessment, the environmental department of district office issues, in the form of a decree, the binding part of the programme of region for the period identical with the period of validity of the programme of the Slovak Republic, and sends it to the ministry for publication as well.

Pursuant to Article 12 (2) of Act No. 24/2006 Coll. on environmental impact assessment, the environmental department of district office in the area of waste management state administration publishes, through the municipalities concerned, a draft programme of waste management of the region, along with the report on the assessment of its environmental impacts, for a period of 21 days, so that the public from the affected territory can get familiarised with it and deliver their written comments, if any.

The provision of Article 11 (6) to (9) of Act No. 137/2010 Coll. on air allows the public to participate in elaborating programmes to improve air quality. Act No. 137/2010 Coll. on air stipulates that the draft programme to improve air quality shall be made publicly available and the possibility for the public to submit their comments, as well as a mandatory public hearing of the programme.

In the area of state administration of air protection, the environmental department of the district office publishes in usual ways (official board, website of the office, etc.), for 30 days, information about the preparation of a draft programme and information, where the draft programme can be inspected so that the public can get familiarised with it. The public has the right to submit written comments within a 30-day period. The environmental department of the district office publicly negotiates the draft programme, in preparing it the department takes into account the written comments or the comments submitted no later than during the public negotiation. The environmental department of the district office issues the programme by publishing it at its website. At the same time, it will also publish information on the reasons of programme adoption and information of public participation in its preparation.

Act No. 364/2004 Coll. on waters and on the amendment to Act of the Slovak National Council No. 372/1990 Coll. on offences as amended (Water Act) as amended stipulates in Article 13 (2) that the draft river-basin management plan is worked out by the ministry through an authorised person and administrator of water courses important to water management in cooperation with state water administration bodies, self-governing regions, other central government bodies concerned and other stakeholders, in particular representatives of municipalities, industrial sphere, water companies, fishery protection and other organisations, whose objects include protection of water and water ecosystems. Further, Article 13 (4) lays down the ministry’s duty to make available the following, for purposes of submission of written comments, active participation and consultations, within six months, to the public, water users, self-governing regions, municipalities and central government bodies concerned:

a) the time schedule and steps of the preparation of the draft river-basin management plan,
b) the identified significant water management problems,
c) the draft river-basin management plan.

Pursuant to Sect. 5, the ministry makes documentation and information used when preparing the draft river-basin management plan available upon request to the entities listed in Sect. 4.

Pursuant to Article 9 (1) of Act No. 7/2010 Coll. on flood protection as amended, the ministry coordinates the preparation and implementation of the flood risk management plan with the preparation and implementation of the river-basin management plan with the objective to increase the efficiency, to provide for information exchange and to achieve cooperation and benefits with respect to environmental objectives. The ministry shall provide for that

a) the flood hazard maps and the flood risk maps and their subsequent reviews and updates are worked out in such a way that information contained therein is in compliance with relevant information obtained in the preparation and execution of the river-basin management plans and that it is coordinated with the analysis of sub-basin characteristics, evaluation of impacts of human activities on the state of surface waters and ground waters and economic analysis of water management18) and that it can be incorporated in them,
b) the first flood risk management plans and their reviews are worked out in coordination with the reviews of river-basin management plans and that they can be incorporated in them,

c) the active participation of the public, central government bodies, local government bodies and water users in the preparation and execution of flood risk management plans is coordinated as necessary with their active participation in the preparation and execution of river-basin management plans.

Pursuant to Article 23 (1) (c) Item 6, the ministry publishes the time schedule and steps of preparation, review and update of flood risk management plans; pursuant to Article 23 (1) (c) Item 7, the ministry makes draft flood risk management plans available to the public for the purpose of submitting written comments and suggestions; it notifies the general government bodies of such disclosure of the drafts to the public; and pursuant to Article 23 (1) (c) Item 9, the ministry makes preliminary evaluation of flood risk, the flood hazard maps, the flood risk maps, and the approved flood risk management plans available to the public.

Pursuant to Article 23 (1) (c) Item 22, the ministry ensures the incorporation of public consulting results and comments on the draft first flood risk management plans, their completion and publishing by 22 December 2015; the completion of their review, and if necessary, the completion and publishing of updated flood risk management plans every six years.

Pursuant to Article 23 (2), the ministry discloses to the public at its website

a) the preliminary evaluation of flood risks, its reviews and updates, if any,

b) the flood hazard maps and the flood risk maps, their reviews and updates,

c) the flood risk management plans, reviews and updates.

Pursuant to Article 49a (5), the ministry shall

a) publish the time schedule and steps of review and update of flood risk management plans pursuant to Article 23 (1) (c) Item 6 for the first time by 22 December 2018,

b) make the draft updated flood risk management plans available to the public for the purpose of submitting written comments and suggestions pursuant to Article 23 (2) (c) for the first time by 22 December 2020,

c) ensure the review, and if necessary, update of flood risk management plans pursuant to Article 23 (1) (c) Item 22 for the first time by 22 December 2021.

In the field of state administration of public water supply systems and public sewerage systems, the environmental department of district office makes publicly available the draft plan of public water-supply and sewerage system development for the territory of the region at least for a period of 15 days so that the public of the affected territory can get familiarised with it. The draft plan of public water-supply and sewerage system development for the territory of the region is consulted with higher territorial units and with all municipalities within the territory of the region.

Act No. 2/2005 Coll. on noise assessment and control in external environment and on the amendment to Act of the Slovak National Council No. 272/1994 Coll. on human health protection as amended allows making accessible the strategic noise maps and information on harmful effects of noise to the public, negotiating the draft action plans with the public, and informing the public on the adopted conclusions and measures (Article 5 (2) (e)).

Pursuant to Act No.355/2007 Coll. on public health protection, support and development and on the amendment to certain acts, the Public Health Authority of the Slovak Republic, inter alia, every year before the commencement of the bathing season, publishes the list of waters for bathing and the length of the bathing season; the public can get information, submit their proposals, comments and complaints in introducing, revising and updating the list of waters for bathing and the length of the bathing season, which the Public Health Authority of the Slovak Republic properly takes into account.
XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Public participation in the preparation of policies relating to the environment is based on the same principle as public participation in the assessment of environmental impact of proposed activities (Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts).

XXI. Obstacles encountered in the implementation of article 7

Obstacles have not been encountered.

XXII. Further information on the practical application of the provisions of article 7

Central record-keeping of all strategic documents and proposed activities assessed is provided by the MoE SR in cooperation with the Slovak Environment Agency through the Information System for Environmental Impact Assessment in the Slovak Republic – EIA/SEA Information System. It is intended for the needs of central government bodies as well as for the general public. All the available information is published in compliance with Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended at http://www.enviroportal.sk/sk/eia.

To ensure public participation in preparing the draft river-basin management plans, consultations with the public were organised from January to June 2014 regarding the preliminary overview of significant water management issues, and from January to June 2015 regarding the draft river-basin management plans. In the period of preparation of the river-basin management plan also other activities took place in addition to the mandatory above-mentioned consultations – consultations/work meetings/ negotiations with the sectors concerned and water users for the purpose of more efficient incorporation of water policy objectives into other environmental and sector policies, including the provision of participation of all parties concerned in eliminating the obstacles to the fulfilment of requirements for achieving environmental objectives, i.e. achievement of good state of waters.

When Directive 2007/60/EC on the assessment and management of flood risks entered into force, the competent body initiated many informing and cooperation activities. In preparing the Preliminary Evaluation of Flood Risk, the MoE SR organised workshops to inform the general public about its results and further progress of implementation of Directive 2007/60/EC, about the flood hazard maps and the flood risk maps, about the flood risk management plans and flood protection measures. Professional workshops took place in each region from 30 November 2012 to 11 December 2012; their organisation was provided by the regional environmental offices in cooperation with the respective branches of the company Slovenský vodohospodářsky podnik, š.p.


The assessment of the above-mentioned strategic documents pursuant to SEA included the public negotiation of reports on the evaluation of strategic documents in Bratislava on 21 April 2015.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

http://www.enviroportal.sk/sk/eia
www.geoportal.sk

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

The rights of the public to participate in the preparation of legal regulations are guaranteed by new Act No. 400/2015 Coll. on creating legal regulations and on the Collection of Laws of the Slovak Republic and on the amendment to certain acts, which contains, inter alia, the general regulation of comment procedure regarding governmental bills, including public participation. It is necessary to point out in particular its provisions of Article 10, which guarantee the rights of the public to participate in the preparation of legal regulations, whose draft versions are approved by the government, in the following way:

Article 10

(1) Draft legal regulations are compulsorily published for comment procedure on the portal.

(2) The comment procedure regarding the draft legal regulation takes place on the portal in such a way as to ensure the possibility of submitting comments by the public.

(3) A comment on legal regulation means a proposal of draft legal regulation modification that is applied within the specified time limit, is unambiguously formulated and justified. The comment may propose a new text or recommend a modification of the text, supplementation, change, omission or more precise formulation of the original text. The comments also include the justified proposals, which do not propose a new text, nor they recommend a text modification, but they contain particular reservations regarding the proposed text and the way of elimination of the objected shortcomings of the proposed text. The entity submitting the draft regulation shall not be obliged to take into account the suggestions that do not meet the requirements pursuant to this section.

(4) Dispute proceedings with a public representative may take place in case the entity submitting the draft regulation has not complied with the comment raised by more persons on the part of the public, and at the same time, if the comment includes power of attorney to the public representative to represent them (hereinafter the "block comment"). Dispute proceedings with the public representative shall take place every time the entity submitting the draft regulation (submitter) does not satisfy/comply with a block comment that was agreed to by at least 500 natural persons. If the block comment is applied in electronic form through the portal, the list of persons approving the block comment can be sent to the submitter also in other way than through the portal.

All the draft legal regulations pursuant to the Slovak Republic Government Legislative Rules and also pursuant to new Act No. 400/2015 Coll. are also made available for commenting to the public through the Slov-lex portal. Slov-lex is a new information system of general government, which replaced the Portal of Legal Regulations on 1 April 2016, and it is administered and operated by the Ministry of Justice of the Slovak Republic. The objective of creating this uniform information system was to unify the legislative process in the Slovak Republic and to ensure easier orientation and search in legislative materials. The Slov-lex information system, which is directly accessible by central government bodies as well as by the public, allows entering comments on draft acts. Through Slov-lex, all draft legal regulations are published, including information on the commenting process and its evaluation.

The public can submit comments also when a general binding regulation is issued, which designates, changes or cancels a protected area, pursuant to Article 50 (1) to (5) of Act No. 543/2002 Coll. on nature and landscape protection as amended:

"(1) The proposal for designation of protection of a protected area or its zone of protection (Article 54 (13)) shall be delivered by the proposing entity to the nature protection body competent for intent notification, which shall have its justness assessed by a nature protection organisation in terms of ecological, economic and social impacts and within 30 days, it shall issue its position to the proposal to the proposing entity; this shall not apply when the proposal is submitted by a nature protection organisation.

(2) The nature protection body shall be obliged to notify the owner, administrator and lessee of the land affected by the planned protection that can be found in the real estate register, the municipality concerned and the central government bodies concerned79) in writing of the intention to designate a protected area, zone of protected area or
protected tree (hereinafter the "intention"). The nature protection body competent for intention notification and for the procedure pursuant to Sections 5 and 6 means the district office in the region's seat; if a protected landscape element and a protected tree is concerned, the district office represents such body. If several land owners are concerned or if their residence is not known, the intention can be notified through a public decree; if a land community is concerned, the intention notification shall be delivered to its body, as well.

(3) the intention notification shall contain in particular

a) the basic characteristics of the intention,

b) the details on protection, in particular the objectives of protection and measures to achieve them, the scope of limitations of common land management and economic evaluation of the impact of applying the limitations of common land management,

c) the possibilities of solving the way and determining the amount of compensation provided for the limitation of common land management pursuant to Article 61 (1) (a) to (d).

(4) Within 15 days from the delivery of the intention, the municipality shall be obliged to inform the public in its territorial district about it and to allow inspecting it at a usual place, in particular on the official board, for at least 15 days.

(5) The owner, administrator and lessee of the land concerned, the municipality and the central government body concerned shall have the right, no later than within 30 days from the delivery of the intention notification or from its publication, to submit written comments on it from the nature protection body. Within the same period, the owner of the land concerned shall have the right to comment on the possibilities of solving the way and determining the amount of compensation provided for the limitation of common land management pursuant to Article 61 (1) (a) to (d). No later than within 30 days, the nature protection body shall be obliged to negotiate the comments with the entity submitting them; if a comment on the possibility of solving the way and determining the amount of compensation provided for the limitation of common land management is concerned, the nature protection body shall be obliged to negotiate the comments no later than within 60 days, and if the owner agrees with the proposed way of compensation provision, to call upon the ministry or a nature protection organisation authorised by the ministry or the state property administrator affected by the proposed way of compensation to negotiate with the owner the conditions of compensation provision and in case of agreement, to enter with them into a preliminary contract of provision of compensation for the limitation of common land management pursuant to Article 61a to 61d. “

The protected areas and their zones of protection are designated by a generally binding legal regulation – generally binding order of municipality or Government Order of the Slovak Republic. Private protected areas are designated through a decree of the district office in the region seat.

XXV. Obstacles encountered in the implementation of article 8

New Act No. 400/2015 Coll. on creating legal regulations and on the Collection of Laws of the Slovak Republic and on the amendment to certain acts came into effect on 1 January 2016. Pursuant to this act, the comment procedure regarding the draft legal regulation takes place on the portal of Slov-lex in such a way as to ensure the possibility of submitting comments by the public. So far, the possibility of commenting on acts by the public has been regulated only in the Slovak Republic Government Legislative Rules, now the possibility is stipulated in Act No. 400/2015 Coll.

Pursuant to the Slovak Republic Government Legislative Rules (Article 14 (6)), dispute proceedings with a public representative may take place in case the entity submitting the draft regulation has not complied with the comment raised by more natural persons or legal entities on the part of the public, and at the same time, if the comment includes power of attorney to the public representative to represent them (a block comment). Dispute proceedings with the public representative shall take place every time the entity submitting the draft regulation (submitter) does not satisfy/comply with a block comment that was agreed to by at least 500 natural persons or legal entities unless
there are serious reasons for which dispute proceedings cannot take place; the entity submitting the draft regulation shall publish such reasons at its website.

The NGOs representatives within working groups sometimes participate in the process of preparing the respective legal regulation.

Pursuant to the Slovak Republic Government Legislative Rules there are consultations with entities submitting the drafts and opinions within public participation and it is assumed they will be taken into account to the largest extent possible if they are not in conflict with the regulations and if they have a rational basis.

Formal participation of the public is a risk for strategic assessment. This means that the public either does not participate in the process and thus submits no comments, or it does participate in it but its comments are not taken into account without further explanation. In both cases the opinions of the public (in these cases it is rather special/expert public) will not be reflected in the final form of the adopted documents.

XXVI. Further information on the practical application of the provisions of article 8

Non-governmental organisations may participate and really do participate in preparing the intention of designation of a protected area or other documentation of nature protection (e.g. programmes of care of protected areas). This applies for example to draft special protection areas, small-scale protected areas, programmes of care of special protection areas, of wetlands etc.

XXVII. Website addresses relevant to the implementation of article 8

https://www.slov-lex.sk/domov
http://www.enviro.gov.sk
http://enviroportal.sk

Slovenia

XV Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Answer:

a., b., c.)

Slovenian legislation on cooperation of representatives of the public distinguishes between:

1. the general public: When an act uses the term ‘the public’, this includes anyone, i.e. any natural person or legal entity regardless of whether they are a foreigner (a foreign natural person or legal entity) a citizen or a local legal entity. The general public is entitled to procedural rights only in some administrative procedures stipulated by the ZVO-1.

2. the interested public (the public concerned): According to Article 43 of the ZUP, a person who demonstrates standing (legal interest) has the right to participate in procedures. Standing is demonstrated when a person asserts that they are joining a procedure in order to protect their legal benefits, which are defined as “a direct personal benefit based on statute or other regulation.” The ZUP does not distinguish between persons with a place of residence in the Republic of Slovenia and others, which means that it governs the procedural status of Slovenian and foreign persons. According to the ZUP, the procedural rights of a person who acquires the status of an accessory participant are, with the exception of the filing and withdrawal of a claim, equal to the rights of the party.

