



Italian Ministry for the Environment, Land Protection and Sea

**FIRST UPDATE OF THE NATIONAL REPORT OF ITALY ON THE
IMPLEMENTATION OF THE AARHUS CONVENTION
December 2007**

CERTIFICATION SHEET

The following report is submitted on behalf of ITALY in accordance with decision I/8

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Signature: **Giuliana Gasparrini**

Date: **21/12/2007**

IMPLEMENTATION REPORT

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IMPLEMENTATION REPORT

Italy

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.

The draft report was prepared by the Ministry for the Environment, Land Protection and Sea (DG for Environmental Research and Development) and integrated by the National Agency for Environmental Protection and Technical Services. Regional authorities also contributed to the report. A number of elements have been taken from previous studies. One Region (Emilia Romagna) submitted to the MoE on a voluntary basis the Regional Report on the Implementation of the Aarhus Convention.

For the purpose of receiving comments from the public, the draft national report has been translated into Italian and subsequently sent by email to recognised environmental associations and published in the web site of the MoE for the general public on December 11th 2007. Submissions received until December 21st (2) have been taken into account. Relevant observations provided by the public have been integrated.

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).

Regions and autonomous Provinces have legislative capacity conferred through national legislation. For the sake of brevity, the report focuses mainly on national measures.

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) **Assistance and guidance to the public** is guaranteed by a number of general and specific provisions.

According to **general Law 241/1990** on administrative procedures, as amended by law 15/2005, public administrations must appoint a “responsible officer” for each “decisional process”, who will also be in charge of informing and consulting the public concerned, and an *ad hoc* responsible officer to oversee the process of access to documents. The access to the documents by the public is recognized as a general principle and is an essential component in order to ensure transparency and impartiality of the public administration.. The Ombudsman and the Commission for access to administrative documents assist the public in case the right to access is wrongfully denied (see response to art. 9)

The Decree 184/2006 on procedures for access to administrative documents provides that the right to access can be exercised toward all public administrations and toward private entities as far as they are acting as public authorities. It says how the access can be exercised (both formally and informally, including through electronic means).

Legislative Decree 80/1998 as modified by legislative decree 165/2001) stipulates that public administrations be organized in accordance with set criteria of transparency and impartiality, and accordingly, must establish appropriate means to inform the public.

According to **Legislative Decree 29/1993** on rationalization of public administration each public administration must establish an ad hoc Office for the Relationship with the Public (URP) to:

- Guarantee the public’s exercise of their rights to information, access to documents and to public participation;
- Facilitate the public’s use of the services offered, including by providing information on legislation, competences and the structure of the administration concerned; and to ensure the quality of these services.

Furthermore, **Law 150/2000** regulates communication activities to be undertaken by each public administration, and includes the obligation for the national administration to adopt a communication plan.

Additional and more stringent provisions on assistance and guidance to the public in environmental matters are foreseen by Legislative Decree 195/2005 (see response to art. 4)

(b) Italy is actively engaged in **environmental education and awareness-raising**.

At the national level a **network of local environmental education centres** has been established within the framework of the National System for Environmental Information, Training and Education. The centres (about 150), some of which are located in natural protected areas, are coordinated at regional level and managed by local government in cooperation with various stakeholders, such as environmental NGOs, private enterprises, universities, research

centres. They mainly focus on promoting public awareness, address various categories of learners of different ages; some projects are carried out within or in collaboration with schools.

The second edition of the Programme on environmental information and education (**INFEA**), jointly coordinated by the MoE and the regions and drawing on regional and private financial resources, has been prepared for the period 2005-2007 with a revised document on orientation and objectives. The Ministry for Education also participates in some of the activities under the INFEA Programme.

Furthermore, the MoE has organized in 2007 a national **Forum on education to environment and sustainable development** involving all governmental and non governmental stakeholders. The Forum has served to re-launch national policies on environmental education and to reaffirm its essential role in order to create awareness on environmental protection.

The MoE and the Ministry of Education are working together on activities to train teachers on environmental education and to develop new information tools. The National Consortium for Packaging, a non-profit body for packaging producers and users aimed at recovering and recycling packaging waste, promoted teacher training seminars on waste management with a focus on Southern regions facing environmental emergencies, which were agreed by the Ministry of Education and the MoE. The National Agency for Environmental Protection and Technical Services (APAT) has created and is running ecolabelling and EMAS schools.

A large part of environmental education is carried out by the parks' authorities (i.e. natural protected areas established at the national, regional or local level – and managed by *ad hoc* public bodies).

The system of environmental agencies, composed of APAT and the Regional and Provincial Agencies, which collect, process and monitor scientific and technical data for all environmental media (air, water, soil), coordinates activities on environmental education in order to reinforce their scientific base and improve their quality. For example APAT has organized respectively in 2005 and 2007 a Workshop on the most important issues related to environmental education and the Youth National Climate Change Conference.

Finally, various projects on environmental education are carried out every year in formal educational institutions in collaboration with external organizations (generally environmental organizations), for example the 2007 SEARCH project on education to prevention of indoor air pollution related risks;

At the international level, in 2007 Italy has supported the environmental and education session at the EfE Belgrade Conference. In support to the Marrakech process, from 2006 Italy has set up and chaired a Task Force on Education to Sustainable Consumption

(c) Concerning recognition and support to groups, the Constitution recognizes the value of citizens' associations. According to the principle of "legitimate interests", affirmed in general law on administrative process (Law 241/1990), opportunities to participate in decision-making shall be given not only to individuals having an interest in the decision, but also to associations representing common interests, when such interests are likely to be influenced by the decision.

