

IMPLEMENTATION REPORT

Albania

Based on the reporting format annexed to decision I/8

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

This report was prepared by the Ministry of Environment, Forestry and Water Management. This report was discussed with other ministries like Ministry of Health, Ministry Agriculture, Transport and Tourism. As well this report was available at the MoEFWM web-site and sent for comments to NGOs.

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

This is the second report for Albania, and the institution responsible for the implementation of the Convention is the Ministry of Environment, including its structures in the Prefectures (Regional Environmental Agencies). Lack of funds from the State budget makes the implementation of the Convention difficult, especially on issues that directly affect the general public and/or the interested part of the civil society.

ARTICLE 3

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

(a) **according to paragraph 2:**

Interventions to the legal framework

The principles of the Aarhus Convention are widely mirrored and included in the Albanian Legislation more specifically in:

- Constitution of the Republic
- Law for Environmental protection No.8934 dt.05.09.2002 (article 3,10, 54, 55, 56, Chapter X article 77, 78, 79, 80)
- Law for Environmental Impact Assessment No. 8990 dt.23.01.2003 (article 17, 19, 20, 23, 26)
- In all specific environmental laws approved during the time frame 2003-2007;

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Meeting of the Parties to the¶
Convention on Access to
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Public Participation in Decision-
making and¶
Access to Justice in Environmental
Matters¶
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(Second meeting, Almaty,
Kazakhstan, 25 - 27 May 2005)¶
(Item 6 (a) of the provisional
agenda)¶
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- Code of Administrative Procedures
- Law for the Ombudsman (Articles 14, 15, 16, 17)
- Law for Civil Emergencies No 8756 dt 26.03.2001 (Article 8.ë)

(b) **according to paragraph 3:** Good steps have been taken in the Environmental Education in Albania in this two years

ELEMENTARY SCHOOL

- REC in cooperate with our Ministry and the Ministry of Education and Science start to apply the Green Pack in the elementary school.
- UNICEF in cooperate with MEFWA and the Ministry of Education just start a project “child to child” in the primary school .

THE UNIVERSITY LEVEL

Already been made at university level with introduction of graduate diploma and master’s degree, at the Agro-Environment Department of Tirana Agricultural University. A master’s course in the science and technology of environment has also been introduced.

(c) - **according to paragraph 4:**

- The first administrative measure has been to establish an Information Center at the Ministry of Environment. In this center there is a specialist dealing with NGO-s as their focal point for the communication between them and the Ministry.
- In 2005 take in force the Strategies and Action plan for implementation of Aarhus Convention;
- The Ministry have formulate the Format –Request for the interest public . This request was in the web site of the Ministry;
- In Albanian are open three Aarhus Information Centers. In Tirana city, this Centre was located in the first floor of Ministry of Environment, Forestry and Water Administration .
- The second Aarhus Information Center was opened in the North of the Albania in the Shkodra Region;
- The third Aarhus Information Center was opened in the South of the Albania in the Vlora Region;
- The Ministry of Environment has signed in June 2002, a memorandum of cooperation with the most active environmental NGO-s (30 NGO-s).
- The Ministry of Environment has signed the declaration of the European Commission for supporting the most active environmental NGO-s.
- The Ministry of Environment has financially supported the NGO-s through projects from the state budget. Only for the year 2003, the MOE has disbursed 1.547.600 ALL (Albanian leke), nearly 11.459 Euro. For the year 2004 the projects financed to the NGO-s from the MoE and the Nederland found have reached the sum of (30,000,100 leke, 242.527 nearly Euro) from other sources. The MEFWM in 2005-2006 have supported

with Netherlands found 10 NGO's project with sum nearly 18,300,000Lek ALB

- (d) There are no cases of prosecution, harassment or penalization toward persons for exercising their rights in conformity with the Convention.

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

- *Answer:*

- Lack of effectiveness in implementing the memorandum of cooperation between the MoE and the NGO-s.
- The low level of environmental awareness linked to the economic problems of the country.