With regard to Article 6 of the Convention, the following administrative acts envisaged in the ZVO-1 are relevant:
the environmental protection permit for installations causing large-scale pollution (the implementation of the IED Directive): IED environmental protection permit (OVD IED),
- an environmental protection permit for Seveso plants (OVD SEVESO), and
- an environmental protection consent (implementation of the EIA Directive): OVS consent.

The Act requires that the OVS consent be acquired for any activities that may significantly affect the environment, for which reason an environmental impact assessment must be performed relating to such activities. Following the example of the EIA Directive and Article 6 of the Convention, the ZVO-1 distinguishes between two categories of such activities, namely:

- activities for which an assessment is always necessary (activities referred to in Appendix 1 of the Convention) and
- activities regarding which it is only discovered during the preliminary assessment whether an environmental impact assessment should be carried out. In cases when decisions are made concerning activities not listed in Appendix 1, the assessment of whether the environmental impact assessment should even be performed is carried out case by case, whereby the prescribed criteria are taken into consideration when decisions are made on this issue. (It should be added that preliminary assessment was introduced into the Slovenian legal system in 2013 by means of Articles 51a and 51b of the ZVO-1; prior to this, thresholds (often absolute thresholds) were laid down by means of an implementing regulation for some activities not included in Appendix 1; if these thresholds were reached or exceeded, an environmental impact assessment had to be carried out.)

Accessory participation

As already mentioned, according to the ZUP, the procedural rights of members of the public concerned (accessory participants) are, in principle, the same as the procedural rights of the party. The authority is obliged to invite these persons to participate in a procedure, but they may also ask to participate themselves (Articles 142 and 143 of the ZUP). Persons who have the status of an accessory participant have the right to be notified on the planned procedural steps and a right to participate in all procedural steps, and in specific proceedings they may state facts and present evidence to support their claims, whereby they may make a statement concerning all relevant findings and evidence before a decision is reached, and the authority takes a suitable position on their statements and evidence in the explanatory note that forms a part of decision (e.g. it must state which facts it determined and based on what (which evidence), which evidence it accepts and why, etc.; see Articles 9 and 214 of the ZUP in particular). Both in relation to notification as well as in relation to the participation of persons with the recognised status of an accessory participant, the legislation of the Republic of Slovenia exceeds the requirements of Article 6 of the Convention.

According to the ZUP, the status of an accessory participant can be acquired by anyone who shows standing (legal interest). (In Slovenia, the concept of the subjective protection of rights applies). In procedures according to Article 6 of the Convention (OVS consent and OVD IE according to national legislation), there is a fiction of violated legal interest for some representatives of the public. This applies to environmental non-governmental organisations with a special status (Article 153 of the ZVO-1) and to particular natural persons or legal entities from what is known as the influence area of the activity. The right to represent nature conservation interests in all administrative and judicial procedures is afforded also to an association that has the status of a society operating in the public interest in the field of nature conservation, namely in accordance with paragraph three of Article 137 of the Nature Conservation Act (the ZON).

General public

In procedures for issuing OVS consents and OVD IE and OVD SEVESO permits, the Act also governs the participation of the (general) public (anyone). A more detailed regulation of the cooperation of the general public, as prescribed for the aforementioned acts, is as follows:

- OVS consent (Article 58 of the ZVO-1):
In the procedure for environmental impact assessment, the ministry must make available to the public the application for environmental protection consent, environmental impact report, and the draft decision on environmental protection consent, and allow the public to express its opinions and make comments.

The ministry shall inform the public – by means of a public announcement in a locally established way and on the internet – in particular of:

1. the application for granting an environmental protection consent for the planned activity affecting the environment,
2. the fact that an environmental impact assessment is required for the planned activity affecting the environment,
3. the area referred to in point 6 of paragraph two of Article 54 of this Act,
4. the participation of a Member State in the case referred to in paragraph three of Article 59 of this Act,
5. the authority that is to grant an environmental protection consent, provide the required information on the planned activity affecting the environment and accept opinions and comments,
6. the location where the application, environmental impact report, and draft decision are available to the public, and
7. the manner in which to express opinions and make comments.

The time limit in which the public has a right of access and an opportunity to express opinions and comment shall be 30 days from the public announcement referred to in the preceding paragraph.

– OVD permit for IE installations (Article 71):

In the procedure for issuing an environmental protection permit according to the provisions of Article 69 of this Act or for its modification referred to in points 1 and 2 of paragraph three and in paragraph fourteen of Article 77 and point 4 of paragraph one of Article 78 of this Act, the ministry shall make available to the public the application for obtaining the permit, the corresponding conclusions concerning the best available technology, and the draft decision on the environmental protection permit, and allow the public to express its opinions and comments.

The ministry shall inform the public – by means of a public announcement in a locally established way and on the internet – in particular of:

1. the authority that is to issue the environmental protection permit, provide the required information on the planned activity affecting the environment and receive opinions and comments,
2. the extent of the installation influence area referred to in the second paragraph of Article 70,
3. the location where the application and draft decision referred to in the preceding paragraph are available to the public,
4. the participation of a Member State in the case referred to in paragraph four of this Article, and
5. the manner in which to express opinions and make comments.

The time limit within which the public has a right of access and can express opinions and comments shall be 30 days and shall not be counted in the time limit of granting the environmental protection permit.

For an installation that might have a significant impact on the environment of any other Member State, the provisions of Article 59 shall apply mutatis mutandis, and for an installation that might
have a significant impact on the environment in the Republic of Slovenia, the provisions of Article 60 of this Act shall apply.

- OVD permit for SEVESO plants (Article 88 of the ZVO-1):

(1) In the procedure for issuing the environmental protection permit for a plant referred to in Article 86 of this Act, the ministry shall make available to the public the application for obtaining the environmental protection permit and the draft decision on the environmental protection permit.

(2) To ensure the participation of the public referred to in the preceding paragraph, the provisions of Article 58 of this Act shall apply mutatis mutandis.

d.) The ZUP requires that representatives of the interested public be informed of all steps of the procedure in a timely manner (see above).

The general public (including any remaining representatives of the relevant public that were not discovered or invited by the authority) is informed on the content of the application (and on the possibility of having direct access to the application) by means of a public notification, and may express opinions and make comments within 30 days. At the same time as the application, a draft of the decision is also published, which means that the authority – provided that it does not deny the request in this phase already – has already specified the data, as stated in the extensive application by the applicant, taking into consideration any regulations, in the foreseen conditions of the activities. Such legislation enables oriented discussion (specific comments of the public on the one hand and a specific answer by the authority referring to facts, evidence, and the assessment of these facts on the other). In any case, the authority may and, provided that this is required due to the findings of the subsequent procedure acquired by cooperating with the public, must change its decision, either regarding only particular points of its operative part (the conditions) or it can refuse to issue a permit entirely.

Pending applications to obtain OVD permits are published online:

http://www.arso.gov.si/varstvo%20okolja/presoja%20vplivov%20na%20okolje/okoljevarstveno%20soglasje/Vloge%20v%20okolju/

e.) The authority is obliged to invite the interested public (accessory participants) and the general public to participate in the procedure in a prescribed manner.

In cases when the authority is uncertain who the accessory participants are, it is obliged under the ZUP to invite persons to participate by issuing a public announcement: “If the authority is unable to determine which persons have a legal interest in participating in the procedure, it shall issue an invitation by means of a public announcement posted on the notice board of the public authority, as well as on the national website e-Uprava (e-Administration), or it can be posted in any other locally established way.” (paragraph two of Article 143 of the General Administrative Procedure Act).

f.) As already mentioned, all documents and records on activities that serve as the basis for the decision are available to the concerned public.

All documents related to the Convention are also available to the general public (as evident from Articles 58, 71, and 88 cited above).

g.) The interested public is in the position of an accessory participant who requires that it be allowed to provide a statement on all of the claimed facts and evidence and that the authority share in the explanatory note its position on the accessory participant’s proposals and evidence (more above).

The general public (anyone) may share their opinion and comments (and any corresponding documentation) in procedures for issuing OVS consents, OVD IED permits, and OVD SEVESO permits. They can be shared in a public debate or in writing (at any time during the course of a public debate). (See Articles 58, 71/3, and 88 cited above in greater detail).
h.) All allegations and motions for evidence filed by the public concerned (accessory participants) must be suitably assessed in the explanatory note of the decision (more above).

Furthermore, the ZVO-1 requires that the views of the general public also be taken into account. It requires that “in its clarification of the environmental protection consent, the authority indicates how the public opinions and comments sought on the basis of Article 58 of this Act have been observed in the decision.” (paragraph five of Article 61 of the Environmental Protection Act ZVO-1) This requirement also applies, mutatis mutandis, to OVD SEVESO permits. When issuing an OVD IE permit, the Ministry “also takes into account, in the appropriate manner, the opinions and comments of the public.” (paragraph one of Article 72 of the ZVO-1)

With regard to SEVESO plants, the provisions of Article 58 of the ZVO-1 concerning the participation of the public apply, mutatis mutandis.

i) Pursuant to the ZUP, accessory participants are notified concerning the steps of the procedure and on the decision by means of personal serving.

The ZVO-1 requires that the general public also be notified on the decision referred to in Article 6, namely in the following provision of Article 65 of the ZVO-1 (to which paragraph six of Article 81.a and Article 78.a also refer):

1. The ministry shall inform the public of the issued environmental protection consent in 30 days at the latest after serving the decision on parties, by means of an announcement in the locally established way and on the internet.

2. The announcement referred to in the preceding paragraph shall comprise in particular:

1. the substance of the decision and indispensable conditions for carrying out the planned activity, when specified,
2. the main reasons for the decision,
3. description of the principal measures for preventing, reducing or eliminating detrimental impacts of the planned activity on the environment when the environmental protection consent is granted, and
4. indication of public opinions and comments taken into account as referred to in Article 58 of this Act in the case referred to in paragraph three of Article 59, and indication of opinions and comments taken into account as given by the Member State concerned.

Decisions on OVS consents and OVD IE permits as well as data on OVS consents and (some groups of) OVD permits are also fully available online:


j.) Depending on the nature or the gravity of the changes of activities, the ZVO-1 distinguishes between activities that require an update of an administrative act (permit) and those that do not require such update.

An update of the act (OVS consent or OVD permit) is required for major changes in the operation of an installation, whereby the cooperation of the public concerned and the general public is provided in the procedure for the update of this act usually in the same manner as in the procedure for its issuing.

In order to provide supervision, the investor must report the foreseen change of activities for which an OVS consent is required or the foreseen change in the operation of an OVD IE installation to the competent authority beforehand. This authority issues a decision on whether this is a major change that also requires an update of the administrative act. (Articles 61.a and Article 77 of the ZVO-1).

The decision on the update of a permit must be made in a “regular” procedure, in which the participation of the public is provided.
The update of an OVD permit with public participation is required for SEVESO plants (Articles 61.a, 77, and 90 of the ZVO-1).

XVI Obstacles encountered in the implementation of article 6

General

The focus on the culture and practice of open operation dominated by understanding must be enhanced and expanded to all aspects of administrative operation, so that the participation of the public can lead to decisions of higher quality and to the greater legitimacy of decision-making.

For this purpose, decision-making authorities must be better equipped with skills that are required for a focused process which includes cooperation with various stakeholders that will ensure that the stated goals be attained in practice. Therefore, more human and financial resources should be provided.

On the other hand, greater awareness of the public concerning the very purpose of the procedure and whether they are participating in the procedure with the “power of their argument” is also required.

Individuals warn that the applicable construction legislation (as opposed to environmental legislation) does not contain the requirements of the Aarhus Convention when obtaining building permits, and they find that there is not sufficient transparency or public dialogue in the process of designing and deciding about building issues. They provide the example of a mayor not allowing alternative solutions (designed by civil society) for the upgrade of the urban environment to be revealed. They also warn that the status of so-called civil initiatives (associations of persons that do not have legal personality) advocating (in their case) the protection of cultural and social goods is not regulated. With regard to this, we state that an update of construction legislation which will address both of these issues is in preparation (in the phase of Government material to be submitted to the Parliament).

Relating to the implementation of Article 6.1. of the Convention:

Plan B (a network of environmental NGO’s) states its view that the amendment to the ZVO-1 in 2016 which eliminated the time limit for the validity of environmental protection permits restricted the possibilities for public participation: “The time limit meant that a procedure was carried out as if a new permit were being issued, but now permits have unlimited validity”, or “they are updated only by means of procedural changes.” With regard to this comment, the Ministry states that the ZVO-1 provides for a periodic (10-year) review of these permits or an ex officio update of the OVD permit (Articles 78 and 85 of the ZVO-1); however, it is true that it governs public participation only in certain cases of ex officio updates and that it does not provide general public participation in the event of an adjustment to the changed requirements of regulations or changed technical properties.

Relating to the implementation of Article 6.4. of the Convention:

According to Plan B, the provision of Article 6.4 that requires early public participation is not being carried out, and the public is virtually never invited to participate in the early decision-making phase, and public participation is usually carried out as a formal obligation without any real intention of the decision-makers to obtain the views of the public. (Because it is clear from a detailed content that Plan B focuses its specific warnings on the practice of participating on strategic documents and regulations, more details are provided in section about article 7).

Relating to the implementation of Article 6.5. of the Convention:

Plan B finds that this article is not being carried out and that only a few investors pay attention to the identification of interested stakeholders; environmental NGO’s think that “investors avoid confronting the public” and that investors “mainly exert pressure on authorities to approve their activities as soon as possible and only by fulfilling formal public participation requirements.”

Relating to the implementation of Article 6.8. of the Convention:
Plan B finds that the comments of the public are generally not taken into account, except in the case of participation of those segments of the public that are seen as influential social groups; it views the foreseen updates of the spatial and construction legislation as a step forward.

XVII. Further information on the practical application of the provisions of article 6

The general public and the interested public are becoming involved in procedures, but Slovenia does not hold a statistics of the actual extent of the interested or general public.

The Ministry keeps a list of environmental NGO’s with a special status pursuant to the ZVO-1 or the ZON:
http://www.mop.gov.si/si/nevladne_organizacije/

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:
http://www.arso.gov.si/varstvo%20okolja/
http://www.mop.gov.si/

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

Considering the regulatory framework in the Republic of Slovenia, a distinction should be made between so-called plans and programmes which, based on their content, are spatial planning acts (although such documents are considered to be regulations according to national law, they are covered by Article 7 of the Convention), and other acts according to Article 7 if they do or do not have the status of a regulation according to national law.

The ZVO-1 expressly governs public participation in adopting documents foreseen (prescribed) by law, such as:

- the national environmental protection programme and environmental protection operational programmes (pursuant to Article 37 of the ZVO-1; in the process of drafting the programmes in question, the Ministry must allow the public to see the draft programmes and to offer opinions and comments. A public notice on the adoption of a programme also contains justifications for the adopted programme decision, and information on public participation in the process of drafting it), and

- preparing a programme with measures to improve the quality of the degraded environment (Article 26 of the ZVO-1).

The ZVO-1 also requires public participation for all plans, programmes, and other acts for which the implementation of a comprehensive environmental impact assessment is required. These are acts in various fields the implementation of which can significantly affect the environment. The plan producer must send a notice concerning their intention to the ministry prior to drafting such an act. The notice must contain data on the type, content, and accuracy level of the plan, including a suitable cartographic depiction of prescribed or planned activities or areas that the plan covers. Within 60 days, the Ministry notifies the plan’s producer as to whether a comprehensive environmental assessment is to be implemented for the plan. The Ministry also informs the public by means of a public online announcement and a notice sent in a manner commonly practised in the local area that a comprehensive environmental impact assessment will be carried out for the plan.