According to general environmental law 349/1986, citizens' environmental organizations can ask for recognition by the MoE and be inserted in a list of recognized entities which have legal standing to challenge public decisions (or omissions) both at the national and at the local level, and to request compensation for environmental damage. In order to be recognised, such organizations need to fulfil the following requirements:

- Act across the whole country or in at least five Regions;
- Have democratic internal rules;
- Pursue objectives of environmental protection; and
- Have continuity of action.

In accordance with the principle of "legitimate interests", legal standing is in most cases conferred by judges not only upon recognized NGOs, but upon all organizations/groups (also local ones) representing an interest that could be prejudiced by the decision (i.e. all relevant environmental organizations);

Environmental associations in Italy can rely on different channels for funding, for example they can ask to be inserted in the list of non-profit entities to which citizens can devolve 5x1000 of tax due to the State. They can also accede to EU, State, regional and local special funds. The MoE collaborates and provide financial support also to international environmental associations to work on issues such international environmental governance, trade and environment, gender and environment, climate change and funds participation of NGOs to international meetings.

(d) In order to **further the Convention's principles in international fora** Italy has strongly supported and provided leadership for the drafting, adoption and application of the Almaty guidelines on PPIF.

There are a number of examples of efforts to apply the Convention's principles in such fora. Among others Italy has contributed to:

- The EU proposal, presented during preparation of the World Summit on Sustainable Development, for global guidelines on Principle 10 (unfortunately rejected);
- The preparation of the Guidance on Public Participation in Transboundary EIA, adopted under the Convention on Environmental Impact Assessment in a Transboundary Context (by providing both funding and case studies);
- The improvement of information and public participation as provided for by the Barcelona Convention on the Mediterranean Sea Protection (UNEP/MAP): Italy is committed to re-focus the Regional Action Centre on Remote Sensing (ERS/RAC) by extending its activities to environmental information and communication;
- The enforcement of the principles on access to information and public participation within the United Nations Convention to Combat Desertification through information projects and the organization of the International Conference on the Role of Women in Combat Desertification
- The promotion of public awareness and participation within CBD
- Support and more interactive participation of major groups in the UN-CSD and strengthening of civil society participation within UNEP.

In 2007 the MoE, in order to raise the awareness of its own officials dealing with international negotiations in environmental fora, has organized an internal consultation on the Almaty Guidelines. Moreover has informed the Ministry of Foreign Affairs on the Guidelines contents and is planning to organize, in 2008, a national workshop for the civil society.

It is general praxis that, when the MoE organizes an international event, invites the civil society to actively participate. This was the case for example of the 2004 International Forum on Partnership for Sustainable Development and of a series of events organized in 2006-2007 on bioenergy and climate change (in particular the 2007 Climate Change National Conference).

With regard to participation in international conferences on environment and sustainable development, preparatory meetings are usually held at the national level for the major events (e.g. the Johannesburg Summit and the United Nations Convention on Climate Change), with the participation of major groups. In certain cases, NGOs and other stakeholders form part of the Italian delegation;

(e) The exercise of rights and legitimate interests foreseen by law is guaranteed through access to courts. Inspections, sanctions, and similar measures are only admitted to the extent that they are foreseen by law, and in the framework of constitutional rights of freedom and equity.

Other specific requirements are contained in sectoral law and at the local level.

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

Concerning assistance to the public, not all public authorities have established the Office for the Relationship with the Public (URP) or equivalent services/offices responsible for providing information to and contact with the public, mainly due to lack of resources.

One regional environmental association contends that a number of public authorities (especially at regional and local level) are not fully aware of what is provided by the Aarhus Convention and are not sure whether its provisions are applicable at the local level.

Regarding art.3 para 7, the international promotion of the Convention's principles is not easy because each international forum has its own rules and characteristics, and often the result is influenced by partners (organizations and States) that are not committed to the Aarhus process. The application of the Almaty Guidelines is expected to substantially improve the situation both at the national and international level in the next years.

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

There are 150 centres for environmental information, education and training; supported by the MoE with a total budget of €10 million.

The Office for the Relationship with the Public (URP) of the MoE has been created in 2007 and now its organization is under way. In the meanwhile information requested by the public are dealt with the respective competent directorates. APAT has as well its own URP. At the regional level there are now active 8 URPs for a total of 21 Regional Environmental Protection Agencies. There are 19 EMAS schools operating in Italy
21 new environmental associations have been registered by the MoE (from 52 in 2004 to 73 in 2007).

6. Give relevant web site addresses, if available:

www.minambiente.it

<http://www.apat.gov.it>

<http://www2.minambiente.it/SVS/associazioni/associazioni.htm> (List of recognized environmental associations)

<http://www.conferenzacambiamenticlimatici2007.it> (site of the National Conference on Climate Change)

ARTICLE 4

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

The new Legislative Decree 195/2005 regulates access to environmental information since August 2005, implementing Directive 2003/4/CE.

Its goals are to guarantee the access to information, establishing terms and conditions for it, and to provide active dissemination of information to improve transparency.

A series of new provisions have been introduced by Legislative Decree 195/2005, in particular:

- duty to the p.a. to create public databases and information points (utilizing URPs where available)
- restricted list of cases in which the release of the environmental information can be denied
- tariffs
- active dissemination of information
- quality of information
- reports on application of 195/2005
- coordination among public administrations

According to Legislative Decree 195/2005 the p.a. holding the environmental information must provide it to anybody (individuals of associations) requesting it without the need to demonstrate an interest.

Deadlines for providing the information to the applicant are set (30 days as general rule or 60 days for complex information with the duty for the p.a. to give explanation for the delay).