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

Answer: N/A

6. Give relevant web site addresses, if available:

The Ministry of Environment, Forestry and Water Administration of Albania. www.moe.gov.al : Aarhus Information Centre www.aic.org.al

ARTICLE 4

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

- a. *according to paragraph 1* the Convention requirements were reflected to The Constitution of Republic of Albania, rendering them in constitutional articles. In addition, the "Law for the Right to Information on Official Documents", and the "Law for People's Ombudsman" were approved. Public information and its participation in decision-making have also been treated within the Administrative Procedures Code, the Law for Organization and Functioning of Local Governance, Law for Civic Emergencies. In all these legal acts, the right for information is ensured without an interest to be stated. The time limit for answering to the request for information is stated in the "Law for the Right to Information on Official Documents" and is 40 days after receiving the request. The answers to these requests have been immediate, as the number of written requests has been low. The most important part of the requests is by person, coming to the Information and Communication Department (6-7 person each day) of the MoE and taking any kind of material, according to the needs. *Another form of information:* the environmental publication of the MoEFWA "Electronically Environmental Bulletin" (each month) showing the most important decisions and activities of the Ministry. The web site of the ministry is always available to the public.
- b. *According to paragraph 2:* there have been no cases of postponing the timeline of 1

month from receiving the request.

- c. *According to paragraph 3: (paragraph a)* in the cases where the MoEFWA had not the requested information, it has been given the right address and person to be contacted to have that specific information. *(paragraph b)* There have been no cases of unreasonable requests and *(paragraph c)* there has been no case of requests for material in course of completion etc...
- d. *According to paragraph 4:* this kind of information is treated in the article 29, paragraph 2, of the "Law on environmental protection", No.8934, date 5.09.2002.
- e. *According to paragraph 5:* in these cases the applicant has been immediately informed on the public authority which holds the information.
- f. *According to paragraph 6:* no such cases have occurred.
- g. *According to paragraph 7:* no cases of refusal have occurred.
- h. *According to paragraph 8:* no charges are applied for providing information.

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

N/A

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

N/A

10. Give relevant web site addresses, if available:

Ministry of Environment, Forestry, Water Administration of Albania www.moe.gov.al

ARTICLE 5

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

According to paragraph (1)

*i):*Public authorities that possess and update environmental information are central and local authorities. Firstly, the authorities responsible for protection of environment and its components are at first line such as the Ministry of Environment, Forestry and Water Management, Regional Environmental Agencies, (ii)Environmental Inspectorate and other

inspectories, Inter-ministerial Council for implementation of action plans of health and environment, the Group for keeping desertification under control, etc.

(ii) Secondly, other central authorities with assigned responsibilities to manage environmental resources, such as natural resources and minerals are at the second level. Within this group Line Ministries and respective structures are included.

(iii) Thirdly, there are inter-sector authorities at central and local level, which manage the territory and/or water resources, such as the TAC-s of all levels, national Waters and Basins Council, National Committee of Tourism, whose decision-making is directly related to environment.

(iv) In emergencies the information will disseminated immediately from the National Committee for Emergencies and the cross border project.

According to paragraph (3). The web site of the ministry is always available to the public, and the REC web site.

According to paragraph (4) The Ministry of the Environment is charged to publish the national State of the Environment report each 2 years. The last report was published in 2003-2004 available on hard copy and the Internet. The next report was planned to be released in April 2006. The report is in the process of preparation.

According to paragraph(5) In addition, the “The Law for Environmental Protection”, in article 56, all the details that relate to obligations of governmental authorities for making public the environmental information, are specified at wider scale.