The draft plan, the environmental report and its revision must be available to the public by submitting it for public debate for at least 30 days, thus enabling public discussion. During the period for public debate, the public has a right to offer opinions and make comments on the plan and the environmental report. The plan’s producer must as far as possible take into account the opinions and comments of the public, and suitably modify or amend the plan or the environmental report. After the adoption public must be notified on the adopted plan (Articles 43, 46, and 47 of the ZVO-1).
Similarly, public participation is also foreseen in the process of adopting spatial acts. In both municipal and state spatial planning procedure, the public may make comments on the initial, draft of the spatial act (and, if a comprehensive environmental impact assessment is being performed, also on the environmental report). In the process of state spatial planning act, the public may participate in the earliest phase – it can make comments and recommendations already on the decision on the adoption of the spatial act. Within the update of spatial planning legislation, a modification of public participation is planned with regard to state and municipal spatial planning. In both cases, already bases for preparing a spatial act will be published, enabling the public to comment.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

The public can participate in the procedure for preparing acts intended for developing environmental protection policies.

Among these, the national environmental protection programme and operational environmental protection programmes are the most noteworthy, as the law expressly requires public participation in such cases.

At the same time, the requirements of the comprehensive environmental impact assessment (including public participation requirements) are established by law for sectoral plans for managing environmental goods and for plans and programmes concerning water management, forest management, fishery, mining, agriculture, the energy sector, industry, transport, waste management and wastewater management, supplying the population with drinking water, telecommunications, and tourism, provided that these plans are used to lay down or plan activities affecting the environment for which an environmental impact assessment must be carried out in accordance with the provisions of Article 51 of this Act, or that an acceptability assessment is required pursuant to the regulations on the conservation of nature, and for other plans and programmes for which the ministry deems that their implementation could have a significant effect on the environment (Article 40 of the ZVO-1).

XXI. Obstacles encountered in the implementation of article 7

The Human Rights Ombudsman warns that public participation in spatial planning is in general “still formal; it does not take place in the early phase, and usually only the minimum deadlines for public response are taken into account; there are no actual tendencies to achieve substantive coordination and inclusion of the comments of the public, so a partnership is not being formed.” Plan B (NGO network) finds that public participation is not ensured in the early phase, when all options are still open (Article 6.4. of the Convention), whereby public participation in adopting municipal spatial planning acts is only enabled in the phase after the preparation of a draft, when the public can no longer affect the substance of the plan. Similar warnings have also been received from individuals.

In 2013 Slovenia began preparing a renovation of the spatial-planning and construction legislation. By forementioned legislation also earlier public participation in processes of adopting of spatial planning acts and wider access of the interested public to legal remedies are addressed. The updated proposal for statutory amendments is currently a part of the Government material to be discussed in Parliament.

XXII. Further information on the practical application of the provisions of article 7

The Republic of Slovenia endeavours to properly implement the general provisions of the Convention in accordance with the described legal and other bases.

XXIII. Website addresses relevant to the implementation of article 7

The regulations and documents being prepared by the Ministry of the Environment and Spatial Planning are published on:
http://www.mop.gov.si/si/zakonodaja_in_dokumenti/predpisi_in_dokumenti_v_pripravi_okoljski_predpisi/


The online notification of the preparation of municipal spatial planning acts is required by law; the manner of implementation is in the purview of municipalities, which usually ensures that these documents can (also) be found on their websites.
http://www.mop.gov.si/si/delovna_področja/prvipej/okolje/usposabljanje/ (CPVO)

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

By means of the amendment to the ZVO-1 IN 2009, which entered into force on 12 January 2010 (and was adopted following a Decision by the Constitutional Court of the Republic of Slovenia in case U-I-386/06, in which the Constitutional Court discovered non-conformity of the procedure for adopting implementing regulations with the requirements of the Aarhus Convention), the ZVO-1 introduced a provision in Article 34.a that expressly governs public participation relating to the drafting of regulations. This amendment reads as follows:

(1) In the process of adopting regulations that can have a significant impact on the environment, the Ministry, other ministries and the competent body of the local authority must allow the public the opportunity to study the draft regulation and offer opinions and submit comments thereon.

(2) Regulations that can have a significant impact on the environment shall include: regulations issued in the field of environmental protection, nature conservation and the management, use or protection of parts of the environment, including the management of genetically modified organisms, and also regulations the environmental impact of which has been identified by the drafting body during the adoption process.

(3) The authority referred to in paragraph one of this Article shall inform the public by means of a public announcement on its website of the location in which the draft regulation is accessible and the method of, and period for, submitting opinions and comments.

(4) The public shall have the right to inspect the draft regulation and the opportunity to offer opinions and comments for at least 30 days, whereby this time limit may be reduced to 14 days in the event of less important modifications to the regulations referred to in paragraph two of this Article.

(5) The authority referred to in paragraph one of this Article shall study the opinions and comments of the public and, in so far as they are acceptable, incorporate them appropriately into the drafting of the regulation. Furthermore, it shall publish on the internet a reasoned position in which it states its views with regard to the opinions and comments of the public and its reasons for incorporating or not incorporating them in the drafting of the regulation.

(6) The provisions of the preceding paragraphs shall not apply to regulations where, for their adoption, the participation of the public is already prescribed by other laws.”

The provision applies to all acts that are understood to be regulations under national law.

For regulation adoption procedures, the ministry already prior to ZVO-1 issued Instructions on Public Participation in Adopting Regulations that Could Significantly Affect the Environment (Instructions dated 5 August 2008).

Similarly the public participation

After a regulation is adopted, the Ministry's position on the comments of the public is published together with the regulation on the website of the Ministry of the Environment and Spatial Planning in the section archiving completed public participation procedures
With regard to the adoption of regulations, the Resolution on Legislative Regulation (Official Gazette of the Republic of Slovenia [Uradni list RS], No 95/09) is also relevant, as it governs the principles and minimum recommendations for cooperation with the expert public and other interested segments of the public. It lays down that the period for the cooperation of the public in the preparation of regulations should be from 30 to 60 days; the exceptions are proposed regulations where the nature of matters does not enable cooperation.

In a similar manner, public participation is also governed by the Rules of Procedure of the Government of the Republic of Slovenia (Slovene: Poslovnik Vlade RS).

XXV. Obstacles encountered in the implementation of article 8

The Ombudsman and representatives of civil society warn of the frequent practice of ensuring only 14 (instead of 30) days of public participation when adopting environmentally-relevant regulations. NGO’s publish online statistics concerning these cases (http://www.stevec-krsitev.si/). The Ombudsman warns that Article 34.a of the ZVO-1 limits the reduced (14-day) public participation only to less important regulation amendments. Furthermore, the Ombudsman warns of the discouraging results of the analysis of public participation in adopting local environmentally-relevant regulations in 2010.

Individuals also warn that “provision of regulation proposals area published without expert bases and regulation objectives, which makes it impossible to have a high-quality substantive debate.”

Some also believe that suitable answers are not provided to comments made by the public.

They also warn that the public does not have the power (instruments) to achieve that particular topic or regulation makes it to the political and/or regulative agenda (as an example, representatives give a draft proposal for the an instrument on cultural heritage protection which was prepared by public).

XXVI. Further information on the practical application of the provisions of article 8

Efforts for better legislation, administrative processes and quality in Slovenia are coordinated by the Ministry of Public Administration. With regard to systemic efforts to include the public in processes for adopting regulation, the following documents, which are available online, should be mentioned:

- Strategy of the Government of the Republic of Slovenia Concerning Cooperation with Non-Governmental Organisations, the Government of the Republic of Slovenia, 2005,


Resolution on Legislative Regulation, National Assembly, 2009;


– Guidelines on Including Stakeholders in the Preparation of Regulations, Ministry for Public Administration, 2015,

– Including the Public in the Drafting of Regulations, Manual for Planning and Implementing Consultation Processes, Ministry of Public Administration, 2015;
Proposals for regulations from all fields are also published on the website e-demokracija. This enables the interested public to monitor the process of drafting regulations, from the moment when a ministry or a government office publishes its intent to commence the development of a regulation to the moment when this regulation is submitted for Government review in the National Assembly of the Republic of Slovenia.

The permanent implementation of the STOP birokraciji (STOP to Bureaucracy) project. A website, a mobile application, and a Facebook page have been set up as tools for collecting recommendations, initiatives to reduce administrative burdens and for treating them.

For those responsible for preparing regulations, a web application called MSP Test was developed as a part of the MOPED information system (MOPED – modular environment for preparing e-documents), which will use, among other things, various application modules to draft regulations and enable the mandatory publication of working materials on the e-Demokracija website, thus enabling the maximum direct participation of all of the expert and lay public in drafting proposals for legislative instruments.

Among the latest projects of the Ministry of Public Administration, the following are the most noteworthy:

- In May 2015, a six-month project relating to cooperation between the Ministry of Public Administration and the Centre for Information Service, Cooperation and Development of NGO’s (CNVOS), focusing on strengthening cooperation among various segments of the public in drafting regulations and other strategic and political documents concluded.

- Currently, the multi-annual project “Better policies for better lives” is being implemented in cooperation with the OECD.

XXVII. Website addresses relevant to the implementation of article 8

http://www.arso.gov.si

http://www.mop.gov.si

http://www.uradni-list.si


http://www.vlada.si/delo_vlade/gradiva_v_obravnavi/ (Government materials under review).


Spain

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

86. Public participation in decisions on specific activities in article 6 of the Convention is performed through specific procedures according to different specialized pieces of legislation. Article 3.2.e) of Law 27/2006 provides that every person has the right to participate in an adequate and effective manner, according to the applicable legislation in the administrative procedures of IPPC permits, GMO’s authorizations and environmental impact assessment.

87. It must be stressed that the First and Second final dispositions of Law 27/2006 have modified the basic regime of EIA and IPPC in order to comply with the provisions of the Aarhus Convention, particularly through the redefinition...
of “public” and “public concerned” and the introduction of early participation. This legislation has been modified in 2013 as explained below.

Article 6, paragraph 1

88. The participation in decisions on the activities listed in Annex I of the Convention is regulated by specific legislation, mainly by Law 16/2002 on integrated pollution prevention and control, IPPC as amended by Law 5/2013 of June 11 and by Law 21/2013 of December 9 Environmental Assessment. Environmental Impact Assessment of projects and plans. These rules have been changed ultimately by Law 5/2013 and Royal Decree 815/2013. Hereinafter we are referred to Law 16/2002 (as amended)

89. Law 16/2002 (as amended) shall apply to the facilities of public or private ownership in any of the industrial activities included in the categories listed in Annex 1 and, where applicable, reaching the capacity thresholds set out to develop in the same, except for the facilities or parts thereof used for research, development and testing of new products and processes.

90. Law 21/2013 on Environmental Assessment concerns: the performance of works, facilities or any other activity included in Annex I of the EIA Law, which must only be subject to an EIA when the environmental department so decides on a case-by-case basis, and the projects or activities in Annex II not included in Annex I but which could directly or indirectly affect the spaces in the Natura 2000 Network. This new regulatory text included the possibility that projects subject to environmental impact assessment simplified undergo the standard procedure when requested by the promoter.

91. The legislator aware of the importance of the conclusion of the environmental assessment procedures that exist in Spain, introduces a novel mechanism of entry into force. In its final provision eleventh, it provides that the autonomous regions having its own legislation on environmental assessment, must adapt to the provisions of the State Law within one year after its entry into force (before December 12, 2014) at which, in any case, the provisions of state law, that are considered basic to all Autonomous Communities shall apply. However, the Autonomous Communities may choose to make a referral to block this law, be applicable in their territory as basic and supplementary legislation.

According to this prevision, some regions have chosen to modify their legislation in order to adapt to the Law 21/2013, of Environmental Assessment and already have concluded (Aragon, Castilla y León, Andalusia and Extremadura) others have chosen to directly apply the basic legislation state (Madrid, Galicia, Navarra, Baleares, Castilla La Mancha) and others are negotiating their laws conform to Law 21/2013, (Asturias, Murcia, Cantabria, La Rioja), although not yet been concluded.

Article 6, paragraph 2

92. Article 14 of Law 16/2002 amended (Law 5/2013) provides that public authorities will promote real and effective participation of those interested in the procedures for granting, substantial modification, and review of the integrated environmental authorization an installation.

93. Thus, Annex 4 of this Law contains all provisions set out in paragraph 2 of Article 6 of the Aarhus Convention, identifying detailed deadlines and procedures as well as the obligations to be undertaken by the competent authorities to ensure adequate public participation in decision-making.

94. Concerning Environmental Impact Assessment (EIA) procedures, Law 21/2013 of Environmental Assessment also guarantees in article 36 “real and effective” participation since the early stages and regulates the processing of public information and consulting of the stakeholders and public authorities involved. The information that must be made available is rather similar to what has been explained above: the request of authorization of the project, identification of the competent authorities, legal nature of decisions, date and venue of the provision of information, ways of participation, information contained in the environmental assessment study and other relevant information.
95. Some regional governments have modified its regional legislation to adapt to the Law 21/2013, on Environmental Assessment, (Aragon, Castilla y Leon, Andalusia and Extremadura), the Law 9/2013, on economic competitiveness of Galicia, in Title III, Chapter II, regulates the environmental impact assessment of activities.

Other regional governments directly implement the state legislation (Madrid, Navarra, Baleares, Castilla La Mancha) and others are drafting their laws to adapt to Law 21/2013, (Asturias, Murcia, Cantabria, La Rioja), although still they have not concluded.

96. Concerning the information to be provided, the rules of the procedures of IAA and EIA see points 92-94

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

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

99. The Autonomous and local authorities have generally adopted measures on participation, establishing new options or bolstering existing ones, particularly those deriving from the Local Agenda 21 in the case of municipalities. Both types of authority have encouraged the use of new technologies for this purpose.

Article 6, paragraph 3

100. In the EIA procedure, the decision-making body must inform stakeholders and the public authorities involved of the right to participate in the corresponding procedure and the moment at which they can exercise this right; this notification must include the competent authority to which observations and allegations must be addressed, specifying the participation and the deadline by which they must be sent, which cannot be less than 30 days (article 37 Law 21/2013).

101. Regarding Integrated Environmental Authorizations, according to Annex 4 of Law 16/2002, (modified) reasonable timeframes must be provided for every stage of the process, allowing the public to have sufficient time to be well informed and the public concerned to prepare and effectively participate in the decision-making process.

102. With relation to environmental plans and programs, sufficient public participation time frames are established by each relevant legislation. By way of example, the Hydrological Plans are submitted to public consultation for a period of at least six months, according to the EU legislation (Directive 2000/60/CE) creating a EU framework in the field of water policy and in article 74 of the Regulation on Hydrological Planning.

103. The Law 16/2002 (modified) provides that public authorities shall ensure that public participation takes place from the early stages of the respective procedures in accordance with the provisions in Article 23. To that end, the provisions shall apply to such procedures on participation established in Annex 4. (See paragraph 93)

Article 6, paragraph 4

104. The Law 21/2013 includes this guarantee in its article 36.1, by opening up the consulting process to the public authorities involved and to the natural persons or public and private legal entities linked to protection of the environment, at the start of the EIA procedure. Article 9 provides that this process will take place when all options regarding the substance, size and definition of the project are still open.

105. Regarding plans and programs, the relevant specific legislation has adapted its procedures to the provisions of the Convention and the national Law 27/2006. For example, according to Law 22/2011 (28 July) on wastes and contaminated soils, the public administrations will guarantee the rights of access to information and public participation in matters related to waste and contamination, in the terms of Law 27/2006 of 18 July, regulating the rights of access to information, public participation and access to justice in environmental matters.

In fact, the State and Autonomous authorities, in addition to the intervention of consultative collegiate bodies where this is provided for, encourage early participation through the Internet and by sending information to the associations, organizations and agents involved in the procedures.
Article 6, paragraph 5

106. According to the provision in articles 33.2 and 34 of Law 21/2013 the project developer may undertake consultations prior to the start of procedures for project authorization.