Against the silence or a denial from the p.a. the applicant may act through judicial or administrative review (see answer to art. 9)

Cases for denial for the release of information are strictly listed and they should be interpreted in a restricted manner, taking into account the public interest for the disclosure. Denial by a p.a. should be always motivated. In a number of cases the p.a. is required to grant partial access to the applicant and to release parts of documents containing information not subject to restriction.

If the information is not available for the p.a. requested to provide it, this authority must inform the applicant on where to find the information.

Access to environmental information is generally free of charge. Tariffs can be applied but only to cover the costs of the release of the information. Such costs should be determined in advance and displayed to the public.

A permanent coordinating body has been established in order to guarantee uniformity in the application of the legislative decree, in particular the minimum level of environmental information made available, the cases of denial, the criteria for production of environmental reports.

In addition, more general legislation on access to administrative documents (Law 241/1990) is applicable in other situations not specifically regulated by Legislative Decree 195/2005. (see response to art. 3).

Further measures are envisaged at the regional/local level (regions, provinces, municipalities) in accordance with regional/local regulations.

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

The public is not yet fully aware of the scope of legislation related to access to information. Access often depends on the local community's level of environmental awareness, the commitment to provide information to the public and the sensitivity of the issues involved. An aspect still particularly problematic is how guarantee uniformity in application of the cases of denial of information at all levels of the p.a.

The differentiation between administrative documents (subject to Law 241/90, which requires an interest to be stated for the request for access) and environmental information (Legislative Decree 195/2005 which does not require statement of an interest) has been clarify but still there may be cases of unclarity .

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?

Despite certain reporting requirements provided both by the old legislation and by the legislative decree 195/2005, the information available on the factual implementation of these legal provisions is not complete. This is due to the enormous number of existing public authorities (in 20 regions, there are over one hundred provinces and more than 8,000 municipalities) and the difficulty that some of them face in collecting and sending the data to the central level.

10. Give relevant web site addresses, if available:

ARTICLE 5

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

(a) As provided by Law 349/1986, the MoE is in charge of **disseminating information** on the state of the environment and **raising public awareness** on environmental issues. This task is fulfilled, *inter alia*, through:

- The website (www.minambiente.it), which displays relevant legislation (including international treaties and EC legislation); general information for the public; a specific section on the Aarhus Convention and on-line publication of a wide range of environmental documentation; it also facilitates Internet access for the visually impaired;
- The report on the State of the Environment (see below);
- The Environment National Library, established by Law 426/1998, which avails itself of 2 officers trained for the assistance of the public and the classification of volumes and books. The Library owns almost 3000 books, magazines and documents.

The agencies for environmental protection, at both the national level (APAT) and the regional/local levels (ARPAs and APPAs) are committed to disseminate environmental information.

Significant use is made of websites in order to disseminate information, including laws, policies, reports, drafts, studies and similar documentation.

In particular, the website of APAT contains a vast bulk of documentation, divided into different environmental themes (such as water, air, environmental certification, emergencies, industries, technologies and infrastructures). It also contains *IdeAmbiente*, a monthly magazine which is both available on-line and sent in hard copy to authorities, enterprises, journalists, NGOs and stakeholders in general and, through web conferences, allows public participation to national and international events (for example the website was used to let the public participate at the preliminary phases of the organisation of the National Conference on the Climate Change in 2007. For this initiative the Agency received a special mention during the Administration Prize Awards).

In addition, APAT offers to the public (and as a general rule, free of charge) seminars, courses, stages and trainings. The content of the courses are accessible through internet.

The APAT Library, certified UNI EN ISO 9001: 2000 and publicly accessible, is specialized in Science of the Earth and in environmental issues. Among the services provided it allows the accessibility to the library heritage both through internet and interlibrary loans and uses the NILDE document delivery system.

APAT, in collaboration with ARPAs and APPAs, publishes a number of sectoral reports including the Yearbook of Environmental Data, the Waste Report, and the State of Environment Report which are widely distributed in both Italian and English.

APAT also manages environmental databases and makes these available to the general public through its website. These include GELSO (good practices for local sustainability), CORINAIR-IPCC (inventory of emissions to air), INES (national register on pollutant releases and transfers; see below), BRACE (national database on air quality) and Meteorological Marine Data.

Other sources of information for public authorities are the various national institutes/bodies in charge of conducting studies and collecting information, such as CNR (National Research Council), ENEA (National Agency for New Technology, Energy and the Environment), ISTAT (National Institute for Statistics), ICRAM (Institute for Applied Research on Sea), ISS (National Health Institute) and universities.

To ensure the adequate flow of information, the National Environmental Information System (SINAnet) was established. SINA is a network aimed at collecting, elaborating and disseminating data and information from environmental monitoring, control and information systems at national and sub-national levels, through a network of so-called reference institutions. The main nodes are represented by:

- The National Agency for Environmental Protection, responsible for the general coordination and the relationship with the European network EIONET;
- Regional focal points,
- National Topic Centres that give operational support to the National Agency for Environmental Protection for management of data and information regarding a specific environmental theme through a number of reference institutions.

For example, for the theme “water”, the environmental agencies act as coordinators and the reference institutions include ICRAM (Institute for Applied Research on Sea), ISS (National Health Institute), CNR (National Research Centre) and universities.

The system has also been established a network of libraries and documentation centres and organises an annual national conference aimed at raising public awareness.

