

# National Report on the implementation of the Aarhus Convention in the Republic of Macedonia

## Final version

Prepared on the basis of the Questionnaire submitted by the Secretariat of the Aarhus Convention to all the member countries who have signed and ratified the Convention.

Question(s) 1 to 2/Short Description		
Reference	Car	Description
Question 1	750	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 version of the National Report on the implementation of the Aarhus Convention in the Republic of Macedonia has been prepared by the Public Communication Department (PCD) within the Ministry of Environment and Physical Planning (MOEPP). Following the principles of the Convention on timely informing and participation of the public, it was available to the public for amending and commenting.

The information, together with the Report, was published on the MOEPP web-site, enabling every individual an access to the Draft Report.

The information together with the Report was distributed to all the NGOs, which gives an opportunity for their commenting.

Number of the answers that arrived in the Ministry had remarks regarding the Report. All the relevant remarks, comments and suggestions were addressed and relevantly implemented in the Report.

Question 2	750	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).
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### **1. Organization of the state authorities in the Republic of Macedonia**

The Parliament of the Republic of Macedonia is a representative body of the citizens and a bearer of the legal authority in the country.

The Government of the Republic of Macedonia is a bearer of the executive authority.

The MOEPP carries out other activities related to the state and protection of environment; spatial planning.

The local self-government units have responsibilities in:

1. Urban (urban and rural) planning;
2. Environment and nature;
3. Communal activities;

### **2. International agreements - legal basis for their compulsory action**

Article 118 of the Constitution of the Republic of Macedonia defines that the “international agreements ratified in accordance with the Constitution are part of the internal legal system and can not be changed by law”; Article 68: “the Parliament of the R. Macedonia... ratifies international agreements”; Article 98: “the courts shall judge on the basis of the Constitution and the laws and international laws ratified in accordance with the Constitution”.

Based on the aforesaid, the legal system of the R. Macedonia, the agreements ratified in accordance with the Constitution shall be considered as internal right of the country, thus have legal power of a law and can not be changed by law.

Question(s) 3to 6/Short Description		
Question 3	2500	Explain how these paragraphs have been implemented. In particular, describe: (a) With respect to paragraph 2, measures taken to ensure that officials and authorities assist and provide the required guidance; (b) With respect to paragraph 3, measures taken to promote education and environmental awareness;(c) With respect to paragraph 4, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection; (d) With respect to paragraph 7, measures taken to promote the principles of the Convention internationally; (e) With respect to paragraph 8, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

The Law on Environment directly implements the requirements of the Aarhus Convention for access to environmental information, public participation in the decision-making process and access to justice. The Draft Law establishes that:

- Everyone has the right to access to environmental information without having to show interest;
- The right to access to information shall be established in a manner defined by the Law;
- All the bodies specified by the Law shall provide environmental information;
- A request for giving an information may be refused only in specific cases;
- The bodies specified by the Law shall collect and release environmental information within the scope of their work;
- The reimbursement of the costs on giving the required information shall be of a reasonable value which does not exceed the real costs; and
- The Party not satisfied shall have a right to access to justice.

**The legal obligations** on access to environmental information, public participation in the decision making and access to justice shall be contained in the new Law on Access to Information (Official Gazette). MOEPP has a legal obligation for dissemination of environmental information in accordance with the: *Law on Waste, Law on Nature Protection; Law on Ambient Air Quality and the Draft Law on Waters. All the aforementioned Laws envisage legal basis for practical implementation and realization on the basis of the secondary legislation acts.*

RM Government, upon a proposal of the state administration body responsible for the environmental issues, shall publish and keep list of subjects possessing or on which environmental information is possessed. The List specifies the information possessed by each of the aforementioned subjects.

The subjects possessing environmental information shall nominate a person responsible for achieving/ practicing the right for access to environmental information, and provide premises in which the requesting parties shall be able to review or have an insight into the required environmental information.

The subjects possessing environmental information shall submit the required environmental data and information or make them available for the persons requesting access to information.

The Law shall define the responsibility of the Ministry of Education and Science to envisage that every Curriculum for the primary or secondary schools contains teaching methods and issues in the field of environment. The local self-government units shall, at their territory, induce the development of the environmental education and public awareness.

Question 4	750	Describe any obstacles encountered in the implementation of any of the paragraphs of article 3 listed above.
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The ongoing process of decentralization is an additional obstacle for the realization.

- Increasing the capacities directed towards practicing the right to access to environmental information regarding all information, in written, visual, audio, electronic or any other type of available form.
- Lack of financial resources needed for dissemination of data and information, establishing and equipping information points,
- Lack of available human resources on both national and local level, and
- Need of strengthening the capacities of the non-governmental sector.

Question 5	500	Provide further information on the practical application of the general provisions of the Convention.
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The practical implementation of the principles of the Aarhus Convention takes place through the PRD. All the environmental information of vital importance for normal and healthy living which are in the frames of the legal provisions, are distributed to the public. Numbers of citizens are included by giving their proposals and petitions/requests for certain environmental problems. There are computers in the PRD aimed for public use, through which the interested citizens can come to useful and new information.

MOEPP establishes cooperation with the environmental NGOs in several ways: by financially supporting their projects, giving expert assistance, providing information and data for their use. The NGOs are also included in the drafting of new legal regulations, programmes, policies, projects and activities.