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

Article 6, paragraph 6

107. Law 27/2006 regulates access to environmental information in articles 5 to 12, and access to environmental information on request in its article 10 in particular. Likewise, the Environmental Assessment regulation –) – guarantees the public disclosure of the information mentioned in article 6.6 of the Convention: a general description of the project and estimations regarding time, soil and other resources; estimations regarding kinds and amounts of wastes and pollutant releases; a description of the main alternatives studied; assessment of the significant direct and indirect effects of the project on the environment; a description of the measures envisaged to prevent, compensate and/or reduce the effects, an easily understandable outline of the study and its conclusions.

108. Additionally, the body responsible for the substantive decision (substantive body) should make available all the relevant documentation received prior and after to the public hearing phase.

Article 6, paragraph 7

109. The general regulation on the processing of public information allows for the possibility of presenting allegations and submitting documents and justifications, pursuant to the aforementioned Law 30/1992.

110. In particular, according to the Law 21/2013, , the substantive body will inform the public about the competent authority to which observations, questions and allegations must be addressed and the timeframe for doing so. Similarly, Annex 4 of the IPPC Law 16/2002 (modified) provides that the public concerned will have the right to submit to the competent authorities all the comments and observations that they consider to be relevant before the resolution of the request.

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


Article 6, paragraph 8

112. In the EIA and IEA procedures, the results of consultations and public hearings must be taken into account by the project developer and the decision-making body authorizing it (article 37 Law 21/2013 and Annex 4 of Law 16/2002/modified).

113. Regarding plans and programs, Law 27/2006 generally provides that when making a decision, the public authority will take due account of the outcomes of the public participation.

Article 6, paragraph 9

114 Article 12 of RLD 1/2008 determines that the Strategic Environmental Assessment (Plans) and the Environmental Impact Assessment (Projects) must be made public in all events (Official Gazettes) and it shall include the main reasons and considerations on which the decision is based in relation with the observations and opinions expressed by the public concerned during the EIA process and a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects. The result of the procedures is also published on the website and made public by other means, as explained in this report. This requirement also applies to procedures simplified strategic assessment and impact of Plans, Programs and Projects.
115. Likewise, the IPPC Law provides that the ACs will make available the administrative resolutions permitting or modifying the integrated environmental authorizations, along with a memoir including the main reasons and considerations on which the decision is based and the information regarding the public participation process.

Article 6, paragraph 10

116. The modifications and changes to the characteristics and circumstances in which a project that falls within the scope of application of an EIA or IEA, in accordance with the basic regulation of the State, is always subject to a screening procedure in order to determine the possible existence of significant impacts. The channels of public participation have already been mentioned in this procedure.

Article 6, paragraph 11

117. For GMOs, see sections XXXIII, XXXIV, XXXV Y XXXVI.

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

118. The main obstacles identified by local authorities in the application of the Aarhus Convention have been the lack of detailed knowledge of its terms and the lack of interest by a considerable proportion of the population.

119. Some minimum deadlines established in sector legislation for presenting allegations in the procedures requiring environmental authorization, particularly EIAs and AAAs, are sometimes too short in view of the size of the cases and their technical complexity. Nevertheless, deadlines can always be extended as in most of the cases the deadlines are established as a minimum.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 6

120. Projects related to National Defense objectives and those of financial or budgetary content are excluded from the EIA procedure when such an application could have negative repercussions for these objectives as well as projects specifically approved by a State law.

121. Article 8 of Law 21/2013, also provides for the exclusion by the Council of Ministers in the field of State Administration and, where appropriate, the body determined by the laws of each autonomous community in their respective fields of competence, the procedure of environmental impact assessment projects:

a) Construction of prison, or those projects declared to be of special interest to public safety centers by the competent authorities.

b) Repair of damaged critical infrastructure as a result of catastrophic events and emergency works.

122. To facilitate the implementation of these rights, databases of the projects submitted to EIA processes are available on-line, both at the MAGRAMA webpage and at the web pages of the environment departments at AC level.

XVIII. RELEVANT WEBSITES FOR THE IMPLEMENTATION OF ARTICLE 6


XIX. PRACTICAL AND / OR OTHER PROVISIONS WHICH HAVE BEEN TAKEN TO THE PUBLIC INVOLVED IN THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

124. Law 27/2006 establishes a two-way for public participation in plans and programs on the one hand, sets out the areas in which necessarily the procedure governed by the law itself (Waste Batteries and accumulators, Nitrates, Packaging, Quality shall apply air and those established in regional legislation) and on the other hand, refers to the
regulatory sector specific legislation participation on water and plans and affected by legislation programs on the assessment of the effects of plans and programs in the environment.

Law 21/2013 regulates the strategic environmental assessment of plans and programs and includes as a novelty the prior admissibility continues consultations with affected administrations and concludes with a strategic environmental report, which can determine either the plan or program has significant effects on the environment, and therefore must undergo regular strategic evaluation, or that the plan or program has no significant effect on the environment and therefore can be adopted or approved in the terms that the report itself establishes.

125. Regarding water management, the public consultation of the documentation relating the hydrological plans is required both by the EU Water Framework Directive and the revised text of the national Law on Water Management, developed by article 74 of Regulation on Hydrological Planning. With regard to the hydrological planning projects, the general public has online access to the programs, agendas, types of consultation, text of the project, general study by the Hydrological Demarcation, outline of the main important topics, etc. Additionally, the documentation that has been incorporated to the project after the public consultation phase can be revised afterwards.

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

126. Besides that set down in article 16 of Law 27/2006, article 19 of the latter also establishes the functions of the Environmental Advisory Council, as a collegiate body for the participation and monitoring of environmental policies, among others, to advise on plans and statewide programs proposed by the presidency due to the importance of their impact on the environment.

There are also other participation agencies, such as the National Water Council, the national Climate Council, the National Council for Natural Heritage and Biodiversity, the Council for Rural Affairs and the Bureau of Rural Development Associations.

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

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

128. The obstacles encountered at this early stage are gradually overcome and a significant level of public participation is expected. Occasionally, the public concerned argues that the time frames for public participation are not sufficient due to the volume or complexity of the information related to the project or activity.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 7

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

130. The MAPAMA and some Autonomous Communities have created profiles on Facebook and other social networks for the mass dissemination of information and as additional means of participatory environmental processes. This social tool has become a major means of communication in today's society.

131. Biodiversia is a social network project promoted by the MAPAMA and the Biodiversity Foundation, with the support of the Ministry of Industry, Energy and Tourism’s Avanza Project. It is a virtual space devoted to channel the public participation by making available all the official information related to the Spanish Inventory of
Natural Heritage and Biodiversity, with the aim of fostering environmental education and awareness rising. (www.biodiversia.es)

132 The site http://www.magrama.gob.es/es/ministerio/servicios/participacion-publica/ includes a list of all the projects submitted to public participation. In the http://www.magrama.gob.es/es/ministerio/servicios/participacion-publica/ page includes a list of all projects subject to public participation. By way of example, at the time of writing this report are open to public participation:

Draft Ministerial Order amending Annex IV of Royal Decree 219/2013, of March 22, on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

Draft Order AAA / / 2015 amending the import requirements of Animals No Harmonized are set by EU rules.

Draft Ministerial Order amending Royal Decree 139/2011, of February 4, for the development of Wild Species List of Special Protection Regime and Spanish Catalogue of Endangered Species

Proposed action programs for marine strategies for the five Spanish marine demarcations

First draft (in Spanish) of this National Implementation Report

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7


XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

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

135. Article 19.2 of Law 27/2006 establishes that the CAMA must make public all draft legislation on the matters mentioned prior to their approval. Similarly, there are other public bodies (National Council of Water Management, Climate National Commission, Biodiversity...) that facilitate the participation of social agents and the most representative environmental NGOs whose intervention in the drafting processes is compulsory.

136. The implementing regulations of the Autonomous authorities establish the fostering of social participation and the guarantee of effective public information procedures.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

137. Although, as mentioned, several environmental awareness campaigns have been promoted by the different authorities and NGOs, it would be desirable to further stress the necessity of a better understanding of the rights of access to information, public participation and access to justice in environmental matters, specially at the level of Local Governments, given its proximity to citizens.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 8

138. Through the MAPAMA’s website, drafts of environmental laws and regulations are submitted to public consultation allowing the public and stakeholders to value them and to submit any comments and observations prior to approval. It would be desirable, however, to inform in a timely and individualized way to the environmental NGOs about these publications, given its particular interest in participation.

XXVII. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8
Sweden

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in 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.

There is a long tradition of public participation in decision-making processes in the environmental area. For almost 40 years there has been an environmental permit process for industrial activities and other environmentally hazardous activities, such as sewage treatment works and waste treatment plants. Permit processes involve consultations with the public before a permit application is submitted to the permit authority; the publication of notice of the application and the gathering of opinions from the public, among others; a public meeting before the permit authority; and a notice publishing the ruling of the permit authority. In the main, Sweden lived up to the requirements of the Convention about giving the public the possibility to participate in decision-making on environmentally hazardous activities even before the Convention was ratified. Over the years this possibility has been expanded to cover more types of activities at the same time as the formal requirements concerning, for example, the application, the environmental impact assessment and other supporting information have increased and been made more specific.

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;

Permits are required under the Environmental Code (1998:808) to conduct the activities covered by Annex I to the Convention. There are provisions on environmental impact assessments and other supporting information in chapter 6 of the Environmental Code that guarantee public participation in these permit examinations in accordance with the Convention. There are also provisions on permit processes in other Acts that refer to the Environmental Code’s provisions on consultations. This applies, for example, to the Electricity Act (1997:857). The construction of overhead electrical power lines with a voltage of 200 kV or more and a length of more than 15 km (point 17 in the Annex to the Convention) is subject to a permit under the Electricity Act, which refers to Chapter 6 of the Environmental Code with respect to the procedure for preparing an environmental impact assessment when applying for a permit.

The Roads Act (1971:948) and the Railway Construction Act (1995:1649) also contain provisions that refer to Chapter 6 of the Environmental Code. All measures that involve the construction of a road or a railway in the meaning given in the relevant sectoral act have to follow a formal planning process that means that the party who intends to build the road or railway has to draw up a road or railway plan. During work on drawing up the plan the party who intends to build the road or railway has to consult with the country administrative board, the municipalities affected and individuals who are affected. The consultation has to relate to the location, design and environmental impact of the road or railway. If the road or railway is likely to have a significant environmental impact, a consultation has also to be held with the other central government authorities and the public and organisations that are likely to be affected and the consultation also has to relate to the content and design of the environmental impact assessment that has to accompany the road or rail plan. The county administrative board has to work for the environmental impact assessment to have the direction and scope needed for the examination of the plan. The consultation has to be started a soon as possible and be adapted to the need in the specific case. The consultation procedure may be simplified in certain cases, and a consultation does not need to be held on the detailed location and design of a road in certain cases. The procedures for publication and public scrutiny may also
be simplified in certain cases. During the consultation the county administrative board has to examine whether the road or rail project is likely to have a significant environmental impact according to the criteria stated in the Environmental Impact Statement Ordinance (1998:905). If the project is likely to have a significant environmental impact, an environmental impact assessment that meets the requirements of Chapter 6, Section 7 of the Environmental Code has to be drawn up and approved by the county administrative board before notification of it is published. If the project is not likely to have a significant environmental impact, details of the predictable effects of the activity on human health and the environment have to be provided as supporting information along with the plan. Similarly, in certain cases there is no need for an environmental impact assessment drawn up especially for the road or rail plan. The party who intends to building a road or railway has to publish notice of the proposal of the road or railway plan and the supporting information for it and subject it to public scrutiny. If an environmental impact assessment has been prepared, notice of it has to be published and it has to be made available to the public in accordance with Chapter 6, Section 8 of the Environmental Code. The Swedish Transport Administration examines the question of adopting a road or rail plan after consultation with the county administrative board. An affirmed plan is equated with a permit issued under the Environmental Code. If the permissibility of a road or rail project has to be examined by the Government, the environmental impact assessment has to be approved by the county administrative board before notice of the matter is published.

Section 1 b of the Act (1983:293) on establishing, expanding and cancelling public fairs and public ports also refers to Chapter 6 of the Environmental Code regarding the procedure for preparing an environmental impact assessment. In the same way a number of other acts contain references to Chapter 6 of the Environmental Code regarding activities that, while requiring a permit under the Environmental Code, are, in addition, obliged to have a permit under other acts, for example the Nuclear Activities Act (1984:3) and the Continental Shelf Act (1966:314).

(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;

Under provisions in the Environmental Code or provisions that refer to the Environmental Code the rules on environmental impact assessments with the associated consultation requirements are applicable to activities that may have a significant environmental impact. In addition, Chapter 7, Section 28 a of the Environmental Code contains a specific requirement for a permit to conduct activities or take measures that may have a significant impact on the environment in a natural area listed under Chapter 7, Section 27 of the Environmental Code (Natura 2000 areas). The regulations concerning environmental impact assessments and the associated consultations are also applicable to these permit examinations.

(b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in paragraph 2;

Under provisions in the Environmental Code, anyone who intends to conduct an activity that requires a permit or a decision on permissibility has to consult with the country administrative board, the supervisory authority, and individuals who are likely to be particularly affected. The corresponding process is also guaranteed in transboundary contexts. Even before the consultation, the party who intends to conduct the activity has to provide information about the location, extent and nature of the activity and its anticipated environmental impact to the authorities and to any individuals particularly affected. When an environmental impact assessment has been prepared in a case or matter concerning an environmentally hazardous activity or water operation, notification to this effect has to be published together with the notification of the application (Chapter 6, Section 8 of the Environmental Code). The Environmental Code also contains requirements concerning the contents of the notice. After that, the application and the environmental impact assessment have to be made available to the public, which has to be given the opportunity to comment on them before the case or matter is dealt with. The documents in a permit application have to be made available not only at the decision-making authority but also at a keeper of the file, which can, for example, be a municipal office near the place where the activity is to be conducted.

According to a supplement to the Environmental Code (Chapter 22, Section 3 a) a notice shall, if it refers to a “Seveso activity”, contain special information about that (as part of action to increase information to the public, see Govt Bill 2014/15:60 p. 60).
(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3;

One requirement for a functioning process is that the public is offered a reasonable amount of time to gather information, take a position, and submit comments. Under Chapter 6, Section 4 of the Environmental Code, consultation has to be held well in advance of submitting a permit application and preparing the environmental impact assessment required. If the Land and Environment Court summons the parties to the main hearing in the case in connection with the notice of the application and the environmental impact assessment, the hearing may be held three weeks after the date of the notice at the earliest (chapter 22, section 17 of the Environmental Code).

(d) With respect to paragraph 4, measures taken to ensure that there is early public participation;

Under the Environmental Code, the party who intends to conduct an activity has to provide information, even before the consultation, about the location, extent and nature of the activity and its anticipated environmental impact to the authorities and to any individual particularly affected.

(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;

Under the Environmental Code, anyone who intends to conduct an activity that requires a permit or a decision about permissibility has to consult with the county administrative board, the supervisory authority and individuals who are likely to be particularly affected. If the activity is likely to have significant effects on the environment, a consultation has also to be held with other central government authorities and with the municipalities, members of the public and the organisations that are likely to be affected.

(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;

Everyone is entitled to access the content of the information under the principle of public access to information. There is no charge for access to the information. The Environmental Code contains explicit provisions about what information an environmental impact assessment has to contain. The Code also contains provisions about what information has to be made available to the public when notice of an application and an environmental impact assessment is published.

(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;

After publication of the notice of the application and the environmental impact assessment, the documents have to be made available to the public and the public has to be given the opportunity to state an opinion on them before the case or matter is dealt with (chapter 6, section 8 of the Environmental Code).

(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;

Under the provisions of the Environmental Code, the decision-making authority has to take account of the result of consultations and opinions submitted by the public on the environmental impact assessment and the application (chapter 6, section 9, of the Environmental Code).