1. Governmental authorities that collect environmental information make them public to the media or newspapers or to whatever appropriate opportunities, so that public understands.
2. Once the governmental authorities, physical and legal persons notice environmental pollution or damage, they inform public on the negative impact, on measures taken to preventing those negative effects, in order to protect people and make them protect their health and safety.
3. Buyers or consumers should be orally informed, or in written documents by physical or legal persons on the negative impacts of the service delivered regarding to health and environment components.
4. Classification of confidential data for national security is administered according to requirements of the Law nr. 8457, date 11.02.99 “For governmental secret classified information”

In order to have a general public familiar with the environmental information and requirements, the information Center of the Ministry of Environment disseminates the Environmental Bulletin and distributes it free, available on the web site for all public interested in etc.

Another group of publications are: “Compendium of Environmental Legislation of Albania”, info packages for different issues (energy, land use, legislation, forestry and other legal documents that provide data to public and guidelines for procedures. For instance, in the environmental field, the official documents for public access are strategies, action and management plans, monitoring programs, State of Environment Reports, registers’ content, licenses and group inspection reports, all the environmental Directive of the BE in Albania

Language the “Red book” we have published the “Environmental protection area in Albania” The management Plan from different areas in Albania (Narte , Llogara ect) .

The same standards apply for governmental structures responsible for water, land and territory planning, forests and meadows, mineral resources, etc. When we reach this level of transparency and communication, the relations between the government-public on environmental related issues will be developed to another qualitative stage.

As far as many actors have contributed to the publication and information related activities, especially REC- and, other NGO-s like Milieu Contact, “Mass media and the Environment” etc. *According to paragraph (6):* Other operators are the Albanian Chamber of Commerce and Industry which inform the public for activities and products.

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

Lack of funds for other publications.

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

The Ministry of Environment publishes its own magazine on environment, the compendium of Albanian environmental legislation (Albanian and English versions) and other stakeholders publish leaflets, posters, newspapers or other kind of publications on specific occasions. There are no statistics on the amount of publications on environmental matters.

14. Give relevant web site addresses, if available:

Ministry of Environment: www.moe.gov.al; Council of Minister: www.keshilliministrave.gov.al; Albanian Chamber of Commerce: root@ccitr.tirana.al

ARTICLE 6

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

In According to paragraph (1)

In order to ensure public participation in environmental impact assessment processes, the Law "For Environmental protection", cites:

1. Within the process of environmental impact assessment and strategic environmental assessment, all the interested groups do participate, especially local authorities, general public and non-governmental organizations.
2. Throughout decision-making process, the responsible authority puts on public's disposal the documentation on the information required, within a certain timeline.
3. While making the decision, the responsible authority takes under consideration the opinion of local authorities, public and non-governmental organizations.

However for processes less important than EIA, such as for instance drafting of management plan for protected areas, the Law for "Protected Areas", assigns the Ministry of Environment to consider "the results generated from cooperation and advising activities with civil society groups, especially with community groups inside or around the respective protected area, including a summary of comments and their feedback on the proposal".

According to paragraph (2) In The Law for "Environmental Impact Assessment", this has entered at the implementation phase, including public participation, public discussion and consideration of its opinion, according to the article 6 of Convention. The article requires public participation to decide on certain activities, as having been provisioned in the Annex 1 of Convention and other unlisted activities, which might have negative impact on environment. The practical use of these requirements is main objective of Ministry of Environment, Forestry and Water Administration and Regional Environmental Agencies. Since a while, it has been asked the community opinion about any subject under licensing procedures. A discussion is going on

with the community of Vlora and other interested groups at national level on the possibility of building a Thermo Power Plant and oil tankers at the seaside. Based on such experiences, it is expected a more intensive debate among the Ministry, local government and community for the coming years.

In response to the Vlora case the Ministry of Environment, Forests and Water Administration has undertaken a series of steps that create the possibility for the fulfillment of the commitments of the country in the framework of the Aarhus Convention.

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

Lack of detail procedures for the public participation in the decision making process

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.

N/A

18. Give relevant web site addresses, if available:

The Ministry of Environment, Forest and Water Administration website: www.moe.gov.al

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.