Numerous campaigns for public awareness have been realized through the PRD on specific topics, and different events are being organized for marking the days of the eco-calendar.

The green Eco-bus, which is a completely technically equipped mobile Public Communications Office, and a number of other activities are used in the realization of the campaign as specific tools for communication with and approach to the citizens.

The Eco-bus travels throughout the country, carrying out exchange of information and education through the direct contacts with the citizens.

The education and public awareness raising are also established through the cooperation with the electronic and printed media.

Question 6	250	Give relevant web site addresses, if available
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Official site of the Ministry of Environment and Physical Planning: [www.moep.gov.mk](http://www.moep.gov.mk)

Question(s) 7 to 10/Short Description		
Question 7	3750	Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe: (a) With respect to paragraph 1, measures taken to ensure that: (i) Any person may have access to information without having to state an interest; (ii) Copies of the actual documentation containing or comprising the requested information are supplied; (iii) The information is supplied in the form requested; (b) Measures taken to ensure that the time limits provided for in paragraph 2 are respected; (c) With respect to paragraphs 3 and 4, measures taken to: (i) Provide for exemptions from requests; (ii) Ensure that the public interest test at the end of paragraph 4 is applied; (d) With respect to paragraph 5, measures taken to ensure that a public authority that does not possess the environmental information requested takes the necessary action; (e) With respect to paragraph 6, measures taken to ensure that the requirement to separate out and make available information is implemented; (f) With respect to paragraph 7, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals; With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

The Law on Environment in the part regulating the meaning of the terms used in the text of the Law defines that:

- **The public** shall mean one or more legal entities or natural persons, citizens and their organizations and associations established in accordance with Law.

**The public concerned** shall mean the public, concerned by or having an interest in - at present or in future, the making of decisions concerning the environment. The public concerned includes the citizens' associations established for the purpose of environment protection and promotion, and a natural person that is most likely to feel the consequences of the decision. .

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The Law defines that bodies and legal entities and individuals which possess environmental information, or on which environmental information is possessed shall be: the public administration bodies; local self government units; the legal entities and individuals who are authorized with public authorizations, including special duties, activities and services in the field of the environment; and other the legal entities and individuals specified by law. The list of entities which possess environmental information or on which environmental information is possessed, and the specification of the informations possessed by each of the aforementioned bodies, shall be subject of a secondary legislation act. The list shall be published and regularly revised. The judicial and legislative bodies shall not be part of the bodies and legal entities and individuals which possess environmental information, or on which environmental information is possessed.

The right of access to environmental information shall be exercised in respect of all information in written, visual, audible, electronic or any other available form, pertaining to: **the state of environmental media and areas, factors, measures, reports; costs/benefit analysis; conditions related to human health and safety,**

Everyone has the right to request validated environmental information and data from public authorities and legal entities and individuals without having to prove their interest.

Finally, the Law is based on the principle of non-discrimination. According to the Constitution of the Republic of Macedonia, the citizens of the Republic of Macedonia are equal in

enjoying rights and freedoms, irrespective to the sex, race, skin colour, national and social origin, political and religious conviction, property and social state. The citizens are equal before the Constitution and the laws.

The request for environmental information may be submitted to any of the entities which possess environmental information. The entity is responsible to submit the information not later than one month from the date of receipt of the request or two months from the date of receipt of the request, under specified conditions.

The manner and the procedure through which access to environmental information is provided are a subject to a secondary legislation act. The information shall be provided in the form requested, unless specified conditions in law are fulfilled.

The Law envisages authorization that the bodies and legal entities and individuals which possess environmental information, or on which environmental information is possessed may refuse to allow access to information under specific conditions stipulated by the law.

The level of the compensation for the expenses related to the delivery of the information determined by the regulation shall be reasonable and shall not exceed the real costs incurred for the provision of the requested information. Thus, searching of registers and records of data, as well as verification of information where it is possessed or maintained shall be free of charge.

Question 8	1250	Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.
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- The ongoing process of decentralization is an additional obstacle for the realization.
- Increasing the capacities directed towards practicing the right to access to environmental information regarding all information, in written, visual, audio, electronic or any other type of available form.
- Lack of financial resources needed for dissemination of data and information, establishing and equipping information points,
- Lack of available human resources on both national and local level, and
- Need of strengthening the capacities of the non-governmental sector

Question 9	1000	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?
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The PRD keeps register of the number of visits. All the visits are presented in the table, classified according to the type of information requested, or according to the target groups.

The PRD continuously encounters the interested citizens reporting on their problems by phone and requesting information on the possibilities for resolving the problems.

In order to increase the number of group visits in the PRD, more education materials for the pre-school and school-age, and other promotional material.

All the requests for information indicated in the table are accordingly submitted in the requested form, within the specified term.