Concerning emergencies, the National Service for Civil Protection, as re-organised by law 225/1992, is in charge of protecting the citizens and the environment in case of natural and man-made disasters . All possible preventive and repairing measures shall be adopted, mainly in the framework of local emergencies plans, including public dissemination of any useful information made by all public authorities (Legislative Decree 195/2005)

(b) **Public information and communication** (by the public administration) is regulated in general terms (not specifically on environmental issues) by a corpus of legislation According to these laws, public administrations must comply with criteria of transparency and impartiality and, therefore, establish and coordinate the appropriate structures for informing the public (Legislative Decrees 29/1993 , 80/1998 as modified by 165/2001). Furthermore, each public administration must designate a responsible officer for access to documents, establish an Office for Relationship with the Public (URP) (Legislative Decree 29/1993, see also response to art. 3) and undertake communication activities, through the use of the media and advertising, dissemination of publications, postings, organization of and participation in events, the designation of a spokesperson and a Press Office (law 150/2000). At the national level, public administrations have to adopt a Public Communications Plan, communication programmes and specific publicity projects and set up a coordination structure composed by the Director of the URP, the Director of the Press Office and the spokesperson (Directive on public function February the 7th 2002). Finally, the law indicates the professional skills necessary to cover the position of public officer in charge for the communication and information services(Law 29/1993 and Presidential Decree 422/2001).

The Presidency of the Council of Ministers is in charge of identifying communications with social/ethical value, including those containing environmental information, to be spread out via the media.

A large part of environmental communication is put forward on behalf of natural protected areas established at the national, regional or local level: in their founding laws, environmental education and communication is explicitly envisaged as a major activity, including scholastic visits and eco-tourism.

(c) The **digitalization** of the Public Administration is functional to reach the scopes of efficiency, transparency, simplification and reduction of time and costs, as indicated in a variety of legislative provisions issued from 1990 on.

The general legal framework on e-documentation produced by administrative bodies is provided by Presidential Decree 445/2000. A series of by-laws regulates specific issues like certification of electronic signature, internet access for disabled persons, basic rules on e-learning, electronic mail use etc.

In particular Presidential Decree 513/1997 prescribes that the Public Administrations have to define and to make available e-format and electronic questionnaires valid to any law effect for the exchange of data within the network and with private actors.

The Legislative Decree 82/2005 “Digital Administration Code” as subsequently integrated and modified aims at rationalizing the use of information technologies and of the communications by the public administration. In particular e-mails sent by the public to p.a. are considered as official written communications.

Legislative Decree 195/2005, (see also response to art.4) envisages the development of environmental databases available in internet and through the Office of Relations with the Public and requests to adopt a plan to make the environmental information progressively available into electronic data bases easily accessible to the public in internet; to transfer the information into databases.

(d) Law 349/1986 requires that the MoE present a national **Report on the State of the Environment (RSA)** to the Parliament on a biennial basis. Such report should be disseminated and made available to the public.

The RSA scope is to describe the state of the environment, identifying sensitive elements and related constraints, selecting and quantifying the objectives and periodically monitoring the environment and related constraints.

The last national RSA (2006) is improved respect to the previous versions due to its approach mainly focused on the relationship between the environment and the production sector (energy, industry, transports, agriculture, tourism and urban area) and the emergencies. The new version also analyses both the impact produced by those sectors on the ecosystem and the opportunity that can derive from the protection of the environment as driving force of development (“environment as an opportunity”). It has also fixed the goal to provide adequate knowledge on the dynamics and problems of the environment both for the public decision-maker and for the citizens and to ameliorate the environmental communication in order to avoid a distort perception of the environmental risk on the territory.

In addition, many regional and local institutions periodically produce their own RSA.

In 2002, an *ad hoc* version for children (“RSA Junior”) was produced and provided to students as resource book.

(e) Regarding the **accessibility to environmental laws, decrees, international treaties** both the MoE and APAT have made them available on their web sites allowing a broader access of the

public to those. A number of international treaties, including the Aarhus convention, have been translated into Italian. Moreover APAT manages a comparative repertoire of international norms and treaties accessible through its website.

(f) Concerning the **encouragement of operators**, it is necessary to mention the voluntary agreements between the MoE and private companies in order **to improve environmental performance** of the latter, as well as to increase the periodic compilation of environmental reports by enterprises. These reports contain measures and strategies adopted by the companies to improve environmental performance.

Many industrial sites have registered to the EC eco-management and audit scheme (EMAS), a management tool for companies and other organizations focusing on their environmental performance, which envisages that participating sites make public a report on their environmental performance in return for being certified with an EMAS logo. In order to facilitate the use of EMAS by small and medium-sized enterprises, an agreement between the MoE and the main business association (Confindustria) was signed in 2001. Within this framework, a public fund is used to contribute to consulting fees that SMEs are faced with. Furthermore, the possibility of applying to EMAS logo has been granted to industrial districts. An example of EMAS obtained by industrial districts is the one in Pordenone area (north-eastern Italy) that specialises in furniture production, based on an agreement involving the Provincial government, the Region, the MoE and a committee of local furniture producers.

EMAS as well as integrated product policies have recently been applied with success to tourist sites. Similarly, environmental reporting is encouraged on the basis of the Corporate Social Responsibility of enterprises. An example of best practice is represented by the autonomous Province of Trento that has enabled the EMAS certification in 136 Municipalities, Public Services Agencies, 6 Districts, 2 Parks and 5 handicrafts firms that operates in sectors with high impact on the environment

(g) Concerning **product information for consumers**, a large number of Italian enterprises apply the EU eco-labelling scheme (first place in the EU), covering 13 categories of products (e.g. tourist services, detergents, paper, tissues, shoes, paint). MoE and APAT are acting at different levels to promote the use of eco-labelling and product information. They organize seminars for local authorities on eco-labelling schemes and green public procurement. The national Plan for Green Procurement for public administrations is under approval and a Working Group to manage the Plan is already settled and regularly consults with all the stakeholders including consumers associations.