- For the drafting of the legislation package several NGO-s have participated in it. Also, for the preparation of the Strategy for the Implementation of the Aarhus Convention, the process has been open to all NGO-s for expressing their opinions on this matter. Probably the biggest consultation held by Albanian Ministry for drafting the National Environmental Strategies (NES)
- 672 NES Information Packs, 890 CDs and 370 printed versions of 'Draft NES' were circulated.

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

For the preparation of the National Strategy for Socio-Economic Development, we have four years' experience in gathering the opinions of the civil society on the environmental issues of this strategy. NGOs and other groups interested in the environment are invited to discuss these issues and their opinions are taken into consideration.

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

Environmental NGOs are not often interested in those processes.

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

N/A

23. Give relevant web site addresses, if available:

The Ministry of Environment, Forest and Water Administration website: www.moe.gov.al

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.

For the purposes of the Council of Ministers decision-making, especially when dealing with protected areas and waste import as raw material for production, the opinion of the community living in the surrounding area is obligatory. A negative opinion from the community can block the decision-making process. The community is represented through the elected members of the council of Commune, Region or other local administrative unit.

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

Lack of legislation knowledge in the communities, especially in rural areas.

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

N/A

27. Give relevant web site addresses, if available:

The Ministry of Environment, Forest and Water Administration website: www.moe.gov.al

ARTICLE 9

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

The new legislation has been attentive, supportive to public complaining right, by creating the necessary spaces for administrative environmental complaining. For instance, in the law for Environmental Protection, is stressed :“anyone has the right to complain for activities that threaten, damage and pollute environment, and to ask for closing the activity down, in case of risk“. Apart to the measures taken, the authorities are obliged to respond the request within one month from receiving it. Besides, this general confirmation has been detailed in a separate law, for concrete cases. It has also been completed a more inclusive framework of cases for administrative complaining.

For the right to environmental information exist the following normative acts:

1. The Code for Administrative Procedures (art. 20 and 51-55)
2. Law no. 8934, 05/09/2002 on “Environmental Protection” (art. 1/2dh, 10/3, 77, 78)
3. Law no.8503, 30/06/1999 on “The right to information on official documents”.

a. According to paragraph 1:

(i)Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review

procedure before a court of law. He may press charges on the Ministry or other public institution to the Court of First Instance of the Region where he lives.

(ii) There is only the possibility that the Ombudsman takes in charge the question. This is the only attorney who is free of charge. The Ministry of Environment has not available funds to pay an attorney (so the person has not to pay the expenses for the review before the court of law) for following the question of complains from the public.

(iii) The decision of the court for giving the information is binding for the public institutions that have refused the information.

- b. With respect to paragraph 3: according to the national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment, but the criteria to be met by the public are not defined in the national legislation.
- c. According to paragraph 4: there is no distinction between normal judicial procedures and the environmental ones. The law provides the basic rights for such procedures in general for all procedures which are meant to be fair and with reasonable costs and time limits. The decisions of the court are written, published and available to the public. The people who press charges take one copy of the court's decision.
- d. There are efforts to inform the public on the right to have access to the court of law, but there are no mechanisms to minimize or omit the financial obstacles to this purpose.

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

There is still no compatibility of the national judicial procedures with the requirements of the Convention. The implementation of the Convention needs changes to the Penal Code, and the intention is to insert the "crime against the environment" into this code. On the other hand, the judicial officers, judges and prosecutors are not familiar with environmental matters.

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

N/A

31. Give relevant web site addresses, if available:

The Ministry of Environment, Forest and Water Administration website: www.moe.gov.al

32. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

While having been definitively positioned on the road of democracy, the public and Albanian Government identify with the Convention, their rights and obligations, and opportunities for involvement and inclusions. They also consider the existing possibilities for reaching agreements and cooperation, to develop alternatives and solutions for a contemporary consideration of the

environment, and find support for vital intentions and aspirations, not only for today, but also for the future.