Question 10	250	Give relevant web site addresses, if available:
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Official site of Ministry of Environment and Physical Planning: [www.moep.p.gov.mk](http://www.moep.p.gov.mk)

<b>Question(s) 11 to 14/Short Description</b>		
Question 11	2500	Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe: (a) With respect to paragraph 1, measures taken to ensure that: (i) Public authorities possess and update environmental information; (ii) There is an adequate flow of information to public authorities; (iii) In emergencies, appropriate information is disseminated immediately and without delay; (b) With respect to paragraph 2, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible; (c) With respect to paragraph 3, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks; (d) With respect to paragraph 4, measures taken to publish and disseminate national reports on the state of the environment; (e) Measures taken to disseminate the information referred to in paragraph 5; (f) With respect to paragraph 6, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products; (g) Measures taken to publish and provide information as required in paragraph 7; (h) With respect to paragraph 8, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public; With respect to paragraph 9, measures taken to establish a nationwide system of pollution inventories or registers.

MOEPP shall, in accordance with the Draft Law on Environment, establish Environmental Information System. The Information System shall be established and organized in a manner that would provide a relevant database, comprehensive, accurate and publicly accessible information on the state of the nature, the state and quality of the environmental media and other environmental areas, noise, ionizing and non-ionizing radiation, including electromagnetic radiation, as well as forecasts through the use of modeling techniques. The Information System shall include systematization, storage and use of data obtained through state monitoring network and local monitoring networks, from the monitoring performed by the operators obliged for that by Law, of individual environmental media and areas, as well as data from the Register of pollutants and polluting substances and their properties, and the Cadastre of polluters of the environment.

Operators, which are sources of emission and which pollute one or more environmental media and areas, or use natural heritage shall under the special law carry out self- monitoring by using devices and instruments approved through the procedure for measurements verification established by law, and maintain the monitoring devices and instruments in proper working condition.

The state administration body responsible for the environmental issues shall, in cooperation with other relevant bodies of the state administration, prepare an Indicator Report, and a State of the Environment Report in the Republic of Macedonia every four years (hereinafter 'the Report'). The Report shall be available at the MOEPP web-site, and sent to all relevant and interested institutions.

The entities which possess environmental information, or on which environmental information is possessed shall, within the scope of their powers, provide for dissemination, public accessibility and maintenance of environmental information they possess, or which is possessed on their behalf, in forms and formats that are easy to reproduce and accessible by electronic communication networks. They shall also provide for public participation in the process of laws, other regulations and legal acts drafting.

MOEPP shall be responsible for dissemination of environmental information and for facilitating the access to environmental information possessed by the other ministries, the municipalities, the City of Skopje and the municipalities of the City of Skopje, and the other bodies and entities.

The right of access to environmental information shall be exercised in respect of all information in written, visual, audible, electronic or any other available form, pertaining to:

- **the state of environmental media and areas**, such as air and atmosphere, water, soil, land, biological and landscape diversity, including genetically modified organisms, as well as interaction among these elements;
- **factors**, such as substance, energy, nuclear fuels and nuclear energy, noise, radiation or waste, including radioactive waste, emissions and other releases into the environment, affecting or likely to affect the environmental media and the human health;
- **measures**, including administrative measures, such as policy, legislation, plans, programmes, agreements, as well as activities which may directly or indirectly affect the environmental media and factors, and measures or activities designed to protect those elements;
- **reports** on the implementation of environmental laws and other regulations and acts.
- **costs/benefit analysis** and other financial and economic analysis and assumptions applied as part of the measures and activities aimed at environment protection and improvement;
- **conditions related to human health and safety**, safety of foodstuffs, including the pollution impact on the food chain, living conditions, sites of importance to culture and man built structures, to the extent to which they are affected, or are likely to be affected by the environmental media, or through the impact of such media on any condition of the aforementioned elements and factors.

Everyone has the right to request validated environmental information and data from public authorities and legal entities and individuals without having to prove their interest.

Question 12	1250	Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.
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- Secondary legislation acts to be adopted;
- The process of decentralization to be completed, thus create capacities on a local level capable to manage the environmental data and information
- Capacities to be created to enable the right of access to environmental information to be exercised in respect of all information in written, visual, audible, electronic or any other available form
- Lack of financial resources needed for dissemination of data and information, opening and equipping information points/offices,
- Need of strengthening the capacities of the non-governmental sector.

Question 13	1000	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
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		any statistics available on the information published?
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The development of Environmental Information System has started by the Project REReP 1.8 (Development of National Environmental Information System for the Southeast European Countries). Due to the limited resources, only part of the system has been developed.

The Cooperation of MoH and MoEPP is of basic significance for the proper conception and implementation of the policy on the relation environment - human health. The Ministry of Health, through the State Sanitary and Health Inspectorate and the State Health Institute shall participate in the monitoring of the environment pollution, respectively the monitoring of the air, water and food products pollution, monitoring and protection of the population against the harmful impact of gasses, ionizing radiation, noise and supervision of the hygiene-epidemiological state of the population. The public health organizations which are included in the monitoring shall submit data to the MOEPP on a regular basis.

There are health and health-environmental Units within the State Health Institute and 10 Regional Health Institutes, which have established monitoring on the air pollution, health suitability of the drinking water and surface waters. These activities shall be carried out according to established methodology and dynamics in compliance with the existing legislation, in a form of programme tasks. The Regional Health Institutes shall process and submit the data from the monitoring of the air, drinking water and surface waters to SHI as semi-annual and annual Repots. They shall submit monthly Reports to MOEPP. SHI shall, at the beginning of each year, prepare Annual Report.