Other compulsory labelling is foreseen by EU Directives, such as, for example, energy labelling for household appliances;

(h) In 1999, Italy established a **national register on pollutant releases and transfers**, the INES register, (Legislative Decree 372/1999 subsequently amended and substituted by Legislative Decree 59/2005). The INES register is an inventory containing qualitative and quantitative information on pollutants released into water and into air by specific facilities defined at the EU level. Those facilities listed in EC Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) and fulfilling the criteria set out in Ministerial Decree of 23 November 2001 must report under INES. Every year the data for the INES Register are collected through an on line procedure. The competent authorities validate the data and send the results to APAT, which analyses the data, draws up statistics and fills in the INES register. These data are sent to the EC by the MoE every three years. At the moment five national reporting

(from 2002 to 2006) and two reporting cycles to the EC (year 2002 and 2004 as requested by EPER) have been completed .

APAT is in charge of providing and disseminating environmental information related to the INES register. The e mail address INES.info@apat.it is available to facilitate the public request of information on the Register, its collection of data, and interpretation of the information contained in the Register and accessibility.

The new EC Regulation 166/2006 regarding the establishment of an European Pollutant Emission Register (E-PRTR) foresees also the creation of a new national register of emission (PRTR Register) that will substitute the INES Register. The Italian Government is providing for the necessary national implementation acts (in particular establishing sanctions, competent authorities, data communication and public awareness)

Italy has signed the PRTR Protocol in 2003 and has initiated the ratification procedure.

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

In addition to the difficulties in validating INES data , other critical tasks have been added such as the management of a larger number of data derived by the increased number of industrial activities requested to report and the obligation to evaluate the data quality.

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?

Most frequent requests by the public addressed to APAT are about nature preservation (biodiversity and sustainable management of natural habitats), soil protection and territorial planning.

566 organisations registered with EMAS (of which 57 Local Authorities) and more than 9500 ISO 14001 certifications by the end of 2006

800 industrial sites certified with EMAS (Italy is third in Europe)

8 millions Euro invested to foster the use of EMAS by small and medium-sized enterprises in 2004.

5 INES and 2 EPER reporting cycles completed

14. Give relevant web site addresses, if available:

www.minambiente.it (MoE).

www.apat.gov.it (National Agency for Environmental Protection and Technical Services, including the National Environmental Informative System (SINAnet)).

www.formeducambiente.apat.gov.it (seminars and on-line training)

www.dichiarazioneINES.it (INES questionnaire)

www.eper.sinanet.apat.it (INES register)

www.ermesambiente.it (environmental activities of Emilia Romagna Region)

www.giunta.provincia.tn.it/giunta_provinciale/mauro_gilmozzi/-sviluppo_sostenibile/pagina39.html (EMAS activities in the Trento Province)

ARTICLE 6

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

The main context for the application of article 6, paras 2-10, of the Convention is the **EIA procedure**, which is regulated at the national level and, within the framework of national laws, at the regional level (through subsidiarity). National legislation pertaining to the EIA procedure is in line with EC law.

The main legislative act covering the EIA procedure is the recent Legislative Decree 152/2006, Title III, that lists the projects subject to the national EIA procedure. It foresees a list of activities (identical to annex I to Directive 85/337 (as subsequently modified) on the assessment of the effects of certain public and private projects on the environment) for which EIAs are compulsory at the national level since they are deemed to have a significant impact. Additional activities (those listed in annex II to the EC Directive) are also subject to EIA procedure at the regional level. These additional activities are listed in Annex III of Legislative Decree 152/2006 : sub-annex III-A lists projects that are subject to an obligatory regional EIA while sub-annex III-B shows those subject to a screening procedure to assess whether or not are likely to have a significant impact. Projects listed in Annex B that are located in specified protected areas are automatically subject to an EIA. Screening criteria are established by law. In some cases (such as for regional laws), the public may participate in the screening procedure.

EIA legislation stipulates that the public be informed at an early stage of the procedure. Accordingly, the proponent of the activity subject to the EIA procedure shall inform the public authorities and the public at the same time by publishing a notice in both a national and a local newspaper that provides general information on the proposed activity, indicating where and for how long the relevant documentation will be available, and specifying practical details about public participation. The applicant assumes the expenses of publishing the notice as well as of providing EIA documentation (which includes a study on the adverse effects on the environment) and copies thereof.

National legislation now foresees the possibility to provide written comments within 45 days (previous law allowed 30 days) from the day the documentation has been deposited and made available to the public. In order to favour the public, some flexibility on deadlines for submitting comments has so far been applied.

The outcome of the EIA procedure in Italy is a Decree on the “environmental compatibility” of the proposed activity issued by the MoE and the Minister for Cultural Heritage on the basis of the opinion of an independent EIA Commission charged with assessing the documentation provided by the proponent. The assessment made by the EIA Commission is based *inter alia* on the comments provided by the public and on reasoned opinion. The opinion and the subsequent Decree can turn out to be either negative, in which case the project is not deemed to be environmentally compatible and is therefore normally not executed, or positive, in which case specific conditions for the execution of the project are prescribed. The final decision (the assessment by the EIA Commission and the Decree on environmental compatibility) is published in newspapers, in the Official Journal and usually also on the MoE’s website.

As stated by Law 2001/443 and implementing Legislative Decree 190/2002, a simplified EIA procedure applies to specific projects identified by the Government as strategic or of national interest. Provisions on public participation in this context remain unchanged.

If a change leads to a substantially different activity, a new EIA procedure (including public participation) has to be carried out to change existing activities already subject to an EIA.