(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;
The land and environmental court has to issue its judgment on the permit as soon as possible in the light of the nature of the case and the other circumstances (chapter 22, section 21 of the Environmental Code). If a main hearing has been held, the judgement has to be delivered within two months of the conclusion of the hearing unless there are exceptional circumstances. The parties have to be informed of the contents of the judgement in writing or by making the judgement available through the keeper of the file. Notices of judgements in application cases are published to a great extent. This is equally true of the decisions of the county administrative boards in application matters. The Ordinance concerning the period for making judgments and orders available etc. (2003:234) also contains provisions about the period for making documents available about how documents are to be made available and about information to individuals. The Swedish principle of public access to information also means that everyone has to be able to read the text of the decision. The Administrative Procedure Act (1986:223), and the Administrative Court Procedure Act (1971:291) and the Court Matters Act (1996:242) also contain rules about the issuing of judgements and decisions. The provisions of the Environmental Code, the Code of Judicial Procedure (1942:740), the Administrative Procedure Act and the Administrative Court Procedure Act also regulate the content of a judgment or decision. The provisions of the Environmental Code, the Code of Judicial Procedure (1942:740), the Administrative Procedure Act and the Administrative Court Procedure Act also regulate the content of a judgment or decision. Section 29 of the Industrial Emissions Ordinance (2013:250) states that when a judgment in a permit case is sent to the Swedish Environmental Protection Agency or the Swedish Board of Agriculture, the reviewing authority shall particularly draw the attention of the authority to the fact that the judgment or order relates to industrial emission activities so as to make it easier for the authorities mentioned to fulfil their obligation to inform the public under Section 28 of the Ordinance.

(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;

When an authority re-examines a permit, it is largely the same provisions about environmental impact assessments and consultations that apply as when an application for a new permit is made by the operator. However, an environmental impact assessment is not required in cases or matters concerning the re-examination of permit that are initiated by a public authority. Nor is an environmental impact assessment required in cases or matters concerning the variation or cancellation of conditions. If a variation of conditions means that human health or the environment may be affected, notice of the application is generally given in local newspapers so that the public is made aware of the application and can present comments on it. This means that public participation is guaranteed in the same way for re-examination as for new activities. If the case or matter has included an environmental impact assessment, notice is also given of the authority’s judgment or decision.

(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.

See under section XXXIII.

XVI. Obstacles encountered in the implementation of article 6

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XVII. Further information on the practical application of the provisions of article 6

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XVIII. Website addresses relevant to the implementation of article 6

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XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

As regards physical planning and land use, there are provisions in the Planning and Building Act (2010:900) requiring the municipality to make the planning proposals available to everyone who wants to access them and to give municipal residents, associations and other members of the public who may have a substantial interest in the
proposals the opportunity to participate in the municipality’s consultation before a decision is made. The purpose of
the consultation is to produce as good a basis for a decision as possible, and to provide opportunities for insight and
influence. There are also provisions on public participation regarding other planning; one example is the provisions
in chapter 15 of the Environmental Code (1998:808) on how plans for handling waste at municipal and national
level are prepared and what they have to contain. These plans include statements of the measures taken and planned
to ensure that waste is handled correctly. In addition, before a decision is made there is normally a consultation
procedure in which authorities and organisations affected can have their say. Action programmes are also referred
for consultation to the relevant bodies when judged appropriate. One example is work on a national strategy for
sustainable development, which has included meetings and dialogues with various groups in society.

Under the Environmental Code, plans and programmes that are likely to have a significant environmental impact
have to be subject to an environmental assessment. As part of an environmental assessment the authorities affected
and the public have to be given the opportunity to participate in the planning process and present comments that
have to be taken into consideration before the plan or programme is adopted.

XX. Opportunities for public participation in the preparation
of policies relating to the environment provided pursuant to article 7

There are a number of formalised forums for collaboration and dialogue between the Government Offices and
representatives of different types of associations and popular movements.

For example, the remit of the All Party Committee on Environmental Objectives includes giving the Government
advice on how to achieve the national environmental quality objectives adopted by the Riksdag. The Committee on
Environmental Objectives is to work in a broad dialogue with the community, including NGOs, in order to gather
knowledge and anchor proposed strategies. The Committee holds hearings and seminars and invites representatives
of NGOs to these meetings. Two representatives of environmental NGOs in Sweden, the Swedish Society for Nature
Conservation and the WWF, have been experts to the Committee since it started in 2010.

The Government is working in a broad dialogue with civil society organisations and public authorities to prepare a
national forest programme. The aim is for forests to contribute both to jobs and sustainable growth throughout the
country and to the development of a growing bioeconomy. The participants in this work include representatives of
the Swedish Association for the Promotion of Outdoor Life, the Swedish Society for Nature Conservation, the
Swedish Association for Hunting and Wildlife Management, the Swedish Ornithological Society and the WWF.

In 2016 the Government appointed a national coordinator for its Fossil-free Sweden Initiative, the purpose of which
is to prepare plans leading to fossil freedom along with companies and other actors. The coordinator is to provide a
platform for dialogue and cooperation, both between these actors and the Government and between the actors
themselves. The initiative includes more than 170 actors from business, municipalities, regions and organisations
including the Swedish Society for Nature Conservation and the WWF.

Under the Water Quality Management Ordinance (2004:660) the water authorities have to plan their work so as to enable and encourage the participation of everyone affected by the management of water quality. Before a water authority makes a decision on quality requirements for bodies of surface and ground water and protected areas, management plans and programmes of measures to enable the environmental quality standards to be met or processes other questions under the Ordinance that are of substantial importance, the authority has to consult with the authorities, municipalities, organisations, operators and individuals affected by the decision. A party that prepares a draft of a programme of measures shall, by publishing notices in local newspapers or by other means, give those affected by the programme of measures the opportunity to present comments on the draft for at least six months and shall then present the comments and how they have been taken into account in a separate compilation (chapter 5, section 4 of the Environmental Code and chapter 6, section 7 of the Water Quality Management Ordinance). The notice of the draft programme of measures has to state that the draft is available to the public at the water authority and all county administrative boards and municipalities in the area covered by the programme as well as the time during which, and to whom, comments have to be presented. When a programme of measures has been affirmed, the water authority has to publish a notice to this effect as soon as possible in a local newspaper.
Information about water authority consultations is also announced on their websites. For example, in the most recent consultation period about management plans, programmes of measures and environmental quality standards, the Bottenviken Water Authority, along with the county administrative boards in its district, arranged 13 local meetings hosted by the water councils and a workshop that attracted a hundred participants. Along with the county administrative boards, the water authorities support the development of the water councils. The water councils, which bring together various stakeholders linked to the use and management of water in one or more catchment areas, are intended to anchor work on water management locally. They offer a broad network of contacts for the dissemination of information on water management matters.

The public is also given the possibility of influencing decisions on the programme for comprehensive research and development for the safe management and disposal of nuclear waste that a party holding a licence to operate a nuclear reactor has to submit to the Swedish Radiation Safety Authority every third year for review and evaluation (section 12 of the Nuclear Activities Act (1984:3) and section 25 of the Nuclear Activities Ordinance (1984:14)). In conjunction with the review and evaluation of the programme the Agency invites various parties in society to take part in the process and make comments. The Agency also seeks comments from representatives of public authorities, municipalities, the public and business on the national plan for the management of radioactive waste that is established in accordance with Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent nuclear fuel and radioactive waste.

Every county council has a game management delegation for collaboration in matters concerning game management in the county. These delegations decide on matters including general guidelines for game management and participate in work on preparing predator management plans and minimum levels for the occurrence of large predators. The members of these delegations represent various interests such as hunting and game management, nature conservation, agriculture and forestry, for example members of environmental NGOs.

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

The Government and other legislative bodies generally use a consultation procedure in work on drafting rules of general interest. The frequent gathering of comments from public authorities and the public in the course of preparing matters is a characteristic and important part of political decision-making in Sweden. The obligation to prepare government business is regulated specially in the Constitution. The Instrument of Government states explicitly that in preparing Government business the necessary information and opinions shall be obtained from the public authorities concerned. Information and opinions shall also be obtained from local authorities as necessary. Organisations and individuals shall also be given an opportunity to express an opinion as necessary (Chapter 7, article 2 of the Instrument of Government). The Riksdag Committee on the Constitution also considers in its annual examination of the Government whether administrative matters have been handled in accordance with the applicable principles of administrative law. The Administrative Procedure Act (1986:223) states that when authorities handle matters they have to consider the possibility of obtaining information and opinions from other authorities by themselves if necessary. To make it easier, for example, for the public to make comments on proposals referred for consultation, more “e-democracy” is being developed so as to increase the accessibility of information and the opportunities for dialogue with the aid of electronic information technology.

Switzerland

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in Article 6

Answer:

(a) Article 6 paragraph 1

i, ii) Under Swiss law, all decisions on whether to permit proposed activities as listed in annex I of the Convention have to be based on an environmental impact assessment that is compliant with the requirements set forth in Article 6 of the Convention. Article 10a paragraph 1 of the Federal Act of 7 October 1983 on the Protection of the
Environment (EPA, SR 814.01) requires that before taking any decision on the planning, construction or modification of installations the approving authorities must assess their impact on the environment at the earliest possible stage. The installation types that are subject to an environmental impact assessment are listed in the annex to the Ordinance of 19 October 1988 on the Environmental Impact Assessment (EIAO). When Switzerland joined the Aarhus Convention in 2014 the annex to the EIAO was revised, in order to comprise all activities listed in annex I to the Convention. The annex to the EIAO also includes other activities which may have a significant effect on the environment according to Article 10 paragraph 2 EPA.

The annex to the EIAO also shows which law is applicable to the environmental impact assessment procedure of a particular installation type. The applicable procedures can either regulated by canton law or by federal infrastructure acts such as the Federal Railways Act of 20 December 1957 (RailA, SR 742.101) or the Federal Act of 21 December 1948 on Civil Aviation (CAA, SR 748.0), Article 42 of the Nuclear Energy Act of 21 March 2003 (NEA, SR 732.1), etc. The transparency terms set for the environmental impact assessments procedures ensure, however, that the participation of the public is guaranteed during all procedural stages relevant to the decision-making.

(b) Article 6 paragraph 2

In Switzerland, the requirements for informing the public during environmental decision-making procedures, can be found in various federal and cantonal acts.

Certain infrastructure projects, such as the construction of railway lines, airports, motorways, cableways, etc. are regulated by special federal infrastructure acts and are subject to a planning approval procedure. The first part of this procedure consists in the public display of the application. According to Article 18d paragraph 2 RailA any application for the construction or modification of an installation has to be published in the official gazette of each canton and municipality concerned, and made available for public inspection for a period of 30 days. The same provision can also be found in the other federal infrastructure acts such as Article 37d paragraph 2 CAA or Article 12 paragraph 2 of the Federal Act of 23 June 2006 on Cableways for Passenger Transport (CabA, SR 743.01), etc. This also applies accordingly to other types of installations being subjected to the environmental impact assessment. According to Swiss law everyone is entitled to access all available documents.

Article 10d EPA further provides that the public display of environmental impact reports is mandatory for all installations subject to the EIAO. The environmental impact report, which according to 10b paragraph 2 EPA has to contain all the information required to assess the project in accordance with the environmental protection regulations, represents an essential basis for the environmental impact assessment. It is therefore considered important, that the report is made available to the general public. The specific provisions on the public display of environmental impact reports are regulated in Article 15 EIAO. According to this article the competent federal authority must announce in the Federal Gazette or in another suitable publication medium, where the environmental impact report can be viewed. The environmental implementation report, is to be made available to the public for a period of 30 days. The cantons concerned shall disclose the environmental impact report in accordance with their own law.

Swiss law thus ensures that the public concerned is informed early in any environmental decision-making procedure as requested by Article 3 paragraph 2 of the Convention.

(c) Article 6 paragraph 3

According to Swiss law the applications and environmental impact reports for installations are usually being displayed for a time period of 30 days after their official publication (e.g. Art. 18d para. 2 RailA, Art. 37d para 2 CAA, Art. 15 para. 4 EIAO, etc.). During the display period, any person or organisation is entitled to submit objections to the competent authorities (e.g. Art. 18d para. 2 RailA, Art. 37d para 2 CAA, Art. 17 EIAO etc.). This corresponds with the usual period for appeal in Switzerland (e.g. Art. 50 of the Federal Act of 20 December 1968 on Administrative Procedure [APA, SR 172.021]).
In accordance with Article 6 paragraph 3 of the Convention it is thus ensured, that the time frame provided for the public display allows sufficient time for informing the public in order for it to prepare and participate effectively during the environmental decision-making process.

(d) Article 6 paragraph 4

Federal Act of 22 June 1979 on Spatial Planning (SPA, SR 700) ensures that the public is involved at an early stage of the planning, when all options are still open. Thus complying with the prerequisites for an effective public participation as requested by Article 6 paragraph 4 of the Convention.

(e) Article 6 paragraph 5

In a recommendation of 2004 the Federal Department for the Environment, Transport, Energy and Communications (DETEC) encourages prospective applicants to enter into discussions with the public concerned before applying for a permit.

(f) Article 6 paragraph 6

i, ii) Under Swiss law, the requirements concerning the documents which must be made accessible for public inspection pursuant to Article 6 Paragraph 6 of the Convention have been incorporated into Article 10b EPA, Article 20 EIAO, Article 18d RailA in conjunction with Article 3 of the Ordinance of 2 February 2000 on the Planning Approval Procedure for Railway Installations (PAPRO, SR 742.142.1) and other federal infrastructure acts. The access to those documents is generally provided free of charge.

(g, h) Article 6 paragraph 7 and 8

The right of the public to submit observations during an approval procedure is guaranteed by Article 17 and 19 EIAO which ensure that such observations have to be taken into account in the decision-making process.

The right to appeal is granted to anyone who is a party pursuant to the provisions of the Federal Act on Administrative Procedure. This also includes environmental protection organisations which have the right to appeal according to Article 55 and 55f EPA, Article 12 of the Federal Act of 1 July 1996 on the Protection of Nature and Cultural Heritage (NCHA, SR 451) and Article 28 of the Federal Act of 21 March 2003 on Non-Human Gene Technology (GTA, SR 814.91).

Unlawful refuses or delays in the issuing a contestable ruling by the competent authority can be appealed according to Article 46a APA.

It is thus not only ensured that the public is actively involved in the decision-making process but it is also taken that due account of the outcome of the public participation in the decision itself.

(i) Article 6 paragraph 9

In accordance with Article 6 paragraph 9 of the Convention Article 10d EPA also requires that the results of the environmental impact assessment must be made accessible for public inspection. Once a decision has been issued, Article 20 EIAO requests that the competent authority publicly announces, where the decision and the relevant documents leading up to it (e.g. the environmental report, assessments of cantonal authorities or FOEN, etc.) can be viewed. The documents have to be made available to the public for a period of at least 30 days.

(j) Article 6 paragraph 10

According to Article 10a paragraph 1 EPA the modification of an installation can also require an environmental impact assessment. The requirements for this are laid down in Article 2 EIAO. The environmental impact assessment procedures, however, are the same as for the construction of installations (Art. 10a para. 1 EPA). Thus guaranteeing that the provisions of Article 6 of the Convention are being respected.

(k) Article 6 paragraph 11
See reply to question XXXIII.

XVI.  Obstacles encountered in the implementation of Article 6:

No information was provided under this heading.

XVII.  Further information on the practical application of the provisions of Article 6

No information was provided under this heading.

XVIII.  Website addresses relevant to the implementation of Article 6

Information from the federal authorities

Federal Office for the Environment:
https://www.bafu.admin.ch/bafu/en/home/topics/eia.html

Federal Roads Office:

Federal Office of Transport:
https://www.astra.admin.ch/astra/fr/home/themes/routes-nationales/refection-gothard/zeitplan.html

Federal Office of Civil Aviation:

Swiss Federal Office of Energy:
www.ensi.ch

XIX.  Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to Article 7

In Switzerland, many environmental protection measures are implemented through plans or programmes, which are based upon the Federal Act of 22 June 1979 on Spatial Planning (SPA, SR 700). The provision on information and public participation laid down in Article 4 SPA is thus highly significant for the implementation of the Convention. It applies both to federal and to cantonal authorities.