MOEPP shall inform the international bodies. The obligation for informing, both on a national and international level, shall be carried out by MEIC. Based on the processed data, MEPP shall also prepare Reports on a monthly and yearly basis. The printed reports shall be submitted to the relevant institutions. The official Reports shall be available for different interested parties and for the public in the premises of the Public Communication Office (PRO) and on the web-site of the Ministry. Most of the information shall be published at the MOEPP web-site: the data on the air pollution, State of the Environment Report, etc.

The non-governmental sector has established the s.c. Coalition - Aarhus Family in the Republic of Macedonia, with a possibility for using the internet and the communication technology in the implementation of the Aarhus Convention in order to strengthen the role of the non-governmental sector in the Convention implementation. In that direction, the non-governmental sector envisage establishment of four regional offices. The regional offices shall have the role of Centres for the citizens, which shall enable the citizens to request information; resource centres for the NGOs in the region and for transfer of information on a local, national and international level; and centres which shall take part in the dissemination of information on horizontal and vertical level.

Question 14	250	Give relevant web site addresses, if available:
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Official site of the Ministry of Environment and Physical Planning: [www.moepp.gov.mk](http://www.moepp.gov.mk)

<b>Question(s) 15 to 18/Short Description</b>		
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Question	3750	250	Explain how each paragraph of article 6 has been implemented. Describe the
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15	<p>transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe: (a) With respect to paragraph 1, measures taken to ensure that: (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention; (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment; (b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in paragraph 2; (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3; (d) With respect to paragraph 4, measures taken to ensure that there is early public participation; (e) With respect to paragraph 5, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit; (f) With respect to paragraph 6, measures taken to ensure that: (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure; (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph; (g) With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity; (h) With respect to paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation; (i) With respect to paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures; (j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate; (k) With respect to paragraph 11, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.:</p>
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Subject of environmental impact assessment shall be the projects which due to their character, scope or location of their realization, may have significant impact on the environment. EIA is carried out for projects which are subject to a mandatory requirement for an environmental impact assessment and defined according to the criteria on the basis of which a need is identified for an environmental impact assessment of other project specified in general terms which are likely to have a significant impact on the environment. The need for an environmental impact assessment shall be identified on the basis of case-by-case examination characteristics, size and location, in accordance with the prescribed criteria, in light of the latest scientific and technical developments, and the provisions in the regulations, which regulate the limit values of emissions into the environment.

The body of the state administration competent for the execution of the works from the area of environment is obliged to:

1. publish the notification for performance of project , in two national daily newspapers and on the body of the state administration competent for the execution of the works from the area of environment web site;

2. publish the decision on the need for performance of EIA of this law in two national daily newspapers, on the web site as well as on a body of the state administration competent for the execution of the works from the area of environment notice board;
3. announce that the study on the environmental impact assessment is prepared and available to the public in two national daily newspapers, local radio/TV station; non technical report of the study shall be posted on the Ministry's web site;
4. to publish the report for compatibility of the EIA study in two national daily newspapers and on the Ministry's web site;
5. publish the decision on granting approval or refusal of the project realization in two national daily web site as well as on a body of the state administration competent for the execution of the works from the area of environment notice board;
6. announce the time and the place of the public hearing on the EIA study in two daily newspapers and local radio and TV station.

Where a foreign country so requests, items 2, 3, 4 and 5 shall be made available to the competent authority of foreign country, in accordance with stipulated procedure.

The law provides that the body of the state administration competent for the execution of the works from the area of environment shall be obliged, to publish the A integrated environmental permit on its web site and in two national daily newspapers, and allow within 15 days access to the concerned public to the information relevant for the public participation in the procedure of issuing the permit and to the opinions that were taken into consideration and upon which the permit has been issued.

Each entity, local self- government may comment to MEPP, in written form, within 30 days from the date of the announcement. MEPP is obliged to consider all comments and opinions when issuing the permit.

The local self- government units shall ensure public access to all relevant information, within the procedure for granting the B IPPC permit.

Within 30 days from the date of the announcement of the application for IPPC permit, the concerned public may comment, in written form.

During the preparation of the A- IPPC permit, MEPP shall be obliged, to explain which public comments are taken into account, and which are not considered including the reason why not.

At request of the concerned public, the investor s obliged to organize public hearing.

Finally, the Law is based on the principle of non-discrimination. According to the Constitution of the Republic of Macedonia, the citizens of the Republic of Macedonia are equal in enjoying rights and freedoms, irrespective to the sex, race, skin colour, national and social origin, political and religious conviction, property and social state. The citizens are equal before the Constitution and the laws.

Question 16	1250	Describe any obstacles encountered in the implementation of any of the paragraphs of article 6.
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- Need of financial resources and strengthening the capacities of all the relevant subjects in the process.

Question 17	1000	Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defense purposes.
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The Ministry shall implement the obligations resulting from the provisions for including the public in the decision making process in accordance with the Law on Environment and the relevant secondary legislation acts.

The public has been informed on all the requests submitted to MoEPP regarding the issuance of Permit with Adjustment Plan for A Integrated Environmental Permit, which enables inclusion in the overall process. Also, public debates are organized upon a request of concerned/interested parties, whereas the results from the public participation are taken into consideration – in accordance with the legal obligations.