Legislative Decree 59/2005 on full implementation of of EC Directive 96/61 on Integrated Pollution Prevention and Control (**IPPC**) foresees an equivalent procedure for public participation when issuing “integrated environmental authorization” (AIA).

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.

For judicial remedies on the right to access, see the answer to art.9.

Finally, concerning paragraph 11, the decision-making process on **deliberate release of genetically modified organisms (GMOs)** is regulated under the framework of EC law (Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and Regulation (EC) No. 1829/2003 of 22 September 2003 on genetically modified food and feed), which includes requirements for public information and consultation. EC Directive 2001/18 has been implemented through Legislative Decree 224/2004 that established a National Competent Authority for the release of GMOs within the MoE, which has the duty to inform and consult with the public. Consultation with the public at the national level in this context refers only to the experimental release of GMOs, since notification for commercial release is dealt with through a centralised EU procedure, which foresees consultation with the public through the competent EU authorities (i.e. the Commission or the European Food Safety Agency).

Regarding the national procedure, once a notification for experimental release is submitted, the National Competent Authority has a duty to provide the public with all relevant, non/confidential information. Any physical or legal person, institution, organization or association is entitled to submit observations.

A National node linked to the Biosafety Clearing House has been created in order to foster public participation and implement the Biodiversity Convention requirements. The Biosafety Clearing-House (BCH) is a mechanism set up by the Cartagena Protocol on Biosafety to facilitate the exchange of information on Living Modified Organisms (LMOs) and assist the Parties to better comply with their obligations under the Protocol. The national BCH is a dynamic and up-dated tool that provides a variety of information on legislation, permission, licences and capacity building activities on GMO. In the national portal to facilitate public participation, a mailing list for the consultation has been created, which will comprise all

competent institutional actors and relevant stakeholders. Any individual, group or institution will be entitled to request to be included in this mailing list.

Public consultation lasts thirty days, after which the National Competent Authority transmits all observations it has received to an inter-ministerial commission charged with evaluating them and taking into account public opinion.

Legislative Decree 224/2003 establishes two GMO public registers: a centralised register for the experimental release of GMOs (managed by the National Competent Authority) and a regional register for the cultivation of GM plants (managed by the regional departments).

13 regional governments that play a leading role in the European network of GM-free regions and many local authorities have deliberated imposing a complete ban on GMO cultivation/production within their territory. These deliberations are mostly based on the outcome of local public consultation or on public petitions or public initiatives (see answer to article 7 and 8).

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

1 regional environmental association has lamented cases of late public participation in the sector of AIA-IPPC (case of late public information by Ilva-Taranto on its request for AIA).

The MoE has also received complains on late public participation in cases of re-gassification plants. The construction of this kind of plants is very recent and then not yet subject to EIA procedures nor subject to art. 6 of the Aarhus Convention. Nonetheless the MoE has already prepared a draft legal act to make re-gassification plants subject to EIA.

There has been a demand from NGOs for binding public consultation at local level on any proposed cultivation or production of GMOs.

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.

A web page in the site of the MoE has recently been created to facilitate consultation and public participation to EIA and AIA-IPPC procedures. In particular the public can now consult and send comments on line regarding all documents related to national EIA and AIA-IPPC procedures without having to contact or personally go to different competent offices.

18. Give relevant web site addresses, if available:

<http://www.dsa.minambiente.it/via> (webpage dedicated to EIA consultations)

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.

Public participation in plans and programmes has been developed with particular relevance at the local level.

Voluntary **Local Agenda 21** processes are successfully spread throughout Italy, involving around 800 local authorities : the MoE co-finances the process by periodical calls for tender to support the initiation and strengthening of Local Agenda 21. Public participation is implicit in the Local Agenda 21 process, since local programmes for sustainable development are discussed in a consultative forum, in which the public and stakeholders are represented.

Furthermore, while the importance of programmes for urban sustainability has been increasing during the last few years, municipalities are key-players in this sector due to subsidiarity principle.

In 2000, APAT published a set of guidelines on the application of Local Agenda 21 for local administrations. An updated manual was published in 2004 (“From Agenda to Action”), aimed at providing operational tools, including for public participation. In 2008-2009 the Italian government is foreseen to organize an international Forum on Local Agenda 21 and one session will be dedicated to local governance and public participation.

Legislative decree 152/2006, Title II, dealing with **Strategic Environmental Assessment (SEA)**, (implementing EC Directive 2001/42 on the assessment of the effects of certain plans and programmes on the environment) addresses public consultation on the environmental impacts of a proposed plan or programme. Legislative decree entered into force in July 2007 so experiences are still limited. Nonetheless, even before the national legal framework was set up , several actions were taken at the regional and local levels though experimental initiatives ,on a voluntary basis, particularly for plans and programmes for both urban and rural areas. An example in this regard is the plan for the winter Olympic games in Turin in 2006, which has been made available for comments. When legislating on EIA, many regions have included a procedure for urban and territorial plans along the lines suggested by the SEA Directive. Some have even extended it to include waste, the energy and industrial sectors. Moreover, six regions have participated in the interregional project “ENPLAN”, which defined a common methodology for the forthcoming introduction of the SEA Directive.

Other mechanisms for public participation are foreseen at the local level, in accordance with the various regional laws, municipal and provincial statutes or regulations. Legislative Decree 267/2000 (on local administration) states that municipalities and provinces are obliged to promote public participation and access to information through their statutes

It is worth mentioning several fragmented practices of public involvement in local decision making to draft plans, e.g. on waste-water management, prevention of noise or air pollution, town planning, structural interventions, land-use, river-basin management and local/regional development.