According to Article 4 paragraph 1 and 2 SPA the competent authorities must not only inform the public about the objectives and processes of ongoing plannings but have also to ensure that appropriate public participation is provided. Article 4 paragraph 3 SPA further states that all plans, which fall under this act, have to be made public. Pursuant to Article 19 of the Ordinance of 28 June 2000 on Spatial Planning (SPO, SR 700.1) the drafts concepts and plans, including the opportunities for public participation, have to be announced in the official publication journals by the competent cantonal authorities. The plans and all relevant documents pertaining thereto have to be made available to the public for a period of at least 20 days. The consultation period usually lasts three months. During this period each citizen has the right to submit opinions and proposals to the competent authority. The authorities are obliged to take account of those proposals and have to reply thereto in a summary manner.

Similar provisions for environmental planning are also to be found in various environmental acts, such as in Article 5 of the Ordinance of 26 August 1998 on the Remediation of Contaminated Sites (CRO, SR 814.680) or Article 18 paragraph 3 of the Ordinance of 30 November 1992 on Forest (ForO, SR 921.01), etc.
It can thus be concluded that the Swiss law is compliant with the provisions of Article 7 of the Convention.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to Article 7

Swiss citizens have a variety of ways of influencing the political process. According to Article 138 et seq. of the Federal Constitution of the Swiss Confederation of 18 April 1999 (Cst, SR 101) any person holding a Swiss citizenship can intervene directly in politics – by launching an initiative or requesting a referendum. Another way to influence the preparation of policies relating to the environment can be achieved through petitioning the authorities (Art. 33 Cst).

XXI. Obstacles encountered in the implementation of Article 7

No information was provided under this heading.

XXII. Further information on the practical application of the provisions of Article 7

No information was provided under this heading.

XXIII. Website addresses relevant to the implementation of Article 7

Information from the federal authorities

Federal Office for Spatial Development:
https://www.are.admin.ch/are/fr/home/developpement-et-amenagement-du-territoire/droit-de-l_amenagement-du-territoire.html

Federal Office of Civil Aviation:

Swiss Federal Office of Energy:

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to Article 8

Under Swiss law, the public participation during the legislative process is safeguarded by constitutional law. According to Article 147 of the Federal Constitution of the Swiss Confederation of 18 April 1999 (Cst, SR 101) the cantons, the political parties and interested groups shall be invited to express their views when preparing important legislation or other projects of substantial impact.

At federal level the obligation to ensure the public's participation during the legislative process is transposed through the Federal Act of 18 March 2005 on the Consultation Procedure (CPA, SR 172.061). According to this act the main aim of the consultation procedure is to allow all interested groups to participate in the shaping of opinion and the decision-making process of the Confederation (Art. 2 CPA). Pursuant to Article 3 paragraph 1 CPA a consultation is always mandatory when drafting amendments to the Constitution; draft legislation, international law agreements, ordinances and other projects of major political significance, etc.

The Federal Chancellery coordinates the consultation procedures. It gives public notice of any consultation procedure that has been initiated, providing details of the consultation period and the office where the consultation documents may be obtained (Art. 5 para. 3 CPA). A constantly updated list of the planned consultations is also made available on the internet (Art. 5 of the Ordinance of 17 August 2005 on the Consultation Procedure [CPO, SR 172.061.1]).

According to Article 7 CPA the duration of the consultation period is at least three months, which is long enough to allow interested parties to analyze the consultation documents (e.g. consultation draft, explanatory report, etc.) made
available to the public. A reduction of the consultation period is only possible in case of exceptional circumstances, e.g. if a legislative project cannot tolerate any delay. In which case the competent authorities have to provide a well-founded justification for the urgency.

Pursuant to Article 4 paragraph 1 CPA everyone is entitled to submit an opinion during the consultation period (Art. 4 para. 1 CPA). According to Article 8 CPA the competent authorities are obliged to acknowledge, consider and evaluate the submitted opinions. They also have to draw up a summarized report thereof. Subsequently, the opinions and the summary of the results of the consultation procedure will be made available to the public (Art. 9 CPA).

Similar provisions for the consultation process have also been established at cantonal level.

XXV. Obstacles encountered in the implementation of Article 8
No information was provided under this heading.

XXVI. Further information on the practical application of the provisions of Article 8
No information was provided under this heading.

XXVII. Website addresses relevant to the implementation of Article 8
Information from the federal authorities

Tajikistan

XV. Ответ:
Согласно Статьи 12 Закона РТ «Об охране окружающей среды Граждане РТ имеют право: на проживание в благоприятной для здоровья и жизни окружающей среде и пользование ее благами, на защиту окружающей среды от негативного воздействия, вызванного хозяйственной и иной деятельностью, чрезвычайными ситуациями природного и техногенного характера;
- участвовать в процессе обсуждения и принятия решений относительно проектов планов, программ и законодательных актов, касающихся окружающей среды, в процедуре оценки воздействия на окружающую среду и других решений, важных для окружающей среды, передавать любые вопросы, комментарии, информацию, исследования или мнения относительно указанных проектов, в том числе проектов принятых их по ним решений;
- требовать проведения общественной экологической экспертизы и участвовать в ее проведении в установленном порядке;
Согласно статьи 13:
- участвовать в установленном порядке в обсуждении и принятии хозяйственных и иных решений, реализация которых может оказать негативное воздействие на окружающую среду, жизнь, здоровье и имущество граждан;
- обращаться в местные и центральные органы государственной власти, ведомства Республики Таджикистан, органы самоуправления посёлков и сёл и иные организации с жалобами, заявлениями и предложениями по вопросам улучшения охраны окружающей среды, негативного воздействия на окружающую среду, и получать своевременные и обоснованные ответы;
Согласно статьи 11 Закона РТ «Об экологическом мониторинге»:
1. Физические и юридические лица, общественные объединения вправе обращаться в государственный уполномоченный орган по организации проведению экологического мониторинга, для получения достоверной и полной информации о состоянии окружающей среды.
2. Государственный уполномоченный орган по организации и проведению экологического мониторинга обязан рассматривать в установленном порядке жалобы и заявления
граждан и общественных объединений о состоянии окружающей среды и извещать заявителей о результатах рассмотрения и принятых мерах.
3. Общественные объединения вправе обращаться в государственный уполномоченный орган по организации и проведению экологического мониторинга с предложениями об установлении дополнительных объектов экологического мониторинга.
4. Общественные объединения и граждане вправе участвовать в проведении экологического мониторинга за счет своих и иных, предусмотренных законодательством средств.

XVI: Ответ:
1. Недостаточный уровень знаний сотрудников ОО по некоторым вопросам окружающей среды;
2. Недостаток экспертного потенциала в ОО, отсутствие средств для обучения и привлечения высококвалифицированных кадров;
3. Недостаточная материальная и техническая база ОО;
4. Отсутствие обмена опытом с ОО по результатам ОВОС, проводимых КООС;
5. Недостаточность опытов проведения общественных слушаний.

XVII. Ответ:
Для вовлеченения населения в решение актуальных экологических и социальных вопросов, гражданское общество и ОО привлекаются к разработке национальных и региональных планов действий по различным сферам охраны окружающей среды.

ОО сотрудничают с КООС, их представители участвуют в качестве специалистов и экспертов в различных программах, проектах, национальных и международных конференциях.

Представители общественности принимали участие в разработке таких документов как ПДООС, РПДООС, Стратегия по сокращению бедности, Национальная стратегия по устойчивому развитию, программа «Окружающая среда и безопасность»), Конвенция по охране окружающей среды, проект Экологического Кодекса. Инициаторами разработки первых МПДООС и ОО в Таджикистане являются ОО ФПГИ и МЭЦ. Им совместно с органами местного самоуправления и ключевыми лидерами на местах разработан ряд МПДООС, исполнение которых осуществлялось при значительном вкладе общин.

Таджикистан принимает активное участие в Реализации Пилотной Программы по адаптации к изменению климата (PPCR), которая реализуется Правительством РТ совместно с АБР, ВБ и ЕБРР. Ряд общественных организаций имеющих потенциал в сфере управления климатическими рисками, планирования и реализации мер, смягчающих негативное воздействие изменения климата, имеющих опыт в повышении осведомленности населения привлекаются ПРТ к участию в принятии решений по дальнейшему развитию PPCR, реализации отдельных компонент программы, разработке Национальной стратегии по адаптации к изменению климата в Таджикистане е. Так на протяжении 2013-2016 г. общественными организациями МЭЦ, Фонд «Кухистон», «Хамкори бахри тараккиёт», «Центр по чрезвычайным ситуациям и изменению климата»), «Национальная Ассоциация фермерских хозяйств» и др. проведены работы по оценке уязвимости сообществ к изменению климата, разработаны местные планы действий, созданы обширные информационные центры, проведены тренинги по внедрению адаптивных мер и устойчивому водопользованию , землепользованию и сельскому хозяйству. В рамках процесса разработки Национальной Стратегии по адаптации к изменению климата, ряд ОО вошли в состав Межведомственной Рабочей группы и сделали важные предложения по учету в Национальной стратегии интересов общин, малоземельных фермеров, женщин и уязвимых групп населения.

Активное участие общественности обеспечивается в процессе подготовки законопроекта «Об оценке воздействия на окружающую среду». В рамках принятия законопроекта вовлечены 2 представителя общественности и представители академических кругов.

XIX. Ответ:
По распорядению Президента Республики Таджикистан представители общественных организаций, отражающие интересы общественности являются членами Правительственных рабочих групп по реализации конвенций, ратифицированных Таджикистаном и принимают участие в разработке
Национальных Планов Действий по охране окружающей среды Республики Таджикистан и Национальных отчетов по охране окружающей среды.

При содействии международных организаций только за последние три года с участием общественности были разработаны:

Закон РТ «Об обеспечении экологической безопасности автомобильного транспорта» (2015)

Третье национальное сообщение по изменению климата (2014г .);

Рекомендации по присоединению РТ к Роттердамской Конвенции(20 J 5)

Инструкция по определению квоты на импорт ОРВ в РТ (2014)

В настоящее время разрабатываются:

Проект закона РТ «О проведении процедуры ОВОС в РТ»

Проект Концепции реализации Зеленой экономики в РТ.

Обновление НПД по предотвращению опустыниванию в рамках реализации Конвенции по опустыниванию.

Национальная Адаптационная Стратегия и План действий по адаптации к изменению климата

Учебник для ВУЗов «Экологическое право»

Модуль по экологическому образованию.

Разрабатывается проект закона РТ «О проведении процедуры ОВОС в РТ»; Слушания по проекту этого закона проведены в Согдийской и Хатлонской областях, Раштском регионе республики.

Существует практика включения ОО в структуры, занимающиеся принятием решений в области окружающей среды. Так, при каждой Конвенции работают Рабочие группы, в которые включены представители ОО - по реализации Орхусской Конвенции, по Сохранению биологического разнообразия, по изменению климата, по борьбе с опустыниванием и других конвенций ratified by Tadжикистаном. При МКУР ЦА работает Региональная рабочая группа - ОО стран ЦА, создан Региональный общественный Совет при МКУР. В Совете Управляющих РЭЦЦА присутствует представитель от ОО РТ, который принимает участие в принятии решений по деятельности РЭЦЦА. Этот представитель выбирается Клубом экологических ОО республики. Вовлечение представителей общественного сектора в совместную с государственными органами деятельность способствует принятию эффективных решений по экологическим программах и вопросам в странах ЦА и нашей республике. Экологическая общественность республики принимает активное участие в национальных процессах по окружающей среде, например, по международным соглашениям в области ОС: Центрально-Азиатская Инициатива, Окружающая среда для Европы, Экологическая Стратегия ВЕКЦА, ВТО и окружающая среда, Образование для Устойчивого Развития, др. Представителей ОО как экспертов по ОС приглашают Международные организации, которые реализовывают экологические проекты у нас в стране. Все проекты законов, различных документов в области ОС обсуждаются с представителями ОО, госструктуру и бизнесструктур. Хорогским Орхус-Центром налажены контакты с потенциальными партнерами - государственными структурами, научными и ОО, связанными с проблемами экологии (управление по ООС, Памирский лесхоз, Памирский Биологический Институт, Хорогский Госуниверситет, заказники и др.). Поддерживается регулярная деловая связь с работниками Таджикского Национального Парка, заказника Музкул и заповедника Зоркуль, представители которых принимают активное участие в проводимых Орхус-Центром мероприятиях. Орхус-Центр постепенно распространяет свою деятельность на все районы ГБАО. Важно и то, что Хорогским Орхус-Центром заложена основа для сотрудничества с руководством провинции Бадахшан ИРА по вопросам экологической безопасности региона. В 2014г Ресурсным Орхус-Центром Душанбе при КООС организована встреча представителей ОО с Руководством КООС. В течении 2014-2016 годов проведены 8 семинаров в гг. Душанбе, Турсунзода, а также с представителями госорганов, ОО и населения районов республиканского подчинения по Интегрированному управлению водных ресурсов, по ОК, по адаптации
к изменению климата, смягчению последствий изменения климата и т.д., подготовлены брошюры по данным тематикам, а также брошюра о деятельности Орхус- Центров в республике с их контактными данными.

Таджикским филиалом Научно-информационного Центра МКУР ЦА проведен поиск и составлен список источников информации (госстатистические, ведомственные, неправительственные по вопросам ООС и УР, сайты природоохранных Конвенций стороной которых является Таджикистан). Обновленная база данных была презентована среди представителей общественности, государственных структур, на заседании МКУР ЦА, а также передана регионам Таджикистана.

XX. Ответ:

Создан общественный совет (ОС) при Президенте РТ из числа представителей 00, политических партий для укрепления независимости Республики Таджикистан, поиска путей решения проблем стоящих перед обществом нашей страны, формирования и укрепления институтов гражданского общества, а также постепенного повышения уровня сознания народа в условиях политической независимости сегодняшнего Таджикистана. Членами Общественного совета являются также экологические 0 0. ФПГИ, являясь членом ОС РТ с 1996г., неоднократно презентовал на заседаниях ОС РТ важные экологические проблемы.

В РТ законодательно закреплена процедура участия общественности в разработке политики в области окружающей среды. В законе Республики Таджикистан «Об охране окружающей среды» утверждается участие населения в охране окружающей природной среды. Инструментом участия общественности по экологическим вопросам является общественная экологическая экспертиза разрабатываемых государственных программ и планов, которая проводится научными коллективами, общественными объединениями по их инициативе. Заключение общественной экологической экспертизы становится юридически обязательным после утверждения ее результатов органами государственной экологической экспертизы. Участие 00 в подготовке природоохранных документов позволяет учитывать общественное мнение в принятии и реализации документов.

Создание ОС при МКУР ЦА является важным инструментом для продолжения диалога общественных организаций с государственным сектором, привлечение представителей гражданского общества в процесс обсуждения и реализации национальных и региональных программ, проектов и документов рамках Национального Плана Действий по Охране Окружающей Среды (НПДООС) и Регионального Плана Действий по Охране Окружающей Среды (РПДООС). Важным шагом на пути реализации Орхусской Конвенции должно стать

- включение принципа доступа общественности к информации на ранних стадиях разработки и согласования и вопросы реализации всех национальных экологических программ;
- усиление координации государственных экологических органов с Парламентом Республики Таджикистана и аппаратом Президента Республики Таджикистан;
- подготовка и постоянное обновление электронных каталогов экологической информации, подготовка реестров об экологической информации, находящейся в ведении государственных органов, с указанием условий ее получения и объяснения причин отказа от предоставления;
- (кооперация и сотрудничество в решении экологических вопросов с бизнес-структурами, коммерческими агентствами, что даст возможность получения информации не только от государственных структур, но и от промышленных предприятий не зависимо от форм их собственности (государственная или частная);
- проведение обучающих программ для всех заинтересованных сторон по ОВОС, а для населения - по правам на доступ к информации и правосудию;
- добиться участия общественности в принятии решений по ГМО, исключения завоза в

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республику продуктов питания без эко-маркировки.

XXI. Ответ:

К ним относятся:
не своевременная осведомленность со стороны государственных структур о разработке планов, программ и политики в области ООС;
заявления и предложения, представленные ОО не всегда отражены в итоговых документах.