Question 18	250	Give relevant web site addresses, if available:
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Official site of the Ministry of Environment and Physical Planning: [www.moep.gov.mk](http://www.moep.gov.mk)

Question(s) 19 to 23/Short Description		
Question 19	1250	List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

The Law envisages the obligation for inclusion of the public in the adoption of the environmental programme and plan documents. The public participation in the preparation and adoption of the NEAP and LEAP shall be exercised in a manner and under terms defined by Article 69 of this Law.

Prior to the commencement of the planning document adoption procedure and within five days from the date of Environmental Report completion, the body that prepares the planning document shall publish information concerning the draft planning document and the environmental report with information on the public participation procedure. The body shall at the same time submit the draft planning document and the Environmental Report to the body of the state administration responsible for the affairs of the environment. The body of the state administration responsible for the affairs of the environment, and the bodies affected by the implementation of the planning document, legal entities and individuals and the public, may express their opinion on the draft planning document and the Environmental Report to the body that prepares the planning document within 30 days from the date of submission and publication of information thereon. The body shall, in the development of the planning document, take into account the opinions received and prepare special report thereon.

The manner in which information shall be published and the public participation and the manner of preparation of the report shall be a subject of a secondary legislation act.

Question 20	750	Explain what opportunities there are for public participation in the preparation of policies relating to the environment.
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The body of the state administration responsible for the affairs of the of the environment, and the bodies concerned by the implementation of the plan documents, the legal entities and individuals may express their opinion on the draft plan document and the Environmental Report to the body

preparing the plan document, within 30 days of the day of submission, i.e. publication of the information on these. The body shall, during the preparation of the plan document, take into consideration the opinions received regarding the draft plan document and the Environmental Report, on which a separate Report shall be prepared.

Question 21	750	Describe any obstacles encountered in the implementation of article 7.
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- Part of the secondary legislation acts are prepared and are to be adopted;
- Need of financial resources and strengthening the capacities of all the relevant subjects in the process;
- Preparation of strategic, plan and programme documents

Question 22	500	Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.
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The public participation in the preparation of the plan documents shall be clearly and unambiguously defined by several secondary legislation acts with regard to all strategic, plan and programme documents (Spatial Plan of the Republic of Macedonia, Water Master Plan of the Republic of Macedonia, Strategy on Economy Development, NEAP, LEAP, Vision 2004, Plan on Phasing-out leaded petrol, and others). These documents shall be legally adopted in two phases: Draft and Proposal Phase. The Draft documents shall be published and a public hearing shall be organized to discuss their content. The opinions, comments and suggestions obtained from the hearing shall be taken into consideration during the completion of the text of the document, submitted as a Proposal for a final adoption.

Question 23	250	Give relevant web site addresses, if available:
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Official site of the Ministry of Environment and Physical Planning: [www.moep.gov.mk](http://www.moep.gov.mk)

### Question(s) 24to27/Short Description

Question 24	1500	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.
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According to Article 61 of the Procedure for adoption of plan documents, preparation of environmental regulations and public participation is ongoing.

The Government of RM, upon a proposal of the state administration body responsible for the environmental issues, shall specify the conditions, manner and procedure for public participation in the preparation of environmental regulations and other acts.

The state administration bodies and the local self-government units shall, for the objective of public participation in the decision making process, inform the public on all the proposals for preparation, adoption, amending or revision of plans and programmes, by means of oral information, or other appropriate manner, such as electronic and printed media. They shall also enable access to information on the proposals, including information on the right of the public to participate in the

decision making procedure on the plans and programmes, along with the responsible body to which comments and questions can be submitted.

The bodies shall enable the public the right to give their comments, proposals and opinion prior to the making of the decision on the plans and programmes. During the decision making, they shall take into consideration the opinion form the public participation.

During the decision making, the bodies shall undertake measures for informing the public on the decisions made, and the reasons and basis for such decisions, including informing on the process of public participation.

The Government of RM, upon a proposal of the state administration body responsible for the environmental issues, shall specify the types of plans and programmes, manner and procedure for public participation in the preparation, adoption, amending or revision of plans and programmes, along with the manner and criteria based on which the public participation is defined, including the NGOs.

The plans and programmes regarding only the issues national safety, defense of the country and protection and salvation of population are an exception form the aforementioned plans and programmes.

Article 2 and Article 3, Paragraph 9 of the Convention are completely implemented in the Law on Environment (Official Gazette of RM no. 53/05, 81/05 and 24/07), together with the adopted secondary legislation acts:

Decision on publishing List of subjects that possess or on which environmental information are possessed (Official Gazette of RM no. 82/07), Rulebook on the Manner and Procedure for providing access to environmental information (Official Gazette of RM no. 93/07) and Decree on the Reimbursement of Costs for providing environmental information in the cases when fee is charged, which is in a governmental procedure for adoption.