Law 394/1991 on natural protected areas (parks established at the national, regional or local level) foresees public participation in the plan to establish and manage parks. The public can access and comment on the draft plan, which has to be deposited at the local administration for a period of forty days. The park administration and the regional and local governments are then obliged to react to the comments received. Environmental NGOs are involved in the parks' management and incorporated in their governing bodies.

Italy, especially the South, benefits from a large share of European Community Structural Funds, the main EU financial instrument aimed at reducing regional, economic and social disparities under the overarching principle of environmental sustainability. The national legal framework implementing EC Regulation 1083/2006 (for the years 2007-2013) provides for public participation mechanisms: environmental NGOs and socio-economic organizations are members (even if without decisional power) of the Monitoring Committees, which meet every six months, led by EU and national or local public authorities. More and more regions allow the participation of citizens' organizations and groups in "integrated projects" that focuses on a specific area by implementing various interventions under a shared strategy. National public participation in the programming and management cycle of structural funds to which SEA procedures applies, will be enhanced also though the application of the recent Legislative decree 152/2006

Italy has been implementing "territorial" EMAS, which require certification of the environmental information provided for the whole geographical area, including all activities in it. Some examples include the industrial sector in Prato, the tourism area in Bibione and the New Tuscia project near Rome; These schemes have a strong relationship with public participation under Local Agenda 21: the "territorial environmental programme" issued by the procedure needs to be agreed by all involved actors, not only in order to be approved but also to share the commitment. Furthermore, the programme is available for the public to comment.

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

The adoption of policies is not so common and the term "policies" is not usually employed in connection with policy documents. These documents, where they exist, rather take the form of "strategies" or "programmes", or may even result in legislative acts. Consequently, some of the answers given to the previous question, or in relation to article 7, may also be relevant for this question.

A specific example is the National Environmental Strategy for Sustainable Development adopted in 2002 by the Inter-ministerial Committee for Economic Planning. During its preparation, a consultation process was organized by the MoE, consisting of meetings with different stakeholders, such as trade unions, environmental NGOs, business representatives etc., all of which could suggest amendments to the draft. A discussion forum on the draft document was also set up on the Internet. The 2007 Implementation Report of the Strategy has been also carried out allowing a large public participation.

To improve governance for sustainable development, the MoE created a consultative body, the **Economic and Social Council for Environmental Policies (CESPA)** in August 2004 in order to strengthen the dialogue with social and economic partners; optimize environmental policies; and promote eco-efficiency. Chaired by the Environment Minister, it consisted of all major national organizations operating in the economic and social spheres (trade unions, national industrial confederations, farmers, retailers, service providers). CESPA shall meet at least once every 3 months and by practice now meets almost one a month.

At the local level (Legislative Decree 267/2000), various regional, provincial and municipal statutes, laws and regulations establish mechanisms for public consultation, including the consultative referendum, procedures for the presentation and early examination of citizens' petitions, proposals and requests.

Consultative referendums are also used often at the national or local level in order to assess popular opinion on important issues and act accordingly. An example of this was the abolition of nuclear energy plants in 1987 following the results of a referendum.

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

At the local level, mechanisms for the involvement of local communities in policies for sustainable development, including Local Agenda 21, have been in place for a long time and are functioning well. Public participation at the national level still presents a challenge and need to be developed further.

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

There are currently 118 processes under Local Agenda 21 co-funded by the MoE, with a total cost of €13 million.

23. Give relevant web site addresses, if available:

www.A21italy.it (Local Agenda 21 coordination).

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.

An institutionalised procedure for public participation in preparing national legislation (i.e. laws adopted by Parliament or Legislative Decrees adopted by 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 - or put themselves forward - to comment on issues under discussion by a parliamentary committee. 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.

Furthermore, all draft legislation and other information on parliamentary activities is published on Parliament's website (www.parlamento.it) where it is also possible to send emails to members of Parliament.

Law 308/2004 which charges Government with the task of codifying environmental law through Legislative Decrees, stipulates that modalities for consultation with trade unions, business organizations, and environmental NGOs (for the preparation of such decrees) be identified by an *ad hoc* Act of the MoE. At the moment periodic consultations take place through the CESPAs (see response to art. 7)

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.

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

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

27. Give relevant web site addresses, if available:

ARTICLE 9

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

(a) Concerning **article 9, para.1**, access to justice is covered by a law on **access** to information (Leg. Decree 195/2005) and a general law on access to administrative documents (Law 241/1997), stating that in case of refusal or absence of reply by the time scheduled by legislative decree 195/2005, recourse through an expeditious review procedure before a court (judicial procedure) or before an administrative authority (review procedure) can be obtained. According to the judicial procedure, the interested party can challenge the decision or omission before the Regional Administrative Tribunal within 30 days. This ruling can, in turn, be challenged on appeal to the Council of State (2nd degree judicial decision) within the following 30 days.

Where the interested party has obtained a favourable ruling, the Tribunal orders the delivery of the requested information. All courts' decisions are in writing and are binding.

Alternatively, the interested party can request a review in front of the Commission for the access to administrative documents established within the Presidency of the Ministers' Council, in case of acts of the central administration of the State, or in front of the local Ombudsman for acts issued by Regions, Provinces or Municipalities. Both the Commission and the Ombudsman have to reply by 30 days otherwise in case of no reply it means the review has been refused. The administrative procedure is preliminary to the judicial one but not mandatory.