XXII. Ответ:

В 2015 г создана Рабочая Группа по Разработке Национальной Стратегии адаптации к изменению климата. В её состав помимо ключевых министерств входят представители гражданского общества. Общественность принимает участие в процессе подготовки Стратегии, даёт рекомендации по разработке разделов стратегии. МЭЦ является членом Рабочей группы по Разработке Национальной Стратегии по адаптации к изменению климата. В процессе разработки климатической политики в РТ обеспечиваются возможности для участия общественности в разработке Национальной Адаптационной Стратегии и Плана действий по адаптации к изменению климата. Широкие возможности для участия и принятия решений, в обсуждении хода реализации стратегических правительственных документов предоставлены общественности в рамках реализации Рамочной конвенции по изменению климата. Так, например, при содействии общественности в 2014г. было разработано Третье национальное сообщение по изменению климата. В рамках реализации Концепции перехода РТ к УР до 2030 года в 2013- 2016 г. г. МЭЦ продолжала действовать программа по образованию для УР. Программа включала в себя: проведение дебатов среди молодёжи, тренинги для молодёжи и преподавателей по вопросам окружающей среды и УР, проведение летних экологических лагерей. Совместно с Комитетом охраны окружающей среды и УР, проведение летних экологических лагерей. Совместно с Комитетом охраны окружающей среды Душанбе и 00, Центром дополнительного образования Министерства образования и науки РТ были проведены общественные информационно- просветительские акции «День Земли», «Всемирный День охраны природы».

XXVI. Ответ:

В Законодательстве РТ закреплены свобода и права человека, которые регулируются и охраняются Конституцией Республики Таджикистан. В Законе РТ «Об охране природы» предусмотрено право граждан на участие в принятии экологически значимых решений и контроль их выполнения:
- граждане Республики Таджикистан имеют право на участие и контроль в разработке, принятии и осуществлении решений, связанных с воздействием на окружающую природную среду.

Это право обеспечивается обнародованием, публичным обсуждением проектов экологически важных решений, проведением общественных экологических экспертиз проектов, обязанностью полномочных органов учитывать предложения граждан, использованием различных форм участия населения в охране окружающей среды.

В последние годы в Таджикистане для общественного обсуждения проекты нормативно-правовых актов направляются ОО, ассоциациями, природопользователям. Проекты нормативно-правовых документов, предназначенных для обсуждения размещаются на страницах республиканских газет, также эти материалы можно получить в Конос и в Парламенте. В Конос функционирует юридический отдел, в котором собраны все печатные материалы (природоохранные законы, внутренние документы, стратегии, международные соглашения). Доступ к ним осуществляется в соответствии с требованиями Закона РТ «Об экологической информации». Любой гражданин может ознакомиться с данными документами. Также такие документы можно получить в Центре экологической информации, в Международном отделе Конос и в Ресурсном Орхус-Центре.

Все законопроекты по ОС печатаются в газете Конос «Инсон ватабиат», а также в республиканских газетах - на русском и таджикском языке, в газетах Маджлиси Оли «Садои мардум» «Народная газета»,
можно ознакомиться в публичной библиотеке - в подшивках газет, в правовом отделе, в библиотеке Министерства юстиции, в «Ведомостях Маджлиси Оли РТ (Парламента РТ), в библиотеке Парламента, в специальном сайте Национального центра законодательства при Президенте РТ на двух языках: на таджикском и русском (www: 111111k.tj) и др.

XX. Ответ:
Отсутствие у общественности необходимых знаний по разработке и усовершенствованию нормативно-правовых документов и как вследствие пассивность общественности и её незаинтересованность в совместной работе над этими документами;

- несвоевременное распространение государственными органами - заказчиками и разработчиками для обсуждения, внесения изменений, дополнений проектов законов и нормативно-правовых документов заинтересованной общественности;

- ограниченность тиража отдельных газет, где печатаются документы;

- предложения общественности не всегда учитываются, а иногда, в результате несвоевременного получения первоначальной информации являются запаздайшими.

XXI. Ответ:
Результаты участия общественности учтены при разработке следующих законодательных актов и документов:

Центрально-азиатская Конвенция по охране окружающей среды для устойчивого развития;

Правила по практическому применению процедуры ОВОС в Таджикистане Закон Республики Таджикистан «О гидрометеорологической деятельности»; Закон Республики Таджикистан «Об экологическом мониторинге»;

Закон Республики Таджикистан «Об экологической информации»;

Закон Республики Таджикистан «Об экологическом образовании населения»; Концепции охраны окружающей среды РТ.

The former Yugoslav Republic of Macedonia

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Answer:

The procedure for the Environmental Impact Assessment is defined with the Law on environment and the regulations that arise from it. Subject of the Environmental Impact Assessment are the projects which because of their character, volume or location where these are executed, can have a significant influence onto the environment. The assessment is performed obligatorily, based on criteria with which the need is determined of Environmental Impact Assessment, as well as on other, generally determined, projects, that could have significant influence onto the environment. The need of Environmental Impact Assessment is determined by examining each specific case, based on character, size and location in accordance to the prescribed criteria, and taking into consideration the newest scientific and technical knowledge and the solutions in the regulations with which the minimum criteria is determined regarding the releases into the environment.

The competent state authority for the execution of work from the area of environment has the obligation to:

- Make an announcement regarding the intention of the investor for the execution of a project, and do the same in two national daily newspapers and on the web page of the state authority competent in the area of environment;
- Make an announcement of the decision for definition of the need of Environmental Impact Assessment, and do the same in two national daily newspapers, on the web page, as well as on the notice board of the state authority competent in the area of environment;
- Publish that the study of the Environmental Impact Assessment is prepared and available to the stakeholders in two national daily newspapers, on the local radio and TV station, and the non-technical report is published on the web page of the state authority competent in the area of environment;
- Publish the report of the compliance of the study of Environmental Impact Assessment, and do the same in two national newspapers and on the web page of the state authority competent in the area of environment;
- Publish the decision for approval or disapproval of the realization of the project in two national daily newspapers, on the web page, as well as on the notice board of the state authority competent in the area of environment;
- Publish the place and time of holding the public debate with regard to the study of the Environmental Impact Assessment and provide information availability necessary to the stakeholders in order to participate in the public debate, in two national daily newspapers and on the local radio and TV station;

Upon the request of a foreign country, the information from points 2, 3, 4 and 5, are available for the competent authorities of the foreign state, in accordance to the determined procedure.

The Law foresees also that in the term of seven days from the day of the receipt of the request for the issue of an integrated environmental permission, MOEPP is obligated to publish the request in two daily newspapers available on the complete territory of the Republic of Macedonia and on its web page, as well as in the term of 15 days from the publishing of the request, to provide the stakeholders access to the available information necessary for creation of opinions and standpoints, in accordance to the provisions from this law. Each person, the state authorities, as well as the municipalities, the City of Skopje and the municipalities in the City of Skopje, can submit their opinion, in a written form, to MOEPP in the term of 30 days from the day of the publishing of the study of Environmental Impact Assessment. MOEPP is obligated to take into consideration the opinions when issuing the permission.

The units of the local self-government provide the participation of the stakeholders and access to the relevant information, in the procedure for the issuing of the B integrated environmental permits. In the term of 30 days from the publishing of the request for the issuing of an integrated permit, the stakeholders can submit their opinions and standpoints in a written format.

During the preparation of the A-integrated environmental permit, MOEPP is obligated in the clarification of the A-integrated environmental permit to stated which of the opinions and standpoints submitted by the stakeholders are taken into consideration, and which are not, as well as the relevant reasons for the same. Upon the request of the stakeholders the investor is obligated to organize a public debate.

The Law is based amongst other also on the principle of non-discrimination. In accordance to the Constitution of the Republic of Macedonia, the citizens of the Republic of Macedonia are equal in the freedom and rights, independent of gender, race, skin color, national and social origin, political and religious conviction, property and society status. The citizens are equal in front of the Constitution and the laws.

The intentional release of GMO in the environment is regulated by chapter 5.1 intentional release of GMO or combination of GMO in the environment in the Law on genetically modified organisms. In accordance to article 34 from the Law, each notificator before performing intentional release into the environment must submit a notification to the Ministry of environment and physical planning that contains specific technical documentation and information necessary for the implementation of the risk assessment as a result of the intentional release of GMO and risk assessment. The Ministry in the term of five days from the day of the receipt of the complete notification is obligated to publish a short content on the web page and to publish it in two daily newspapers on the territory of the Republic of Macedonia. The stakeholders can submit their opinion in the term of 30 days from the date of publishing. The Ministry is obligated to provide insight to the stakeholders of the data from the notification, risk assessment, the report of GMO assessment as well as other information that accompany the notification. The Ministry is obligated to take into consideration when issuing the permit, the promptly submitted opinions and comments. The Ministry of environment and physical planning in the term of 90 days from the day of receipt of the complete notification issues a permit for intentional release of GMO or with a decision rejects the notification if the conditions are not met for the intentional release of GMO.
XVI. Obstacles encountered in the implementation of article 6

- Necessary financial resources,
- Capacity deficiency of all relevant subjects in the process.

Personnel capacity increase of the Ministry of environment and physical planning for the provision of public participation during the implementation of projects, especially when it is needed to implement a national and cross-border procedure for Environmental Impact Assessment, the reason being the necessity that the stakeholders are provided with sufficient time for information and preparation for efficient participation during the carrying of decisions regarding the environment.

XVII. Further information on the practical application of the provisions of article 6

In accordance to the Law on environment and the relevant bylaws the Ministry realizes the obligations from the provisions for the inclusion of the public in the process of decision making. The stakeholders are informed in the very early stages that is, in the planning of activities stage, which presupposes carrying the legislation, plans, programs, strategies, projects, permits and procedures for the implementation of the Environmental Impact Assessment. Furthermore, upon the request of the stakeholders also public debates are being organized during which in accordance to the legal obligations, the results from the participation of the public are taken into consideration.

In the reporting period there are 38 public debates realized regarding the EIA.

XVIII. Website addresses relevant to the implementation of article 6

www.moepp.gov.mk

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

Answer: The participation of the public in the preparation of plans and programs from the environmental area is regulated with the Law on environment in the chapter 9 Planning of the environmental protection, the participation of the public is regulated in the procedure for the carrying of plans, preparation of regulations and public participation in the procedure. In article 61 from the Law the obligation is prescribed for the state authorities and the authorities of the units of local self-government, during the preparation, carrying, amendment or revision of the plans and programs to notify the public via notifications or other adequate modality in order to provide the participation of the public in the procedure for decision making regarding plans and programs. These issues are regulated in more details in the Statute for public participation during the preparation of regulations and other deeds, as well as plans and programs in the area of environment.

In the chapter Environmental Impact Assessment of determined strategies, plans and programs in article 65 of the Law, is determined all the plan documents which are prepared in the area of agriculture, forestry, fishery, energy, industry, mining, transportation, regional development, telecommunications, waste management, water management, tourism, spatial planning and zoning and land use, and with which the basis is created for implementation of projects for which Environmental Impact Assessment is made or on all plan documents with which the management is regulated of protected areas proclaimed by law or which can impact these areas, a strategic assessment is realized. The strategies, plans and programs for which a strategic assessment is realized are prescribed in the Statute for strategies, plans and programs, including the modifications of these strategies, plans and programs for which the procedure for Environmental Impact Assessment and upon the life and health of people is obligatorily implemented.

Before initiating the procedure for the adopting of the plan document and in the term of five days from the completion of the Environmental report, the authority preparing the plan document, publishes information that regard the draft plan document and the Environmental report, together with the information regarding the procedure for public participation. The authority is obligated to submit at the same time the draft plan document and the Environmental report to the competent state authority for environmental issues. The competent state authority for environmental issues, and the authorities related to the implementation of plan documents, legal and physical entities and the
stakeholders can give their opinion with regard to the draft plan document and the Environmental report, to the authority preparing the plan document, in the term of 30 days from the day of the submission that is, publishing of the related information. The authority is obligated to take into consideration into the preparation of the plan document the opinions obtained with regard to the plan document and the Environmental report for which a separate report is prepared.

In accordance to article 93 from the Law on environment in the case of a cross-border cooperation, the competent state authority for environmental issues in cooperation with the competent authority of the related state, is obligated to create conditions for public information and to obtain the opinions and comments from the stakeholders of the related state, the same as for the domestic public, in accordance to the laws of the Republic of Macedonia. Information obtained by the related state, together with the comments from its stakeholders are taken into consideration by the competent state authority for environmental issues when carrying the resolution for the approval of the project implementation.

If the competent state authority for environmental issues obtains a notification from another state that knowledge is available that in the Republic of Macedonia a project would be implemented that could have significant cross-border impact, and for which project the state itself was not notified by the Republic of Macedonia in accordance to this law is obligated, if they assess that cross-border impact exists, has to include the other state in the procedure for Environmental Impact Assessment in accordance to this law.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Answer: Public participation during the preparation of plan documents is determined with numerous legislation and in terms of all strategic, plan and program documents, these documents regard two stages: draft and proposal stage. The draft documents are published and a public and expert debate is organized regarding their content. Opinions, comments and suggestions obtained from the debate are obligatorily taken into consideration during the finalization of the document content, which as a Proposal is submitted for final adoption.

Most frequently used modalities of inclusion of the public yet in the early stages of document preparation is through their inclusion in the work groups as well as regular publishing of the plan documents on the web page of the Ministry and through the holding of public debates regarding the plan document.

XXI. Obstacles encountered in the implementation of article 7

Answer: Strengthening administrative and financial capacities of all relevant subjects in the process.

XXII. Further information on the practical application of the provisions of article 7

Answer: Strengthening administrative and financial capacities of all relevant subjects in the process.

XXIII. Website addresses relevant to the implementation of article 7

www.moepp.gov.mk

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Answer: In the Republic of Macedonia for the preparation of laws as well as during their change and amendment it is an obligation to execute an impact assessment of the regulation. The procedure for the impact assessment of the regulation is defined in: the Law on the Government of the Republic of Macedonia; the Rules of Procedure of the Government of the Republic of Macedonia, the Methodology of impact assessment of the regulation and the
Decision regarding the form and content of the impact assessment Report of the regulation. For this purpose, the web page has been established of the electronic regulation registry (www.ener.gov.mk) where all the draft content of laws is published as well as their changes and amendments. In parallel with the draft content of the laws the report is published for the implementation of the impact assessment of the regulation where opinions and comments are contained, which have been submitted after the draft content of the regulation. All the comments from the stakeholders can be submitted to the Ministry or can be placed on the web page. The draft content of the laws is obligatorily published on the web page of the Ministry of environment and physical planning.

XXV. Obstacles encountered in the implementation of article 8

Answer:

- Strengthening the capacities of the central governance for the implementation of the procedure for impact assessment of the regulation;
- Increasing awareness of the public and promotion of the IAR as a tool for the participation of the public in legislation carrying;
- Strengthening the human and financial capacities of all relevant subjects in the process on a central and local level.

XXVI. Further information on the practical application of the provisions of article 8

Answer: MOEPP, additionally in the frames of the projects where regulations and strategic documents are prepared, as well as for the remainder regulations and documents persists to provide transparency through the following forms: formation of work groups, questionnaires, implementation of researches on public opinion: quantitative and qualitative survey, organizing workshops for the draft-content of the laws and etc. Representatives from governmental and state institutions participate on these workshops, units from the local self-government, public enterprises, the industry i.e. the Economic Chamber of RM, other private-legal entities carriers of obligations, non-governmental organizations, scientific and expert organizations, and the obtained valid comments were implemented into the draft and proposal Laws.

XXVII. Website addresses relevant to the implementation of article 8

www.moepp.gov.mk
www.ener.gov.mk

Turkmenistan

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

Answer: In Turkmenistan, the requirements in Article 6 of the Aarhus Convention on public participation in decision-making on the certain types of activity are being reflected directly in the legislation and including environmental legislation.

Thus, the Law of Turkmenistan “On Referendum” dated August 4, 2012 provides legal rights of citizens upon attainment of eighteen years of age to participate in the referendum. Any direct or indirect restrictions of their rights subject to the nationality, race, gender, origin, property or official status, residence, language, religion, political convictions, party affiliations or lack of identification to any party are prohibited (Article 4, part 1-2).
The issues on the adoption of the law, amendments or cancellation of the law in force or its certain chapters, decision making predetermining the main purview and other statutory legal acts may be discussed at the national referendum (Article 5, part 2).