Law on Free Access to information of public character was also adopted (Official Gazette of RM no. 13/06)

Question 25	1000	Describe any obstacles encountered in the implementation of article 8.
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- The Law on Environment is in a Parliamentary procedure for final adoption of the text of the Law;
- Relevant secondary legislation act to be adopted;

Question 26	500	Provide further information on the practical application of the provisions on public participation in the field covered by article 8.
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During the preparation of the environmental laws harmonized with the EU directives, inter-ministerial Working Groups for harmonization of the legislation were established. The Working Groups have become the main driving force for most of the activities related to the preparation of the legal texts, thus presented a platform for development of the new environmental legislation, compatible with the EU legislation. This manner is also practiced in the preparation of strategic documents in the field of the environment.

MOEPP, within the frames of the projects for preparation of regulations and strategic documents, along with the other regulation, have tried to provide transparency through the following

forms: Questionnaires; Carrying out public opinion research: quantitative and qualitative poll; Organizing Workshops on the Draft-Laws. Representatives of the interested parties (government and state institutions, local self-government units, public enterprises, industry i.e. Chamber of Commerce of RM, other interested private legal entities, non-governmental organizations, scientific and expert organizations) took part at these Workshops. Their relevant comments were implemented in the Draft-Laws.

The environmental Laws and the process of their preparation were published and available at the MoEPP web site for commenting by the public. The received relevant comments were implemented in the Laws.

Question 27	250	Give relevant web site addresses, if available
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Official site of the Ministry of Environment and Physical Planning: [www.moeppp.gov.mk](http://www.moeppp.gov.mk)

<b>Question(s) 28 to 31/Short Description</b>		
Question 28	3750	Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe: (a) With respect to paragraph 1, measures taken to ensure that: (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law; (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law; (iii) Final decisions under this paragraph are binding on the public authority possessing the information, and that reasons are stated in writing, at least where access to information is refused; (b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in paragraph 2 have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6; (c) With respect to paragraph 3, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment; (d) With respect to paragraph 4, measures taken to ensure that: (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies; (ii) Such procedures otherwise meet the requirements of this paragraph; With respect to paragraph 5, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

The Law on Environment, Article 55 contains the conditions under which the request for environmental information may be refused.

The entities/bodies responsible for the provision of environmental information may refuse the request for environmental information if;

- the information requested is not possessed by or on them. Within seven days from the date of receipt of the request, the entities/bodies responsible for the provision of environmental information (hereinafter entities) to which the request has been submitted, shall forward the request to the entity that possesses the requested information if they are aware of that entity, and inform the applicant thereon, or inform the applicant on the entity most probably possessing the requested information.
- the request is manifestly unreasonable;
- the request is too general. The entity shall, within term that shall not be longer than 15 days from the date of receipt of the request, provide in writing guidance to the person concerned as to the form, the content and the volume of the request, and/or
- the request refers to information the completion of which is under way, or which is used for internal needs and communications. If the information completion is in progress, the entity shall inform the applicant on the entity prepares the information and when it will be completed.

The entities may refuse to allow access to information if disclosure of the information would have negative effects on:

1. the confidentiality of the proceedings managed by the competent authorities;
2. the international relations, public security and national defense;
3. the court procedure, the right of legal entities and individuals to a fair trial and the right to initiate court or disciplinary procedure;
4. the confidentiality of commercial or industrial information where such confidentiality is guaranteed by law with view of protecting legitimate economic interest;
5. the protection of persons and the confidentiality of personal data;
6. the protection of intellectual and industrial property rights;
7. the interests of any person who supplied the requested information without any obligation to do so, where that person has not consented to the disclosure of the information concerned; and/or
8. the protection of specific wild species and/or types of habitats.

The entities shall not refuse the request for information based on paragraph (2), items 1, 4, 5, 6, and 7 of this Article, if such request relates to information on discharges or other emissions in the environment;

In each of the cases, the entities shall assess whether the protection of public interest, to which the requested information pertains, is of higher importance than the interest served by the disclosure of the information.

The entities responsible for the provision of environmental information shall issue a decision on the refusal of the request, in part or in full, or a conclusion in writing which shall contain the reasons for the refusal of the request, as well as reference to the possibilities for an appeal against the decision or the conclusion. The entities responsible for the provision of environmental information shall submit the decision or conclusion within a period of:

- within shortest possible term, but not later than one month from the date of receipt of the request or
- two months from the date of receipt of the request, if the volume and the complexity of the information are such that the period of one month is insufficient to complete the documentation.

The requesting party shall have the right to lodge an appeal against the decision or conclusion adopted by the Government of the Republic of Macedonia and the state administration bodies, issued by the entities responsible for the provision of environmental information, with the

Second Instance Commission of the Government of the Republic of Macedonia responsible for resolution of administrative matters in the area of environment.

The requesting party shall have the right to lodge an appeal against the decision or conclusion issued by the entities responsible for the provision of environmental information, with the body of the state administration responsible for the affairs of the environment.

The provisions from Article 9 of the Aarhus Convention have been implemented in the **Law on Free Access to Information of Public Character** (Official Gazette of RM no. 13/06). There, according to Article 7, the right to a legal protection is given to the requesting party/person requesting access to information, while Article 28 gives the appeal procedure against the decision or conclusion. Article 35 gives the possibility for judicial protection, i.e. right to initiating administrative dispute in front of the competent court.

**Law on Courts** (Official Gazette of RM no. 58/06) Article 13, Paragraph 4: Judicial decisions are obligatory for all legal entities and individuals, and they are stronger than the decisions of any other body.