Access to a review before the Regional Administrative Tribunal is still available to an interested party that has not been satisfied;

(b) With respect to **article 9, para. 2**, the legal system is based on the protection of legitimate interests. A "legitimate interest" is a direct interest of an individual in a public decision but is not guaranteed as a legal right. The system gives the public "with an interest" in an administrative decision (individuals and associations) the possibility not only to participate in the decision-making, so that their interests are taken into account, but also to challenge before Courts any unlawful decision adopted by a public authority (Law 1034/1971 on TAR, L.241/1990). A decision is considered to be unlawful when it is inconsistent with legal provisions regulating the way the discretionary power of the administration should be exercised, including those on public participation. Individuals and associations, other than the ones challenging the decision, can also intervene throughout the jurisdictional proceedings. To give an example, the decision on "environmental compatibility" of an activity, following the environmental impact assessment procedure, may be appealed to the Administrative Regional Courts or to the President of the Republic. The Legislative Decree 152/2006 reaffirmed that against decisions, acts or omission related to public participation procedures under the EIA general rules on challenging unlawful administrative acts are always applicable.

The latter remedy (appeal to the President of the Republic) is open to any member of the public with a legitimate interest that wants to challenge an administrative decision and is free of charge;

(c) Concerning **article 9, para. 3**, each person/group, whose right or "legitimate interest" has been breached by a public decision or omission, has legal standing to act in court against that

public authority's decision or omission. Furthermore, according to Law 349/1986, all environmental NGOs recognized by the MoE can challenge public decisions or omissions, both at the national and at the local level through a review procedure. For the criteria for recognition, see answer to question 3.

Recognised environmental organizations can also challenge decisions taken by local public authorities (at the regional, provincial or municipal levels) that cause environmental damage (Law 127/1997). Private individuals are not allowed to challenge public decisions directly; in the case of criminal behaviour (the private or public act is punishable by criminal law), any individual or group is entitled to commence an investigation, by addressing either the police or the judiciary (if the request appears to have a sound basis, these authorities are obliged to act). Furthermore, any person whose right has been breached by another private person can challenge that act or omission directly before a court and request both tort compensation for the damage and criminal sanctions.

Specific provisions apply with regard to the restoration of **environmental damage**. The legislative Decree 152/2006, charges the State (in particular the MoE) to request compensation for environmental damage both before the administrative or judicial courts. Environmental organizations and parties "with an interest" may only request the MoE to seize the court in matters related to environmental damage and its compensation. These subjects may then act for nullifying administrative decisions and can address their requests for compensation for damages to the court or can act against the MoE in case of inaction.

Recognized environmental associations can always intervene in proceedings on environmental damages. According to a large jurisprudence now also environmental associations not recognized are normally admitted to participate in those proceedings. In the case of local damage, NGOs can address their requests for compensation for the damage directly to the court on behalf of the local administration. However, the Municipality remains the addressee for pecuniary compensation (Leg. Decree 267/2000).

The majority of local administrations, such as Regions, Provinces or Municipalities, nominate an Ombudsman to assist the public. Its main task is to collect citizens' complaints on local administration and to provide remedies against denial to access to administrative acts (see above)

APAT as well as the Regional Agencies for Environmental Protection and a number of authorities dealing with security (national or local police, forest guards, environmental police, customs officials) ensure through **inspections** (mainly in polluting companies and installations) that environmental law, including permit requirements, is properly implemented. These authorities charged with monitoring are alerted by the public authority dealing with environmental control (the national or local administration, as defined by sectoral environmental laws - in most cases Provinces) but can also be directly alerted by claimants or by the judiciary itself.

The above-mentioned authorities charged with monitoring have the power to ascertain whether infringement of environmental law or permits has occurred and, if so, to apply administrative penalties (e.g. fines, suspensions of permits), or, where applicable, to initiate criminal proceedings by signalling an infringement to the judiciary.

Furthermore, safeguard and preventive administrative measures (e.g. closure of productive sites, confiscation) can be imposed by those public authorities charged with environmental control which also have power of ordinance (for instance from the Municipality's Mayor or from the MoE).

Regarding to art 9. par 5 the Legislative Decree 195/2005 states that in cases of a total or partial refusal of the right of access, the public authorities have to inform the party of the review procedures available to counteract the decision. These procedures are described above.

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

Public access to judicial remedies is guaranteed in principle. However, in practice, there are often cases of long waiting times to go through the judicial process (judicial congestion). The mechanism for inspections is complex and involves too many public authorities. Furthermore, despite some fragmented initiatives (for instance free legal advice provided by local environmental protection agencies or other institutions), costs still represent an obstacle, especially with regard to lawyers' fees. As the judicial system is regulated in a comprehensive way, it is difficult to foresee specific provisions targeting only "environmental" justice.

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?

Assessment of financial barriers:

Article 24.3 of the Constitution states that "the indigent are assured, by appropriate measures, the means for legal action and defence in all levels of jurisdiction".

Legal aid, which is usually applied in criminal, labour and other proceedings, has been extended to civil and administrative proceedings (Law 1034/1971 on TAR). The provisions concerning legal aid have been amended by Legislative Decree 113/2002.

Not only individuals but also Non-profit entities or associations are entitled to legal aid.

There are no specific costs related to the introduction of an administrative appeal. It must be introduced in writing to the administration with stamp duties of around 14,60 €. The lack of a stamp does not render the appeal inadmissible.

Normally, according to the general rules, after the judgment the losing party bears the costs of the proceeding.

However, it is a general practice that the TAR declares that each party should bear its own costs. Costs depend on the subject-matter and amount/value in controversy (so called *contributo unificato*) and on lawyers' fees which vary from 4,000-5,000 € to 100,000-150,000 €.

Other costs are the expenses for notification (which vary from 5 to 10 € each).

Members of *Legambiente* have reported that environmental NGO costs and lawyers' fees are a major obstacle. However, lawyers often provide legal assistance *pro bono*, which may be the case for large and well known associations, since lawyers can count on publicity and prestige.

31. Give relevant web site addresses, if available:

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.