In accordance to the Law of Turkmenistan “On the statutory legal acts” (new version) dated December 7, 2005 (as amended on 03.07.2007) draft laws of Turkmenistan can be submitted for nation-wide discussion as per legislation of the Mejlis (Parliament) of Turkmenistan (Article 23). The proposals made by the state organizations, institutions of self-government authority, public organizations, offers arisen by media and appeals of the population are being considered while generating preparatory plans of the statutory legal acts (Article 19).

Thus, in accordance with the Law “On Urban Development” dated August 18, 2015 to obtain not only complete information on the planning, building, land utilization and upgrading of their residential places, participate in discussion and adoption of city-planning documentation, but make comments and proposals of the city-planning projects prior to its approvals and also make suggestions to the acting city-planning projects (Article 6).

According to the Law on Turkmenistan “On nature protection” (2014) the citizens have rights to put forward proposals to perform public ecological examination and take part in the process established by Turkmenistan legislation, and public associations participate in decision making related to nature protection and rational use of natural resources.

In accordance with the Sanitary Code (2009) each citizen of Turkmenistan have right to participate directly or through representative, public associations or in any other way in preparation, implementation and monitoring of the decisions being taken by the authorities and officials collegially as well as personally if its implementation effects population’s health and environment. This is only part of examples of public participation in decision-making process on certain types of activity.


XVI. Obstacles encountered in the implementation of article 6

there is need for to development of clear legal procedures for public participation in decision making on environmentally significant issues. With the exception of the Law of Turkmenistan “On Environmental Impact Assessment” where procedure and conditions of the public participation in implementation of the Environmental Impact Assessment are being regulated by Articles 23-16. For example, it is important to prepare statutory legal act about public hearings in order to reveal public opinion with the purpose of considering it before making decision of the issues having negative environmental effect.

XVII. Further information on the practical application of the provisions of article 6

Statistical accounting of public participation in decisions is not being performed, however the similar work is being done in the process of state ecological assessment. No additional information is available.

XVIII. Website addresses relevant to the implementation of article 6


XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7
The practice of discussing draft programming documents related to environmental protection issued, collecting, and recording public proposals is applied in Turkmenistan. Representatives of the public on behalf of public environmental organizations, representatives of state bodies, scientists and professors of specialized higher educational institutions and other professional spheres participate in the discussion of draft program documents. The National Strategy of Turkmenistan on Climate Change (adopted on June 15, 2012) can be taken as an example of such activity.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

The mechanism of public participation in development of environmental policies is to Participation of public in various projects implemented by UNDP, UNEP, GEF, UNECE, UNFCCC, UNCCD, UNCBD, EC, OSCE, AF, IFAS, CAREC and by other international and regional organizations acting in Turkmenistan is servicing as the mechanism for public engagement in development of environmental policy. In particular, the National Climate changing Strategy of Turkmenistan, First, Second and Third National reports of Turkmenistan within the UNFCCC framework, Third National Report on Biodiversity Conservation of Turkmenistan, National Forestry programme till 2020, National Plan of combating desertification, Development Programme of specially protected natural areas and other important programmes and strategies related to environment and sustainable development were prepared by involving experts and specialist from the public associations.

XXI. Obstacles encountered in the implementation of article 7

It is necessary to prepare statutory legal act on public hearings in order to reveal public opinion while considering decision related to issues having negative environmental impact. It is necessary to bring to the higher level of legal regulation of Environmental Impact Assessment (possibly at the law level).

XXII. Further information on the practical application of the provisions of article 7

Additional information is not available.

XXIII. Website addresses relevant to the implementation of article 7


XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

The legislation of Turkmenistan does not provide for any discriminatory restrictions on the participation of individuals and legal entities in the discussion and preparation of proposals for drafts of normative legal acts. Thus, in accordance with the Law "On Nature Protection" (2014), public associations have the right, in accordance with the legislation of Turkmenistan, to submit proposals on holding referendums on environmental protection and discussing projects related to the environment; to participate in the established order in decision-making on issues related to nature protection and rational use of natural resources. In accordance with the Law "On Public Associations", public associations have the right to participate in the elaboration of decisions of public authorities and local self-government bodies in the manner provided for by this Law and other normative legal acts of Turkmenistan (Article 26). These kinds of provisions take place practically in all other normative legal acts in the field of environmental protection and nature management.

XXV. Obstacles encountered in the implementation of article 8

There are no specific obstacles.

XXVI. Further information on the practical application of the provisions of article 8
Answer: The statistical consideration of the opinion and recommendations of the public in the preparation of decisions related to the environment has not yet been fully put into place, however, in the course of compulsory EIA procedures, public hearings are conducted in the implementation of industrial and production facilities in accordance with the environmental legislation of Turkmenistan.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:


United Kingdom

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

52. The provisions of Articles 6, 7 and 9, Paragraph 2, of the Convention fall within the competence of the European Union, as do the related matters covered by Article 9, Paragraphs 2 and 4.


56. The preamble of Directive 2003/35/EC states that “Community law should be properly aligned with that Convention with a view to its ratification by the Community”, (para. 5) and that “Since the objective of the proposed action …cannot be sufficiently achieved by the Member States and can therefore, by reason of scale and effects of the action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiary as set out in Article 5 of the Treaty” (para. 12).

57. The European Union therefore implemented Articles 6, 7 and 9, Paragraph 2, of the Convention through this legislation and these principles have been carried forward when it has been recast or consolidated. The UK has brought into force the laws, regulations and administrative provisions necessary to comply with this Directive. These include12:

a. The Environmental Permitting (England and Wales) Regulations 2010;
b. The Environment Act 1995;
c. Environmental Protection Act 1990;
d. ;

12 References to legislation are as amended.
e. The Pollution Prevention and Control (Public Participation etc.) (Scotland) Regulations 2012;  
f. The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2013;  
g. Town and Country Planning Act 1990;  
h. The Town and Country Planning (Environmental Impact assessment) Regulations 2017;  
i. The Town and Country Planning (Environmental Impact assessment) (Wales) Regulations 2016 for England and Wales  
k. The Infrastructure Planning (Environmental Impact Assessment) Regulations2017;  
m. Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;  
n. Environmental Impact Assessment (Scotland) Regulations 1999;  
o. Environmental Impact Assessment (Water Management) (Scotland) Regulations 2003;  
p. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015;  
q. The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999;  
r. Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999;  
s.  
t. The Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999;  
u. Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2006;  
v. The Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;  
w. The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010;  
x. Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999;  
y.  
z. Highways (Assessment of Environmental Effects) Regulations 1999;  
aa. Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999;  
bb. The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2007;  
cc. Environmental Impact Assessment (Scotland) Regulations 1999;  
 dd. The Harbour Works (Environmental Impact Assessment) Regulations 1999;  
ee. Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003;  
 ff. The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000;  
gg. The Electricity Works (Environmental Impact Assessment) (Scotland) (Amendment) Regulations 2011;  
 hh. The Pipe-line Works (Environmental Impact Assessment) Regulations 2000;  
 ii. Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999;  
jj. The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999;  
kk. The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010;  
ll. The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999;  
nm. The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;  
nn. The Transport and Works (Assessment of Environmental Effects) Regulations 2000;  
oo. The Transport and Works (Assessment of Environmental Effects) Regulations 2006;  
 pp. Transport and Works (Scotland) Act 2007;  
qq. The Electricity Act 1989 (Requirement of Consent for Offshore Wind and Water Driven Generating Stations) (England and Wales) Order 2001;  
r r. The Electricity Act 1989 (Requirement of Consent for Offshore Wind Generating Stations) (Scotland) Order 2002;  
ss. The Offshore Electricity Development (Environmental Impact Assessment) Regulations (Northern Ireland) 2008;  
tt. The Environmental Impact Assessment (Agriculture) (Scotland) (No.2) Regulations 2006;  
 uu. The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006;  

13 DCLG is currently in the process of implementing European Directive 2014/52/EU; a recent consultation sought views on draft regulations which will replace the existing regulations implementing the requirements of the Environmental Impact Assessment Directive insofar as they apply to the town and country planning and nationally significant infrastructure regimes.
vv. Marine Works (Environmental Impact Assessment) Regulations 2007;
ww. The Water Resources (Environmental Impact Assessment) Regulations 2003;
xx. The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005;
yy. Water Environment (Controlled Activities) (Scotland) Regulations 2011;
ccc. The Town and Country Planning (Development Plan) (Amendment) Regulations 1997 (revoked so far as they extend to England);
ddd. The Town and Country Planning (Local Planning) (England) Regulations 2012; ;
ggg. Town and Country Planning (Development Planning) (Scotland) Regulations 2008;
hhh. Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;
iii. Planning Act 2008;
jjj. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;
kkk. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;
lll. Infrastructure Planning (Examination Procedures) Rules 2010;
mmm. The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015;
nnn. Infrastructure Planning (Decisions) Regulations 2010;
ooo. Infrastructure Planning (Compulsory Acquisition) Regulations 2010;

Article 6, paragraph 1

58. The obligations under Part (a) of this paragraph are satisfied by elements of our national regulations which implement the EU Directive on integrated pollution prevention and control (the Industrial Emissions Directive 2010/75/EU), the Environmental Permitting (England and Wales) Regulations 2010 (http://www.legislation.gov.uk/uksi/2010/675/contents/made) and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (http://www.legislation.gov.uk/uksi/2017/571/contents/made). In the UK, all projects likely to have a significant effect on the environment are subject to control under EIA regimes which implement EU Directive 2011/92/EU as amended by Directive 2014/52/EU).

59. In 2008, the UK Parliament passed new legislation in the form of the Planning Act 2008. This has been amended through the Localism Act 2011, which abolished the Infrastructure Planning Commission and transferred responsibility for decision making to the Secretary of State. Applications for development consent are now examined by an Examining Authority appointed by the Planning Inspectorate (http://infrastructure.planningportal.gov.uk/) on behalf of the Secretary of State, who makes recommendations to the Secretary of State for a final decision.

60. The Planning Act was amended by the Growth and Infrastructure Act 2013 (provisions for certification requirements and for special categories of land) to help to deliver a more efficient, streamlined and democratically-accountable planning system for major infrastructure projects. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ensure that these applications are considered in accordance with the principles enshrined in the Directive. In the case of major infrastructure projects there are a number of provisions in the Planning Act 2008 which require an applicant to consult with the local community (section 47) and to publicise the proposed application (section 48) and to take account of responses to consultation and publicity (section 49). In addition, the Secretary of State must have regard to the consultation report and the adequacy of any consultation representation received by it from a local authority consultee (section 55) when deciding whether to accept an application. The specific requirements have been prescribed in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
Article 6, paragraph 11


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

63. Fifteen Coastal Local Authorities became ‘pathfinders’ under the ‘Coastal Change Pathfinders’ Programme, supported by a fund totalling £11 million. Working in partnership with their communities, the Local Authorities road-tested new and innovative approaches to plan for and manage change on the coast. The Programme has now been evaluated and is providing ideas and evidence on how Local Authorities, in partnership with their communities, can develop policy on supporting community adaptation to coastal change in the future.

64. The government continues to recognise that coastal communities face particular challenges but have huge economic potential. Our key policy approaches reflect the importance of community involvement to support coastal regeneration. Since 2015 we have provided £1.46m to help establish 146 Coastal Community Teams covering the majority of the English coastline, including 28 new Teams announced on 20 January 2017. The Teams empower local partners and the local community take control of their own areas’ regeneration. The original 118 Teams published Economic Plans setting out locally agreed short term and longer term priorities to enable their area to promote jobs and economic growth. These plans will be updated by April 2017 along with the 28 new Teams who will be submitting their first plans. The Government has also invested over £120 million in projects through the Coastal Communities Fund which is helping to create or safeguard over 18,000 jobs, provide more than 12,000 training places and apprenticeships, and attract over £200 million of public/private sector co-finance.

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

63. Provisions in Articles 6, 7 and 9, Paragraph 2, of the Convention fall within the competence of the European Union, as do the matters covered by Article 9, Paragraphs 2 and 4.


65. The UK was required to bring into force the laws, regulations and administrative provisions necessary to comply with the EU legislation and the relevant domestic legislation includes the following, as amended where relevant:

(a) The Air Quality Standards Regulations 2010;
(b) The Air Quality Standards Regulations (Northern Ireland) 2010
In Scotland, the Environmental Assessment (Scotland) Act 2005 has extended the requirements of Strategic Environmental Assessment (SEA) beyond those required by the original EU Directive (2001/42/EC). This has allowed the public to actively and meaningfully participate in the preparation of public plans, programmes and strategies, if they were likely to have significant environmental effects. The result being the public has had an opportunity to contribute to the preparation of high level Scottish strategies. For example, Scotland’s National Planning Framework, Climate Change Adaptation Strategy and National Transport Strategy.


The Scottish Government has produced ‘a basic introduction to SEA’. This guidance explains the purpose of the assessment process and is helpful to both SEA practitioners and the wider public: [www.scotland.gov.uk/Topics/Environment/environmental-assessment/sea/guidance/SEAGuidance/basicguidance](http://www.scotland.gov.uk/Topics/Environment/environmental-assessment/sea/guidance/SEAGuidance/basicguidance).

There are legal requirements to involve the public throughout the preparation of local plans, as outlined in the Planning and Compulsory Purchase Act 2004 and detailed in the Town and Country Planning (Local Planning) (England) Regulations 2012. Neighbourhood planning is enabled under the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012.

The Equality Act 2010 places duties on public authorities to promote disability gender and race equality, which includes requirements to involve or consult the various equalities strands in the work of the authority.

The Planning Act 2008 created a new development consent regime for Nationally Significant Infrastructure Projects (NSIPs). The Act provides for a more efficient, transparent and accessible planning system for nationally significant projects in the field of transport, energy, water, waste and waste-water infrastructure. This regime provides for the Government to produce National Policy Statements (NPSs) that integrate environmental, social and economic objectives and provide clarity on the need for infrastructure. To date, there are twelve designated or proposed NPSs, detailing Government policy on different types of infrastructure development, including on
energy; transport (ports); waste water; and hazardous waste. The regime aims to be more transparent and provide better opportunities for the public and local communities to get involved in decisions that affect them. There are three opportunities to become involved: the debate about what national policy means for planning decisions; the development of specific projects; and the examination of applications for development consent.

72. Substantial modernisation of the planning system in Scotland was introduced through the Planning etc. (Scotland) Act 2006 and associated secondary legislation. This includes opportunities for local people to be more involved in the planning system and improvements designed to contribute to efficiency, effectiveness and sustainable economic development. More information can be found at (http://www.scotland.gov.uk/Topics/Built-Environment/planning).

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

74. Compliance Committee findings on public participation in the United Kingdom’s National Renewable Energy Plan (NREAP) were adopted by the Meeting of the Parties in 2014: http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/enypptfwg/enyppcc/enyppccimplemmentation/fifth-meeting-of-the-parties-2014/united-kingdom-decision-v9n.html. The United Kingdom took note of the recommendation to ensure that in future plans and programmes similar in nature to NREAPs are submitted to public participation in accordance with article 7.

75. In Scotland a petitioner for judicial review is required to demonstrate “sufficient interest” and “a real prospect of success” before the petition is allowed to proceed. This is the test of standing.

XXVI. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

78. Public participation in the preparation of plans that affect the environment is current practice in the UK.


80. Consultation lies at the heart of Strategic Environmental Assessments (SEAs) and all public strategies, plans and programmes that are likely to result in significant environmental effects once implemented, must have their likely effects assessed under the relevant regulatory regime. In Scotland, detailed guidance in the form of an SEA Tool Kit has been published and is available to all responsible authorities.

81. Local government and other partners have a tradition of involving communities in decisions and services and there is a lot of good practice across the UK. The localism agenda means that government is committed to devolving decision-making down to the most appropriate level, which in turn means that local councils and communities have a greater mandate to work together to shape the communities and services locally that they want to see.