The administrative procedure in the Republic of Macedonia is carried out on the basis of the Law on General Administrative Procedure ("Official Gazette of SFRY" Nos. 52/56; 10/65; 18/65; 4/77; 11/78; 9/86; 16/86; 47/86) in the frames of the bodies of the public administration and the Government of the Republic of Macedonia. Namely, in case of administrative procedure managed by the local self-government unit or by another body of the public administration, acting as a body of first instance, the right to appeal against the Decision is submitted to the competent Ministry in the relevant area. On the other side, when the body of the public administration acts as first instance body, the right to an appeal is submitted to the Commission of the Government of the Republic of Macedonia for settlement of administrative matters of second instance in the area of environment, established as standing body within the Government.

According to Article 49 of this Law, a party to an administrative procedure is the entity (whether legal entity or natural person) upon whose request the procedure has been initiated or against whom the procedure has been raised or who is entitled to participate in the procedure for the purpose of protecting his/her /its rights or interests (hereinafter :”party”). The party is entitled to raise an appeal against decision issued at first instance (Article 223). The party is also entitled to initiate administrative dispute against the decision issued at second instance or in case of "administration silence" before the Supreme Court of the Republic of Macedonia (administrative disputes are managed in accordance with the Law on Administrative Disputes, "Official Gazette of SFRY" No. 4/77).

The Second Instance Commission of the Government of the Republic of Macedonia settling acts received from first instance bodies is obliged to issue a decision in accordance with the Law on General Administrative Procedure, within 60 days. After the expiry of the term, the party not satisfied with the decision issued by the Second Instance Commission or in case the Commission has not responded within the prescribed period, may initiate administrative dispute before the competent Court, i.e. the Supreme Court of the Republic of Macedonia which is the competent court for settling administrative disputes. The same rule applies in case the role of second instance body is possessed by the Ministry of Environment and Physical Planning.

In addition to regular legal remedies, the party may also use extraordinary legal remedies against final decision under administrative procedure, i.e. renewal of the procedure (Article 250).



The Draft Law on Environment regulates the rights and the obligations of the Republic of Macedonia, of the units of the local self-government, as well as the rights and the obligations of legal entities and individuals with regard to provision of environment protection and improvement, for the purpose of citizens' exercise of the right to a healthy environment. With regard to procedures stipulated by this Law, the Law on General Administrative Procedure applies, unless stipulated otherwise in the Law.

The Draft Law on Environment, in order to enable organizations and individuals to have access to justice, specifies the cases in which citizens' organizations established for the purpose of environment protection, as well as the public, enjoy the right to submit appeal in the area of environment, thus providing a wider frame for exercising the right to an appeal compared to the one established under the Law on General Administrative Procedure.

The Draft Law on Environment establishes the right to access to justice for organizations and individuals for the purpose of protecting their rights and interests in several cases. These cases include:

- a) Protection of the right to access to environmental information**
- b) Protection of the rights under the environmental impact assessment procedure**
- c) Protection of the right under the integrated environmental permitting procedure**

The right to access to justice by organizations and individuals for the purpose of protecting their rights and interests, through administrative procedure, is also regulated by separate environmental laws, such as: **The Law on Air Quality** ("Official Gazette of RM" No. 67/2004;), **The Law on Nature Protection** ("Official Gazette of RM" No. 67/2004), **The Law on Waste Management** ("Official Gazette of RM" No. 68/2004), Draft Law on Waters and other laws regulating the rights of legal entities and individuals in the area of environment and other rights. The procedures specified in these laws are subject to the procedures stipulated in the Draft Law on Environment, as well as the **Law on General Administrative Procedure**, so that the rules described above apply identically.

#### **Protection of the Rights of Individuals and Organizations in the Administrative Procedure by the Institution Ombudsman**

The Institution Ombudsman in the Republic of Macedonia has a legal function and obligation to protect the rights of the citizens and everyone else, guaranteed to them by the Constitution, laws and international acts and documents ratified by the Parliament of the Republic of Macedonia in that direction, and protect the right to free access to environmental information.

The Ombudsman of the constitutional system of RM is an independent body, a mechanism through which the constitutional and legal rights of the citizens and everyone else are protected in case of violation by acts, activities and omissions of activities by the state administration bodies and other bodies and organizations having public competencies. The manner of appointing the Ombudsman shall guarantee his independence during the carrying out of the function. The Law on Ombudsman (Official Gazette of RM no. 60/2003) in Articles 11-18 envisages tax exemption for the requesting party for the procedure initiated before the Ombudsman.

The past practice of the Ombudsman acting in a line of duty or on the basis of submitted requests indicates violation of more procedures in relation to the violation of the environmental rights of individuals or group of citizens. Nevertheless, the number of procedures that are underway is not a realistic picture of the state in this area, which indicates the insufficient education of the citizens with regard to their rights and the right to a free access to information.

**Protection of the rights of individuals and organizations through procedures before courts.**

The right of individuals and organizations to initiate procedure before court for the purpose of protecting their right or legally protected interest is regulated in laws containing substantial and procedural provisions on civil, criminal or administrative cases. These procedures are carried out in accordance with:

**Law on Litigation Procedure** ("Official Gazette of RM" No. 33/98; 44/02);

**Law on Criminal Procedure** ("Official Gazette of RM" No.15/97; 44/02);

**Law on Administrative Disputes** ("Official Gazette of SFRY" No. 4/77, 36/77; 44/02)

**Law on Misdemeanors** ("Official Gazette of RM no. 62/06)

**Law on Administrative Disputes** ("Official Gazette of RM no. 62/06) - provides court protection of rights and interests of individuals and legal entities.

The right of individuals and organizations to initiate procedure before court for the purpose of protecting their right or legally protected interest in the area of environment is also regulated in the Draft Law on Environment. According to Article 158 of this Law, in the section on liability for damage caused onto the environment, the legal entity or the natural person under direct threat or suffering consequences from the appeared environmental damage, has the right to request from the damage instigator to return the environment into its original state or claim compensation for the damage, in accordance with the general legal rules for damage compensation.

In addition to actions referred to in Chapter 22 of the **Criminal Code of the Republic of Macedonia**, private plaintiff may submit private lawsuit to the court possessing competence for criminal actions regulated in separate environmental laws, including:

1. **The Law on Nature Protection** ("Official Gazette of RM" No. 67/2004)- stipulates the following criminal actions against nature: Extermination of indigenous species; Introduction of wild species in nature; Re-introduction of wild species in nature; Illegal taking and use of genetic and biological material; Illegal damaging and destruction of speleological structures; Damaging and destruction of finds of minerals and fossils;
2. **Draft Law on Waters** prescribes the following criminal actions: unauthorized use of water and unauthorized extraction of ground water.

Question 29	1250	Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.
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- Relevant secondary legislation act to be adopted;
- Reforms in the legal system
- Dragging out lawsuits, which result in expiration of the documents/subjects
- Training and introducing the competent/responsible bodies for practicing the right to access to justice, especially the bodies of the executive and legal authorities.

Question 30	1000	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?
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The Law on Ombudsman (Official Gazette of RM no. 60/2003) in Articles 11-18 envisages tax exemption for the requesting party for the procedure initiated before the Ombudsman.

Since 2007 NGO Florozon - Skopje started activities for strengthening the capacities of administration of justice for practical application of the right to access to justice. Namely, the Programme was aimed at strengthening the capacities of judiciary system in Republic of Macedonia for practical application of the Aarhus Convention - Right to Access to Justice, i.e. introduction of and education on the Third Pillar of the Aarhus Convention and better unification during its application, imposing alternative mechanisms for fast and efficient processes, and appropriate and efficient measures for eliminating the consequences.

Representatives from 27 courts in Republic of Macedonia had benefits from the Programme (judges, higher associates, state secretaries, presidents of courts) including lawyers, representatives of the Ombudsman, Ministry of Justice and the Ministry of Environment and Physical Planning. The Seminar was realized by the EMLA expert team (Environment Management and Law Association) - Hungary.

Florozon will continue with the realization of this Programme in 2008.

In order to enable easier access to justice, Florozon opened a **Centre for Access to Justice and implementation of the Aarhus Convention**. The Centre acts at the whole territory of R.Macedonia, for benefit of all individuals and legal entities. The Centre Programme offers free legal advise and free legal representation in the cases when the right to a healthy environment is breached.

There are records for the following statistical data in the database:

- 396 reports for obtaining information - where can the citizens raise questions regarding the environmental issues (in that direction, Florozon works in co-relation with the subjects that possess environmental information)
- 6 criminal charges prepared against private persons
- 4 misdemeanor denunciations submitted to the competent court
- 14 reports - achieved agreement on reclamation of the state of the environment

During 2008, Florozon shall expand its programme with TAI research.

The Republic of Macedonia shall be the next European country to implement overall TAI assessment. TAI is the abbreviation of the Initiative for Accession - global coalition of more than 120 citizen-society organizations that promote the citizen-type access to information, public participation in decision making and access to justice regarding the environmental issues.

TAI partners throughout the world monitor the performance and progress of their Governments in the implementation of the citizens' rights to information, public participation in decision making and access to justice regarding the environmental issues.

Question 31	250	Give relevant web site addresses, if available:
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[www.covekovi-prava.gov.mk](http://www.covekovi-prava.gov.mk), [www.ombudsman.gov.mk](http://www.ombudsman.gov.mk) [ww.sobranie.mk](http://ww.sobranie.mk)  
<http://www.stat.gov.mk> [www.usud.gov.mk](http://www.usud.gov.mk) [www.mlrc.org.mk](http://www.mlrc.org.mk)

Question(s) 32 to 32/Short Description		
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Question 32	1500	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
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		in an environment adequate to his or her health and well-being.
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The AC, as an international Agreement, is one of the most significant instruments on protection of the citizens' right to a healthy environment. The public has a right and need to be informed, to participate in the decision making on the environment protection issues, and have a free access to these issues. The implementation of the Aarhus Convention enables improvement of the access to information, increasing the public participation in the decision making, thus improve the quality of the decisions, which shall result in the improvement of the environmental quality. The implementation of the Aarhus Convention contributes towards protection of the right to every individual of the present and future generations to live in environment appropriate for his health and welfare, enable rights to access to information, public participation in the decision making and access to justice on environmental issues, all in accordance with the Law on Environment Protection and Promotion.